

AMENDMENTS TO THE COUNCIL'S CONSTITUTION – PREPARING FOR THE INTRODUCTION OF THE NATIONAL SCHEME OF DELEGATION FOR PLANNING APPLICATIONS	
Executive Summary	This report sets out proposed changes to the Council's Constitution linked to a new national scheme of delegation following introduction of planning regulations which come into effect on 31 October 2025.
Options considered	• Option One – Do Nothing (Not Recommended) • Option Two – Accept the proposed amendments to the Constitution in full (Recommended) • Option Three – Accept some of the proposed amendments to the Constitution and/or make substantive amendments (Not Recommended)
Consultation(s)	Consultation with relevant officers has been undertaken including, but not limited to: • Eastlaw • Assistant Director Planning • Section 151 Officer
Recommendations	• To Approve “Option Two” – Accept the proposed amendments to the Council's Constitution in full.
Reasons for recommendations	To ensure that the Council's Constitution is fully compliant with legal requirements coming into effect on 31 October 2026.
Background papers	N/A

Wards affected	All
Cabinet member(s)	All
Contact Officer	Geoff Lyon, Development Manager Geoff.lyon@north-norfolk.gov.uk

Links to key documents:	
Corporate Plan:	A Strong responsible and accountable Council.
Medium Term Financial Strategy (MTFS)	N/A
Council Policies & Strategies	N/A

Corporate Governance:	
Is this a key decision	No

Has the public interest test been applied	Is the item exempt - No
Details of any previous decision(s) on this matter	N/A

1. Purpose of the report

- 1.1. To set out proposed changes for consideration and review of the Constitution Working Party, and seek approval for the proposed changes to the Council's Constitution.

2. Introduction & Background

- 2.1. The Local Government Act 2000 mandates that Councils with executive arrangements maintain a Constitution.
- 2.2. The Constitution specifies how the Council functions, how decisions are made and the procedures for ensuring efficiency, transparency and accountability.
- 2.3. A well-developed Constitution is crucial for good governance, effective management and responsible stewardship of public funds.
- 2.4. The proposed changes set out at **Appendix A** are aimed at ensuring that the Council's Constitution meets the needs of these requirements.
- 2.5. On 01 June 2026, government issued draft regulations known as the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 [hereinafter referred to as the Planning Regulations]. These regulations come into effect on 31 October 2026. A copy of the Regulations is attached as **Appendix B**.
- 2.6. The Planning Regulations introduce a new national scheme of delegation. The national scheme of delegation specifies that some planning application types will never be determined by Development Committee and that some planning applications types **may** be determined by Development Committee subject to a "gateway test".
- 2.7. It is for each Council to re-draft its Constitution to accord with the Planning Regulations and each Council is free, to some extent, to define their own gateway test provided that such a test accords with the regulations.
- 2.8. Government guidance has made clear that "...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 [to] officers, those decisions may be subject to judicial review by anyone aggrieved by the decision. This may lead to the quashing of the decision."
- 2.9. Amendments to the Constitution proposed within this paper are therefore required to ensure planning decisions made after the 31 October 2026 are legally compliant in accordance with the Planning Regulations.

3. Proposals and Options

3.1. Option One – Do Nothing (Not Recommended)

- 3.2. Ignoring the Planning Regulations and not amending the Constitution to reflect the new national scheme of delegation requirements is not recommended as this will increase the risk of legal challenge to any planning decisions issued by the Local Planning Authority not in accordance with the regulations.

3.3. Option Two – Accept the proposed amendments to the Constitution in full (Recommended)

- 3.4. A copy of the proposed amendments to the Constitution are attached as **Appendix A**.

Explanatory Notes –

- 3.5. The proposed amendments set out at **Appendix A** would replace paragraphs 6.2 to 6.9 of Part 2 (Functions which are Delegated to Officers) within Chapter 6 of the current Constitution (March 2026 version – pages 94 to 97).
- 3.6. Paragraph 6.3 provides further clarity on the statutory functions delegated to the Director for Service Delivery
- 3.7. Paragraphs 6.4 to 6.7 “Conditions” specifies a set of conditions under which the scheme of delegation operates including at condition:
- a) Para 6.4 sets out the types of application that **MUST** be determined under powers delegated to the Director for Service Delivery without determination by the Development Committee (see application types 1) to 15));
 - b) Para 6.5 sets out the types of application that **MUST** be determined under powers delegated to the Director for Service Delivery without determination by the Development Committee **unless** the application passes the “**Gateway Test**” (see application types 1) to 10));
 - c) Para 6.6 sets out the types of application submitted by or on behalf of the District Council and guidance as to when such applications should be referred to Development Committee;
 - d) Para 6.7 sets out guidance on how planning applications submitted by Members and Officers of the Council or close family relatives shall be considered;
- 3.8. Paragraph 6.8 sets out the “**Gateway Test**” and how it will function and paragraph 6.9 sets out the “**Gateway Test**” **Guidance** to be considered when undertaking the gateway test. The gateway test builds on elements of the current existing scheme of delegation allowing local members to make a case as to why an application should be referred to Development Committee but the final call-in decision rests with the Nominated Member and Nominated Officer having regard to the relevant gateway test guidance.
- 3.9. Guidance issued by government on 01 June 2026 in relation to who should be carrying out the gateway test sets out that:

