

COUNCIL
THURSDAY, 8 OCTOBER 2026

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: National Scheme of Delegation

REPORT OF: Director - Place

EXECUTIVE MEMBER: Executive Member - Governance; Executive Member - Place

COUNCIL PRIORITY: All Priorities;

1. EXECUTIVE SUMMARY

This report introduces the statutory National Scheme of Delegation for planning applications that comes into effect on 31 October 2026. It seeks approval for necessary amendments to the Council Constitution to operate the National Scheme of Delegation. It also introduces (i) operational guidance that will be maintained and update as required by officers and (ii) discretionary guidance on the use of member briefings and site visits for applications of significance.

2. RECOMMENDATIONS

- 2.1. That the amendments to Section 8.4 of the Constitution, attached as Appendix 1, be approved for implementation from 31 October 2026.
- 2.2. That the Planning Scheme of Management, attached as Appendix 2 and guidance in relation to committee briefings and site visits, attached as Appendix 3, are noted.

3. REASONS FOR RECOMMENDATIONS

- 3.1. A mandatory, National Scheme of Delegation (NSD) takes effect from 31 October 2026. Statutory Government guidance states that authorities' Constitutions must be amended to give effect to these new requirements in time.
- 3.2. Alongside the constitutional changes, operational guidance – the Planning Scheme of Management - will also be published. This sets out arrangements by which schemes for potential referral to Planning Control Committee are considered, as well as operational delegations to officers to make decisions in accordance with the NSD.
- 3.3. A report was published for Full Council to consider the committee briefings and site visit guidance at its meeting in April 2026. This item was deferred from consideration.
- 3.4. Subsequent legal advice, as well as good practice guidance published to assist with implementing the NSD, is now that additional and administrative guidance should not be constitutional. This enables it to be updated more efficiently and responsively.
- 3.5. This guidance is presented to provide broader context to the operational implications and procedural changes that are being introduced.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. There are no reasonable alternatives to recommendation 2.1. The National Scheme of Delegation is a nationwide change to statutory and regulatory requirements.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The informal, cross-party Strategic Planning Project Board were briefed in June 2026 and have been kept apprised of work being undertaken to ensure compliance, as well as with broader procedural changes arising from a peer review of the planning service conducted in late 2025.
- 5.2. An information note on the NSD was presented to Planning Control Committee in July 2026 and was debated by Members.
- 5.3. A constitutional working group to discuss the changes necessitated by the NSD was held in September 2026. Representatives of the three main political groups were invited to attend. This included discussion of the draft Scheme of Management.
- 5.4. All Members were invited to attend a briefing on 30 September 2026 to explain the NSD in more detail and set out the practical implications.
- 5.5. All Parish Councils have been invited to attend information sessions as part of the upcoming Local Plan consultation. Officers are presenting to each of these sessions on the NSD.
- 5.6. Following deferral of the guidance from Full Council in April, Group Leaders were requested to provide any additional comments for consideration. Those comments received have been considered in the revised version of the guidance attached to this report.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1. Considering applications for planning permission is one of the core, statutory duties of local authorities. Town and Country Planning was nationalised in the post-war era to ensure that proposed developments could be consistently assessed against relevant interests, policies and guidance. Over time a substantial legal, regulatory framework has been developed.
- 7.2. Applications are considered via two main routes. Offices consider and determine most applications under delegated powers. For North Herts, approximately 96% of applications are determined this way.
- 7.3. The remainder are determined by Planning Control Committee (PCC). PCC determines the largest applications and matters of local interest. Broadly speaking, there are two main routes by which applications currently reach PCC (though this doesn't cover all scenarios):

- a. Applications which are referred by default due to their nature or size
 - b. Applications which are 'called-in' for consideration by elected Councillors, either directly or in support of an objection made by a Parish Council
- 7.4. The scope of (a) and (b) have previously been matters for local determination. Authorities use their constitutions and associated guidance to set out which matters should be referred by default and how local councillors might call-in applications for consideration.
- 7.5. The NSD changes this by stipulating, through secondary legislation, which planning applications local councils must delegate to planning officers and which can be considered for referral to committee.
- 7.6. This follows a Government consultation earlier in the year. The response on Planning Committee Reform was published on 2 June 2026 alongside draft regulations. The accompanying statutory guidance states local authorities will need to amend their constitutions to align with the national scheme. Draft regulations have been laid before Parliament with an implementation date of October 31 2026.
- 7.7. The NSD will split all planning applications into either
 - Schedule 1 (Mandatory Delegation) that must be determined by planning officers; or
 - Schedule 2 (Presumed Delegation) which are presumed to be delegated unless:
 - a. they meet certain criteria;
 - b. are made on behalf of the Local Authority or a Councillor or employee; or
 - c. a nominated officer and nominated Councillor (see below) agree it should be referred for Committee consideration.
- 7.8. Schedule 1 includes all householder applications, minor commercial applications and minor residential applications as well as all reserved matters other than in respect of a "large" outline permission (defined as 500 or more homes or 50,000m2 of floorspace).
- 7.9. The authority will need to identify the "nominated officer" and "nominated Councillor". This function may be fulfilled by more than one person and / or provide for substitutes. However, the statutory guidance sets a presumption these roles will be fulfilled by the Chief Planning Officer (or equivalent) and the chair of planning committee.
- 7.10. The nominated individuals will be charged with determining whether a Schedule 2 application raises one or more issues of economic, social, environmental or planning significance ('the gateway test'). If the consensus is that they do, then they may be reported to Planning Control Committee. The test of significance relates to material planning considerations and will not be triggered solely by the level of public interest or opposition to a scheme. The nominated officer has final decision-making power on this matter.
- 7.11. However, it is not a requirement that all Schedule 2 applications must be considered in this way; Councils set out which Schedule 2 applications will be subject to this consideration with the remainder being delegated. Officers may also use their professional judgment and discretion to identify Schedule 2 applications which are clearly unlikely to trigger the gateway test.
- 7.12. Under the NSD current 'call-in' practices will not be possible. This includes those in support of an objection by a Parish or Town Council. The response from parish and town

