SECTION B
GENERAL MATTERS

Item B1

A report by Head of Planning Applications Group to Planning and Regulation Committee on 2nd December 2026

Changes to Planning Applications Committee Terms of Reference arising from the **Town and Country Planning (Discharge of Local Planning Authority Functions (England) Regulations 2026)**

Recommendation:. Members to NOTE the revised Terms of Reference relating to amended delegation requirements and the introduction of the former Regulation Committee's function into a combined Planning and Regulation Committee

Classification: Unrestricted

Introduction

1. The Planning and Infrastructure Act 2025 gave the Secretary of State the power to introduce a national scheme of delegation for planning decisions and to control the size and composition of planning committees.

2. This power has now been given effect through The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. As set out in the Explanatory Memorandum to this piece of legislation, the purpose of introducing the changes is as follows:

   "*The aim is to ensure that there is greater clarity and consistency about the role of planning committees in planning decision making. It is intended to enable planning committees to work more effectively by allowing them to focus on the key development proposals that matter in their area, enabling other, often more minor and technical, decisions to be made by planning officers."*

3. These changes to the law came into effect on 31 October 2026. The Council has therefore revised the Terms of Reference of the Planning Applications Committee to be compliant with the legislation and to ensure planning decisions can continue to be taken lawfully.

4. In addition, on 18 December 2025, County Council agreed that the Planning Applications Committee would take on the functions of the Regulation Committee. This change has been fully incorporated into the revised terms of reference. As a consequence, the Committee has been renamed the Planning and Regulation Committee.

5. To bring effect to the above, the matter was considered by Selection and Member Services Committee on 8th September and County Council on the 17th September 2026. The changes were agreed at County Council and the Constitution and Terms of Reference have been updated.

6. The Regulations introduce mandatory changes as to which planning applications are to be determined by Committee and those delegated to officers. Given the wider interest in planning matters, all Members were invited to a briefing on the changes on 22nd October and a further briefing is proposed for Members of this Committee.

7. This report sets out for information the revised delegation arrangements that apply for planning application decisions taken post 31st October 2026. Prior to this date, a material planning objection resulted in the application being determined by committee. This is no longer an option for lawful decision making. The new national scheme of delegation set out below sets out the circumstances for future decision making.

National Scheme of Delegation

8. The national scheme of delegation for planning applications as set out in the Regulations, and supported by statutory guidance essentially divides planning applications into two 'schedules'.

    a. **Schedule 1** sets out applications that must always be determined by officers.
    b. **Schedule 2** sets out applications which may be determined by the Committee, but only once a statutory gateway test has been applied and satisfied.

    The only exception is where 'own-interest' applications (Regulation 3 development) are concerned and where Kent County Council is connected to the application in specified ways. Here an additional test must also be satisfied before the Committee may consider the application. This relates to interests of transparency and public accountability.

9. Detail of the types of applications that fall within the Schedules is set out in Appendix 2. For the purposes of the Council's planning functions, the Schedule 1 applications can be summarised as applications for a Certificate of Lawfulness of Proposed Works (CLOPUD) or a Certificate of Lawfulness of Existing Use or Development (CLEUD), minor commercial development, submission of a Biodiversity Gain Plan, applications submitted under a planning condition and a determination of whether prior approval is required.

10. Schedule 2 applications cover a range of more complex planning applications and associated consents, generally relating to major development, retrospective permissions, planning obligations and specialist consents. In summary, those relevant to the Committee's business can be summarised as development relating to section 73 applications to vary or remove planning conditions, where the original permission was granted for a development type listed in Schedule 2, section 73A applications seeking planning permission retrospectively for development that has already been carried out, requests to modify or discharge Section 106 planning obligations and applications for permission that are not minor commercial development. The majority of the Council's mineral and waste planning functions will fall within Schedule 2.

11. In order for there to be clarity and consistency as to how planning applications are assessed, and to ensure that applications are not held up unduly, the Regulations make provision for a triage process to be established. This has been agreed with the Chair as per the terms of reference. This allows for the effective use of resources and Member's time and will focus the Committee on the most significant proposals. It is intended to ensure that routine, technical, and applications where concerns have been resolved can be determined efficiently under delegated powers, while preserving a clear route to the Planning and Regulation Committee where an application raises issues of significance or where Committee consideration is justified in the interests of transparency and public accountability.

