

Committee Report Checklist

Please submit the completed checklists with your report. If final draft report does not include all the information/sign offs required, your item will be delayed until the next meeting cycle.

Stage 1

Report checklist – responsibility of report owner

ITEM	Yes / No	Date
Councillor engagement / input from Chair prior to briefing		
Relevant Group Head review		
MAT+ review (to have been circulated at least 5 working days before Stage 2)		
This item is on the Forward Plan for the relevant committee		
	Reviewed by	
Finance comments (circulate to Finance)		
Risk comments (circulate to Lee O'Neil)		
Legal comments (circulate to Legal team)	WB	16.09.26
HR comments (if applicable)		

For reports with material financial or legal implications the author should engage with the respective teams at the outset and receive input to their reports prior to asking for MO or s151 comments.

Do not forward to stage 2 unless all the above have been completed.

Stage 2

Report checklist – responsibility of report owner

ITEM	Completed by	Date rec'd
Monitoring Officer commentary – at least 5 working days before MAT	JC as DMO	29.09.26
S151 Officer commentary – at least 5 working days before MAT	T.Collier	29/09/26
Commissioner engagement	JK	29/09/26
	Delete as applicable:	No issues Comments in S. 7
Confirm final report cleared by MAT		

Planning Committee

14 October 2026

Title	<i>Amendments to Planning Committee Terms of Reference Planning Delegations and Planning Code following the Town and Country Planning Act (Discharge of Local Planning Authority Functions) (England) Regulations 2026</i>
Purpose of the report	To Note and appoint the Nominated Officer and Nominated Member and any substitutions
Report Author	<i>Wendi Batteson, Interim, Planning & Litigation Lawyer Simon Rowberry, Interim Planning Development Manager</i>
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/A
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a Committee decision.
Recommendations	Committee is asked to: 1. Note the upcoming statutory changes under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 and the introduction of the National Scheme of Delegation as set out in this report; and 2. Appoint the Nominated Member and Nominated Officer.
Reason for Recommendation	<i>To comply with the Statutory requirements set out in the Town and Country Planning Act (Discharge of Local Planning Authority Functions) (England) Regulations 2026</i>

1. Executive summary of the report (expand detail in Key Issues section below)

What is the situation	Why we want to do something
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• <i>Changes have been made to the Terms of Reference to the Planning Committee; Constitution and Scheme of Delegation in accordance with the Town and Country Planning (Discharge of Local Planning Functions) (England) Regulations coming into effect on 31 October 2026</i>	• <i>To ensure the Planning Committee appoints the Nominated Officer and Nominated Member and any substitutes.</i>
This is what we want to do about it	These are the next steps
• <i>Note the amendments made to the Constitution, officer delegations and Planning Code to bring it in line with the requirements of national legislation.</i>	• <i>To appoint The Nominated Officer and Nominated Member as set out in this report.</i>

2. Key issues

The government has passed the Town and Country Planning Act (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (Regulations) to require local authorities to take a more uniform approach to planning application decision making. These Regulations come into effect on the 31st October 2026 and make significant changes to the way in which planning applications are determined. Among other changes, the Regulations remove the right of Ward Councillors to call planning applications in for determination by Planning Committee.

There are no transitional arrangements proposed and therefore the Regulations have full effect from 31 October 2026. After that date all applications will be considered in accordance with the Regulations, irrespective of when a planning application was received.

3. Background

- 3.1 The government has in bringing in the Regulations required local authorities to take a more uniformed approach to planning application decision making.
- 3.2 These Regulations, will come into effect on the 31st October 2026.
- 3.3 They set out in two Schedules those kinds of planning applications that MUST be determined by an officer and those that may, following agreement between the Nominated Officer and the Nominated Member, be placed before Planning Committee.
- 3.4 Applications that fall within Schedule 1 must be determined by the Nominated Officer and cannot be determined by members at Planning Committee. The vast majority of planning applications considered by this Council fall within Schedule 1.
- 3.5 The Schedule 1 applications cover:
 - (a) An application made under s17(1) of the Land Compensation Act 1961 (certificates of appropriate alternative development).

- (b) An application under s26H(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990(certificate of lawfulness of proposed works).
- (c) A householder application
- (d) A minor commercial application
- (e) A minor Residential application. A minor residential application means an application for development that
 - i) Includes only dwellings and development incidental to the enjoyment of dwellings;
 - ii) Comprises at least one but no more than nine dwellings; and
 - iii) Is carried out on a site having an area smaller than 0.5 hectares.
- (f) An application for permission in principle
- (g) A section 73(1) TCPA application (application to develop land without compliance with conditions previously attached) in respect of an original planning permission.
- (h) An application made under s 96A(4)TCPA (non material changes to planning permission or permission in principle).
- (i) Any associated s106 application to modify or discharge planning obligations under S106A.
- (j) An application under s191 TCPA (certificates of lawfulness of existing use or development).
- (k) An application under s192 TCPA (certificates of lawfulness of proposed use or development).
- (l) The submission of a biodiversity gain plan.
- (m) A reserved matters approval application in respect of an outline permission other than a large outline permission.
- (n) An application made under a planning condition.
- (o) A prior approval application.

3.6 Schedule 2 applications are those which may, subject to agreement between the Nominated Officer and Nominated member, be determined by Planning Committee provided they fall within what is known as the Threshold or Gateway test.