councils will be considered by officers as they are for all applications currently when a comment is received, whether they are determined under delegated powers or by the Planning Control Committee (PCC).

- 7.13. The NSD does not diminish the importance of representations made by Parish and Town Councils – who remain statutory consultees – or their abilities to (for example) raise relevant considerations, request appropriate contributions towards infrastructure projects or attend PCC to speak in relation to committee items. Their comments will continue to be treated as material planning representations and considered in the same way as any other consultation response. The change affects only the mechanism by which an application may be referred to Committee.
- 7.14. The regulations also place a statutory limit on the size of the planning committee at 13 members. As North Herts' PCC currently has 12 members this does not require any change but Members should remain mindful of this in any future reviews.
- 7.15. It will also be necessary to make appropriate accompanying and complementary changes to officer delegations and procedures. To support Councils, the Planning Officers' Society have produced a range of templates and good practice guidance which have been considered and used as appropriate.
- 7.16. Whilst the NSD reduces the circumstances in which planning applications may be referred to Committee going forward, it does not alter the fundamental role of elected Members in setting planning policy through the Local Plan and associated planning documents, determining applications that raise issues of planning significance, assisting residents on planning matters, establishing the Council's planning service priorities and scrutinising planning performance

8. RELEVANT CONSIDERATIONS

Recommendation 2.1 – The Constitution

- 8.1. Giving effect to the NSD requires changes to the Council's Constitution relating to Planning Control Committee (Section 8.4). These changes are set out at Appendix A.
- 8.2. These changes **introduce**:
 - Reference to PCC determining applications referred to it in accordance with the regulations (Section 8.4.4 of the Constitution);
 - All other applications being determined under delegated powers (8.4.5)
 - Requirements to be met for applications to be referred to PCC (8.4.6, 8.4.7)
 - Nominated officer and Member provisions (8.4.8)
 - Record keeping and transparency, including maintaining an operational scheme of management (8.4.9, 8.4.10)
- 8.3. The practical effect of these is discussed further below under Recommendation 2.2.
- 8.4. The remaining, current provisions of the Constitution in relation to PCC are deleted. These changes **remove**:
 - The ability of the Director: Place to directly refer a matter to PCC (deleted 8.4.4); and
 - The various criteria used under the current constitution to determine whether applications are referred to PCC, including call-in provisions for Councillors (deleted 8.4.5).

- 8.5. As set out above, there are no alternates to this course of action. The Statutory Guidance is clear that authorities' who do not align their Constitutions to the NSD in readiness for 31 October 2026 would be liable for judicial review.

Recommendation 2.2 – The Scheme of Management

- 8.6. The Scheme of Management says how the NSD will be implemented in practice for North Herts. This includes establishing appropriate delegations for officers to make decisions, prescribing nominated persons and substitutes for the purposes of the regulations, and setting out how applications will be considered under the regulations (broadly referred to as triaging).
- 8.7. The Scheme of Management will sit outside of the Constitution. As operational guidance, it falls within the general delegation for planning matters granted to the Director: Place by Section 14 of the Constitution. As the NSD beds in, it is possible that changes will need to be made to the Scheme of Management to better reflect how new processes are operating in practice, or to respond to any issues that arise. The Scheme of Management is presented for information as part of this report for transparency and to inform any debate.
- 8.8. Any queries or points of clarification raised by Members at the meeting will be considered by the Director: Place prior to final publication.
- 8.9. Key elements to highlight within the Scheme of Management (beyond matters that are already secured in the recommended constitutional amendments above) are:
- That the Vice-Chair of Planning Control Committee will act as the substitute nominated member;
 - That the Director: Place will likely, in practice, sub-delegate their nominated officer responsibilities to the Development & Conservation Manager with the principal officers acting as substitutes;
 - That the following 'Schedule 2' application types will be automatically delegated for decision by officers:
 - a. S73 [variation of existing permission] applications where there are no objections
 - b. Advertisement consent where there are no objections
 - c. Tree Preservation Orders where there are no objections
 - d. Listed building consent to Grade II buildings without an associated planning application where there are no objections
 - That the Director: Place, Development & Conservation Manager and Principal Planning Officers may use their professional judgement to identify Schedule 2 applications that would not meet the threshold in the gateway test; and
 - Standard explanations to be inserted into report templates to explain how the means of determining that application has been arrived at.
- 8.10. The Schedule 2 application types identified in the third bullet point above are generally technical, specialist or regulatory in nature and officers' professional judgement is that they very rarely raise issues that would be capable of satisfying the statutory significance threshold in the gateway test. There may be other Schedule 2 applications that, following (e.g.) an initial assessment or the receipt of consultation responses, officers will be able to determine should be determined under delegated powers.