12. All applications are considered against the Gateway Triage process. This considers which schedule the application falls within, and whether it satisfies one of the statutory tests. These being:

a. It raises one or more issues of economic, social or environmental significance to the local area, or
b. It raises one or more significant planning matters having regard to the development plan and any other material considerations, or
c. in the case of the Council's own development, it raises issuers of transparency and propriety such that the application should be considered by committee.

A flowchart of the triage process is set out in Appendix 3.

13. Following the Gateway Triage Process, those applications that have the potential to satisfy at least one of the statutory tests, are the subject of a discussion and agreement with the Nominated Member and the Nominated Officer. This determines the decision making route. Where both parties agree, the application is reported to Committee for a decision. All other applications are to be determined by the Nominated Officer. For the purposes of the legislation, the Constitution defines the Head of Planning Applications as the 'Nominated Officer'. The Nominated Member is defined as the Chair of the Committee, with the Vice-Chair undertaking the role where the Chair is unavailable.

14. The planning scheme of delegation is set out in full in Appendix 2 and is managed through the Terms of Reference (Appendix 1).

Record Keeping

15. Authorities are required to keep records of referral decisions and report them regularly to the committee. This is also reflected in the Terms of Reference. As was the practice with previous delegated decisions, details will be reported to the next available committee with reasoning for the delegated decision. In addition, the officer's delegated report will be published alongside the decision notice and will include the reasoning for the decision-making route.

Membership

16. The Secretary of State has set a maximum number of Members on planning committees of 13. There were previously 15 Members on the Planning Applications Committee so this has been reduced to 13.

Regulation Committee Functions

17. Broadly speaking, the majority of the functions of the Regulation Committee were managed through delegated arrangements. This will continue as set out in section 17.40 of the Terms of Reference. The exception was around planning enforcement, which sat with the Regulation Committee itself. This function will move to the Planning Applications Committee as set out at 17.29d of the Terms of Reference. To help people understand the bringing together of these functions, it is also being recommended that the Committee name be changed to Planning and Regulation Committee.

Conclusion

18. Revised Terms of Reference and amended constitutional requirements for Planning Applications Committee have been introduced to comply with statutory requirements that came in to force from 31st October. This includes the introduction of revised delegation requirements. The new requirements are intended to bring greater clarity and consistency to decision making and to enable planning committees to work more effectively by allowing them to focus on the key development proposals that matter in

their area, enabling other, often more minor and technical, decisions to be made by planning officers.

19. Whilst there are revised triggers for rereferring applications for a committee decision, given the nature of the Committee's business it should be noted that in practice the number and nature of applications reported to committee for a decision is unlikely to change.

Recommendation

20. I RECOMMEND that Members NOTE the revised Terms of Reference and constitutional changes as they relate to the business of the Planning and Regulation Committee and the consequential changes to decision making.

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Background Documents:

The Town and Country Planning (Discharge of Local Planning Authority Functions (England) Regulations 2026 - https://www.legislation.gov.uk/uksi/2026/854/contents/made

Functions: Guidance for local planning authorities in England - Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local…

Appendix 1

Planning and Regulation Committee
Terms of Reference November 2026 (Extract from the Constitution)

17.25 Membership: 13 Members

17.26 The membership shall not at any time exceed the limit set by The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.

17.27 This limit referred to in 17.26 only applies to the Committee in carrying out its functions under the same regulations.

17.28 Political Groups may only nominate Members as regular Members or as substitutes on the Planning and Regulation Committee if they have had training in the relevant procedures.

17.29 This Committee is responsible for the following planning functions which will be performed in line with the relevant legislation and having regard for any relevant guidance issued by the Secretary of State:

(a) Exercising delegated authority for the determination of planning applications and related matters in schedule 2 of the planning scheme of delegation set out in the Appendix to the Constitution. These functions will be exercised in accordance with 17.31 to 17.34 below.

(b) Own-interest applications in accordance with 17.35 to 17.37 below.

(c) The Committee will also consider or determine any other planning matter not listed at a-b above that are referred to it by the relevant Nominated Officer or Officers named in the Appendix to the Constitution.

(d) Exercising the Council's functions in relation to the enforcement of the control of development under the Town and Country Planning Act 1990 and related regulations and statutory instruments.

17.30 The votes of each individual Member of the Planning Applications Committee (whether for, against, or in abstention) will be recorded whenever the Committee votes against the Nominated Officer's recommendation for permission or refusal of a planning application, together with the grounds and reasons for overturning the recommendation.