3.7 Schedule 2 applications cover the following:

- (a) An application for listed building consent made under section 10(1) of the Listed Buildings Act (making of applications for listed building consent).
- (b) An application made under section 19(1) of the Listed Buildings Act (variation or discharge of conditions of listed building consent).
- (c) An application for planning permission that the authority concerned considers is connected with an application of a kind specified in paragraph 1 or 2

- (d) An application for planning permission that is not—
 - (i) a householder application,
 - (ii) a minor commercial application, or
 - (iii) a minor residential application.
 - (d) An application made under section 73(1) of TCPA 1990 (application to develop land without compliance with conditions previously attached) in respect of which the original planning permission was a Schedule 2 planning permission.
 - (e) An application made under section 73A(1) of TCPA 1990 (planning permission for development already carried out).
 - (f) A request for agreement or an application to modify or discharge a s106 obligation previously connected to a permission under this Schedule.
 - (g) A reserved matters approval application in respect of a large outline permission. A large outline permission means an outline permission involving either or both of
 - i) The provision of 500 or more dwellings
 - ii) The provision of a building or buildings where the floorspace to be created by the development is 50,000sqm or more.
 - (e) An application made under Regulation 9(1) of the TCPA (Control of Advertisements) (England) Regulations 2007.
 - (f) An application made under Regulation 16(1) of the TCPA (Tree Preservation) (England) Regulations 2012.
- 3.8 The Nominated Officer and Nominated Member and any substitutes must be nominated by the Local Planning Authority. The Guidance to the Regulations envisage these to be the Planning Development Manager and any substitutions and the Chair of Planning Committee and any substitutions.
- 3.9 The Regulations make clear the Nominated Officer and Nominated Member must be appointed by the Local Planning Authority. The Local Planning Authority is the Borough Council and exercises the functions for planning through its officers and members of the Planning Committee in accordance with the law and Planning Committee Terms of Reference under the constitution.
- 3.10 The Statutory guidance which accompanies the regulations make clear the officer delegation for planning matters should be the Planning Development Manager. Consequently, the nominated officer appointed by the Local Planning Authority should be decided by the Planning Committee and it is advised this should be the Planning Development Manager and any substitute officers could be left to that nominated officer to appoint. Or any such appointments could be determined by the Planning Committee or left entirely in the discretion of the Planning Development Manager.
- 3.11 The Planning Committee in the exercise of its functions as Local Planning Authority must make arrangements to appoint the Nominated Member and any substitutions at its next planning committee prior to 31st October 2026.

- 3.12 If the Local Planning Authority fail to nominate officers or members then by default all planning decisions fall to any officer of the authority to determine without recourse to any member or the Planning Committee.
- 3.13 The amendments required to the Constitution have been considered by the Committee System working group and Standards Committee. These amendments to enable the changes to the constitution required by Regulations are to be recommended for approval by Full Council on 22 October
- 3.14 The Flow chart attached to this report at Appendix A sets out the Regulatory process.

4. Options appraisal and proposal

- 4.1 The Preferred Option is to approve the Nominated Officer and Nominated Member and any substitutes.
- 4.2 A “do nothing” option means all future planning applications would be potentially subject to legal challenge (judicial review) according to the Statutory Guidance.

5. Risk implications

There is no legal requirement for the Local Planning Authority to appoint a Nominated Officer or Nominated Member. However, not appointing the Nominated Officer or Nominated Member would result in all applications being determined by any officer of the Local Planning Authority without any local member scrutiny.

6. Financial implications

Legal challenge to planning decisions can expose the Council to financial risk – either through awards of costs or damages or the cost of defending the Council. Having a clear unambiguous process for addressing the Regulations should reduce this risk.

7. Legal comments

7.1 From 31 October 2026 the Council has a statutory duty under the Town and Country Planning Act (Discharge of Local Planning Authority Functions) (England) Regulations 2026 to take a more uniform approach to planning application decision making.

7.2 The Council will comply with the requirements of the Regulations and it is preferred that Planning Committee appoint the Nominated Member and Nominated Officer and any substitutes.

Corporate implications

8. Commissioners' comments

- 7.1 Report is not related to improvement objectives and does not require review by Commissioners

9. S151 Officer comments

9.1 The S151 Officer confirms that relevant financial implications have been taken into account..

10. Monitoring Officer comments

All relevant legal implications have been taken into account,

11. Procurement comments

11.1 There are no procurement implications arising directly from this report.

12. Equality and Diversity

The appointment of the Nominated Member and Nominated Officer are not considered to impact on protected characteristics or other equalities issues.

13. Sustainability/Climate Change Implications

The appointment of the Nominated Member and Nominated Officer does result in some additional work in conducting Gateway or Threshold Tests with necessary reports etc but this would be similar to existing approaches and can be carried out in a sustainable fashion.

14. Other considerations

14.1 There are none.

15. Local Government Reorganisation Implications

West Surrey's Constitution will reflect the requirements of the Regulations.

16. Timetable for implementation

16.1 The Regulations come into effect on 31 October 2026, so the appointment of the Nominated Officer and Nominated Member need to be adopted before then.

17. Contact

17.1 Wendi Batteson w.batteson@spelthorne.gov.uk or Simon Rowberry s.rowberry@spelthorne.gov.uk.

***Please submit any material questions to the Committee Chair and Officer
Contact by two days in advance of the meeting.***

Background papers: Town and Country Planning Act (Discharge of Local Planning Authority Functions) (England) Regulations 2026.

Appendices:

List as Appendix A, B etc with a short description of each.

Appendix A - Flowchart