Recommendation 2.2 – Planning Guidance on Briefings and Site Visits

- 8.11. A report was prepared for Full Council in April 2026 outlining a proposed approach to member briefings and site visits. Under the terms of that report, the guidance would have been incorporated into the Constitution if approved. The matter was deferred without being debated.
- 8.12. As above, more recent advice is now that operational guidance should sit outside the constitution to allow for regular review and update. Notwithstanding this, and given that the April 2026 deferral remains 'unresolved', the guidance is presented for information.
- 8.13. Key changes to the guidance from the version published in April are:
 - Amending introductory sections in line with the NSD and Constitution (as proposed)
 - Additional text around timings and intended notice periods for site visits
- 8.14. Other issues raised following the April deferral, relating to call-in, have been negated by the NSD.
- 8.15. Both documents provided under Recommendation 2.2 will be published as operational guidance under delegated authorities. However, any comments from Members raised through debate will be taken into consideration in their finalisation. Updates are additionally being made to speaking procedures at Committee meetings. This is in response to the recommendations of a voluntary peer review of the planning service by the Planning Officers Society and to reflect the NSD insofar as it relates to advocacy and call-in. The recommendations of the POS review on this matter and the proposed response have previously been reviewed and endorsed by the cross-party Strategic Planning Project Board in consultation with the chair and vice-chair of PCC.

9. LEGAL IMPLICATIONS

- 9.1. The National Scheme of Delegation is introduced by The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026, which give effect to new provisions introduced into the Town and Country Planning Act 1990 by the Planning & Infrastructure Act 2025.
- 9.2. The accompanying statutory guidance makes clear that failure to implement the NSD carries a significant legal risk:

For the avoidance of doubt, where local planning authorities do not comply with the Regulations from the date they come into force (31 October 2026) and their planning committees make decisions on applications which must be delegated officers, those decisions may be subject to judicial review by anyone aggrieved by the decision. This may lead to the quashing of the decision.

- 9.3. Section 9P of the Local Government Act 2000 as amended sets out the duty of the Council to prepare and keep up to date its constitution.
- 9.4. The Council Constitution is made available on our public website and it is for the Monitoring Officer to monitor and review the operation of the constitution on an ongoing basis and where necessary bring forward amendments to Council.

- 9.5. The Director: Place holds a general delegation for Planning and Development Management issues other than matters reserved to the Planning Control Committee under Section 14.6.10(b)(iv) of the Constitution. Sub-delegations to officers are being reviewed and updated as required to implement the NSD.

10. FINANCIAL IMPLICATIONS

- 10.1. No direct financial implications. The administrative costs of introducing the NSD and associated procedures is being met from within existing staff resources.
- 10.2. Government has separately legislated to increase planning fees from December 2026, though this is not explicitly linked to the introduction of the NSD. The implications of this rise will be considered through normal budget processes.

11. RISK IMPLICATIONS

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2. The key risk is as set out in the legal implications above.
- 11.3. Clear and appropriate guidance and frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unlawful decision making.
- 11.4. During the implementation period there is a risk of misunderstanding by applicants, residents and elected Members regarding the changed arrangements. This will be mitigated through training, briefing sessions and publication of guidance.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. There are no equalities implications.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 None, though this will be monitored. It is presently anticipated that the effects of the NSD can be managed through existing staff resources and / or regular reviews of the service through normal budget setting cycles. Although procedures and the balance of committee vs delegated decisions are altering, the NSD is not expected to directly lead to any substantive change in the number of applications received.

16. APPENDICES

- 16.1. Appendix 1 – Amendments to Section 8.4 of the Constitution
- 16.2. Appendix 2 – Planning Scheme of Management
- 16.3. Appendix 3 – Planning Control Committee Guidance on Briefings and Site Visits

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS

- 18.1 [Report to Full Council – April 2026: Adoption of the Planning Control Committee Additional Guidance](#)