“For the purposes of considering referral of applications to committee:

- a. the nominated officer should be the Chief Planning Officer or equivalent officer who has extensive professional planning experience. However, local planning authorities will also need to ensure they have other senior planning officers who can provide cover if needed to avoid any unnecessary delays in the referral process (or where there is an own interest application and the Chief Planning Officer or equivalent officer has an interest in it).*
- b. the nominated member should be the chair of the planning committee or, where such a role does not exist, the vice chair or equivalent member. As in the case of nominated officers, the authority will need to ensure there are arrangements in place for other members to cover should the nominated member not be available (or where there is an own interest application and the nominated member has an interest in it).”*

Whilst the guidance also says *“It is for individual local planning authorities to put in place their own arrangements for how the consideration of cases for referral to committee will operate in practice,”* the gateway test and guidance set out at paragraphs 6.8 and 6.8 is drafted having given full regard to the government guidance in terms of suggested member involvement.

3.10. Paragraph 6.9 “Notes” sets out a series of notes 1) to 5) designed to aid Officers and Members when interpreting conditions set out across paragraphs 6.4 to 6.7.

3.11. Paragraphs 6.10 provides clarity that all other functions not listed across paragraphs 6.3 to 6.9 are delegated to the Director for Service Delivery.

3.12. Option Three – Accept some of the proposed amendments to the Constitution and/or make substantive amendments (Not Recommended)

3.13. Whilst Officers note that the final decision on Constitution wording rests with Full Council, the ability to amend wording beyond that set out at Appendix B is limited to a significant degree by a need to ensure compliance with the Planning Regulations. There is scope to refine the “Gateway Test” but it needs to function effectively without adding significantly to bureaucratic processes which could delay application determinations leading to adverse departmental performance in relation to speed. The gateway test as drafted seeks to find an acceptable balance between enabling local member involvement in committee call-ins without resulting in too many call-ins adding unnecessarily to officer and member workloads.

4. Corporate Priorities

4.6. **A Strong, Responsible & Accountable Council** – Having a Constitution that is legally and procedurally correct supports the Council’s corporate priority to be a strong, responsible and accountable Council.

5. Financial and Resource Implications

5.1. Decisions made which do not comply with the Regulations from the date they come into force (31 October 2026) may be subject to judicial review by anyone

aggrieved by the decision. This may lead to the quashing of the decision with associated financial implications in defending decisions.

- 5.2. Resource implications would result from having to re-determine applications made not in accordance with the regulations (Officer time, Committee time).

Comments from the S151 Officer:

The S151 Officer (or member of the Finance team on their behalf) will complete this section.

6. Legal Implications

- 6.1. See 5.1 above.

Comments from the Monitoring Officer

“The new Regulations make changes as to which applications must or may be determined by officers, and which are for determination by the Development Committee. Statutory guidance supports the Regulations, giving further detail as to how they should be interpreted. As the changes come into force on 31 October 2026 our Constitution needs amending to reflect the requirements of the Regulations and guidance”

7. Risks

- 7.1. See 5.1 above
- 7.2. Reputation damage / risk will occur associated with planning decisions made which do not comply with the Regulations.

8. Net Zero Target

- 8.1. The Climate Impact Assessment Tool has been completed and the proposed changes to the Council's Constitution raise no matters requiring mitigation. The reduction in planning items being referred to Development Committee associated with a new Constitution resulting from revised Planning Regulations and a national scheme of delegation is expected to see a very modest reduction in the number of Development Committee meetings taking place each year with associated carbon savings linked to a reduction in the need for DM Committee participants having to commute to the Council Offices to participate in the meetings.

9. Equality, Diversity & Inclusion

- 9.1. With reference to the Council's Equality, Diversity and Inclusion strategy, the proposed changes to the Constitution help to ensure that the Council meets its obligations under the Equality Act 2010 and the Public Sector Equality Duty and has been written in a way that is considered to be gender neutral.

10. Community Safety issues

- 10.1. The proposals do not give rise to any Community Safety issues.

Conclusion and Recommendations

It is important to consider the proposed changes to the Constitution and to ensure that the Constitution enables the Council to meet its legal obligations in relation to determination of planning applications in accordance with new regulations.

It is recommended that the Constitution Working Party recommends Full Council to:

- **Approve “Option Two” – Accept the proposed amendments to the Council’s Constitution in full.**