Planning Scheme of Delegation

17.31 The planning scheme of delegation is set out in the Appendix [2] and is managed through these terms of reference. The scheme contains the following:

(a) Schedule 1 sets out those applications reserved by The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 to be determined by the Nominated Officer or Officers, unless 17.35 to 17.37 applies.
(b) Schedule 2 sets out those applications reserved under these same regulations which may be considered by the Committee after the procedure set out in 17.33 to 17.36 has been followed.

17.32 For the purposes of matters relating to schedule 2, the Nominated Member is the Chair of the Committee, with the Vice-Chair able to act as Nominated Member when the Chair is unavailable or has a conflict of interest.

17.33 Schedule 2 applications will only be considered by the Committee once the following procedure has been undertaken, except where 17.35 to 17.37 relating to own-interest applications apply:

(a) A Gateway Triage Process has been completed. The Gateway Triage Process will be agreed by the Head of Planning Applications following consultation with the Chair.

i. Those applications that pass the Gateway Triage Process move on to the next stage (17.33b). All others will be determined by the Nominated Officer.

(b) The Nominated Member and Nominated Officer agree that determination by the Committee is necessary because in their view it raises either of the following as set out in The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026:

ii. one or more issues of economic, social or environmental significance to the local area, or
iii. one or more significant planning matters having regard to the development plan and any other material considerations.

17.34 In all cases where the Nominated Member and Nominated Officer do not agree as required in 17.33(b), the decision is to be taken by the Nominated Officer.

17.35 Schedule 1 and 2 applications are considered own-interest applications where they meet the following criteria:

(a) Those that are made (whether or not jointly with any other person) by or on behalf of:

i. that authority,
ii. a member of that authority, or
iii. an officer of that authority, or

(b) Those applications that, in the view of both the Nominated Member and the Nominated Officer, the authority or any of its Members or Officers otherwise has an interest in the application.

17.36 Own interest applications, as defined by 17.35, will only be considered by the Committee where the following apply:

(a) A Gateway Triage Process has been completed (which will include a transparency and propriety review). The Gateway Triage Process will be agreed by the Head of Planning Applications following consultation with the Chair.

i. Those applications that pass the Gateway Triage Process move on to the next stage (17.36b). All others will be determined by the Nominated Officer.

(c) The Nominated Member and Nominated Officer agree that determination by the Committee is necessary. If the application is listed in Schedule 2, it may only be

considered by the Committee where, in the view of the Nominated Officer and Nominated Member, it raises:

ii. one or more issues of economic, social or environmental significance to the local area, or
iii. one or more significant planning matters having regard to the development plan and any other material considerations.

17.37 In all cases where the Nominated Member and Nominated Officer do not agree to refer as required in 17.36(b), the decision is to be taken by the Nominated Officer

17.38 A record will be kept of the cases the Nominated Officer and Nominated Member have considered for referral to the Committee in accordance with 17.30 to 17.37, the outcome of their consideration and the reasons for their decision. They will be reported to the Committee on a regular basis.

17.39 The Planning and Regulation Committee, and any Panel carrying out regulatory functions under delegation, may permit members of the public interested in their decisions to address their meetings, in accordance with agreed procedures and adhering to the principles of decision-making contained in section 8.5 of the Constitution.

Regulatory Functions – Delegation Arrangements

17.40 The Committee is also responsible for the following specific regulatory functions on behalf of the Council. These are carried out through the following scheme of delegation and not by the Committee itself.

(a) Appeals against refusal to approve premises for the solemnisation of marriages (or the attachment of a condition to such an approval).

i. These are delegated to the Planning and Regulation Committee Member Panel, see 17.41.

(b) All Commons Registration functions under Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.

i. These are delegated to the Planning and Regulation Committee Member Panel, see 17.41.

(c) The creation, stopping up, diversion of any footpath or bridleway or restricted byway or the reclassification of any public path where substantive objection has been raised or a Political Group or the Local Member requests.

i. These are delegated to the Planning and Regulation Committee Member Panel, see 17.41.

(d) Appeals by pupils and parents against school-related decisions that are not considered by an external appeal Committee, including transport, education awards and religious education.

i. Such appeals to be dealt with by ad hoc Panels of Members chaired by and including at least one member of the Planning and Regulation Committee. All Panel members must have received appropriate training before taking up their positions.

(e) The discharge of persons who are subject to guardianship, pursuant to Section 23 of the Mental Health Act 1983 on the recommendation of the Director Adult Social Care and Health.

i. This is delegated to the Mental Health Guardianship Sub-Committee. The sub-committee must consist of at least three Members, one of whom must be a member of the Planning and Regulation Committee and the others to be members of the Adult Social Care Cabinet Committee (who must not also be members of an NHS Foundation Trust). The decision to discharge must be agreed by at least three Members or where there are more Members on the Sub-Committee by a majority of the Panel.

17.41 The Planning and Regulation Committee Member Panel, established to carry out the delegated functions of 17.40 a-c are to consist of 5 Members. A minimum of 1 member must also be a Member of the Planning and Regulation Committee. All Panel members must have received appropriate training before taking up their positions.

17.42 For the removal of doubt, section 17.28 only applies to Members who participate in these delegated arrangements if they are also members of the Planning and Regulation Committee.

Appendix 2

Extract from the Constitution - The Delegation Table

Planning Scheme of Delegation

Made in accordance with: The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026

Please note – this scheme must be read alongside the Planning and Regulation Committee terms of reference set out in the Constitution, sections 17.25-42.

Schedule 1 – Applications to be determined by the Nominated Officer unless referred as an own-interest application under sections 17.35-36 of the Constitution.

Ref.	Application Type (See Note 1 below)	Nominated Officer (See Note 2 below)
1.	An application made under section 17(1) of the Land Compensation Act 1961 (certificates of appropriate alternative development)	Head of Planning Applications
2	An application made under section 26H(1) of the Listed Buildings Act (certificate of lawfulness of proposed works).	Not applicable
3	A householder application.	Not applicable
4	A minor commercial application	Head of Planning Applications
5	A minor residential application.	Not applicable
6	An application for permission in principle.	Head of Planning Applications
7	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 1 planning permission. In this paragraph— "original planning permission" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990; "Schedule 1 planning permission" means a planning permission granted pursuant to an application which is of a kind specified in this Schedule.	Head of Planning Applications
8	An application made under section 96A(4) of TCPA 1990 (non-material changes to planning permission or permission in principle).	Head of Planning Applications
9	In respect of a planning obligation that the authority concerned considers is connected with a Schedule 1 approval— (a) a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990 (modification and discharge of planning obligations);	Director of Growth and Communities or Director of

	(b) an application to modify or discharge that obligation under section 106A(3) of TCPA1990 (modification and discharge of planning obligations). In this paragraph, 'Schedule 1 approval' means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in this Schedule	Infrastructure or Director of Highways and Transportation or Director Environment and Circular Economy
10	An application made under section 191(1) of TCPA 1990 (certificate of lawfulness of existing use or development).	Head of Planning Applications
11	An application made under section 192(1) of TCPA 1990 (certificate of lawfulness of proposed use or development).	Head of Planning Applications
12	The submission of a biodiversity gain plan under paragraph 13(2)(a) of Schedule 7A to TCPA 1990.	Head of Planning Applications
13	A reserved matters approval application in respect of an outline planning permission other than a large outline permission.	Head of Planning Applications
14	An application made under article 27(1) of DMPO (applications made under a planning condition).	Head of Planning Applications
15	An application pursuant to provision in Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 for— (a) prior approval, or (b) determination as to whether prior approval is required.	Head of Planning Applications

Note 1: Schedule 1 refers directly to schedule 1 of The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026. Applications which would otherwise fall under Schedule 1, will fall within Schedule 2 where:

- a local authority considers that the application for planning permission is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
- the application is made under section 73A of the Town and Country Planning Act 1990

Note 2: Where the Nominated Officer is listed as 'Not Applicable', this refers to applications which are not County Council functions, but are listed to demonstrate compliance with the regulations.

Schedule 2 – Applications which may be determined by the Nominated Officer or Planning and Regulation Committee in accordance with the Planning and Regulation Committee Terms of Reference

Ref	**Application Type (see Note 1)**	**Nominated Officer (see Note 2 below)**
1	An application for listed building consent made under section 10(1) of the Listed Buildings Act (making of applications for listed building consent).	Not Applicable

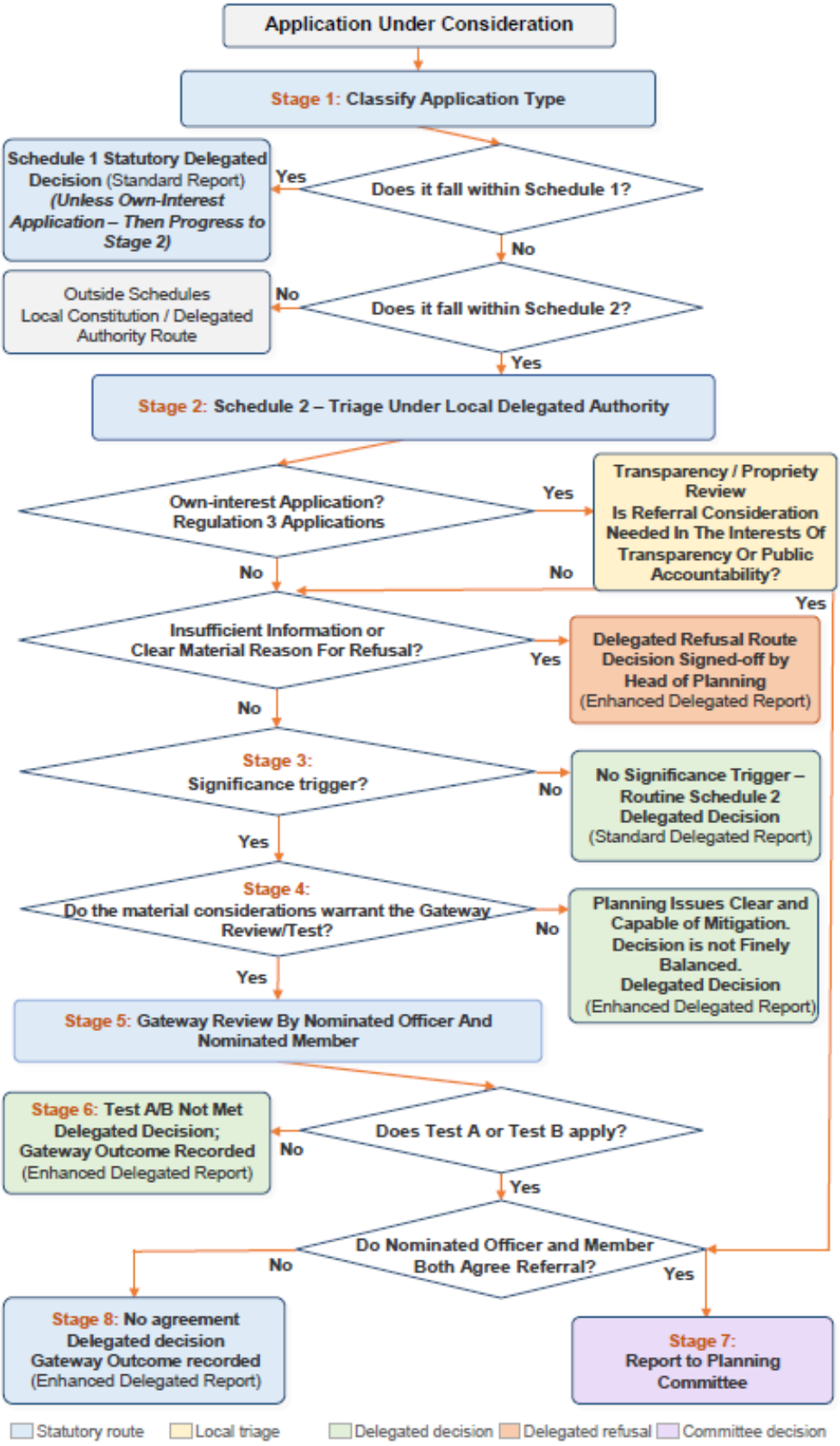
2	An application made under section 19(1) of the Listed Buildings Act (variation or discharge of conditions of listed building consent).	Not Applicable
3	An application for planning permission that the authority concerned considers is connected with an application of a kind specified in the following application types: 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).	Not Applicable
4	An application for planning permission that is not— (a)a householder application, (b)a minor commercial application, or (c)a minor residential application.	Head of Planning Applications
5	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. In this paragraph— "original planning permission" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions were granted under section 73(1) of TCPA 1990; "Schedule 2 planning permission" means a planning permission granted pursuant to an application which is of a kind specified in this Schedule.	Head of Planning Applications
6	An application made under section 73A(1) of TCPA 1990 (planning permission for development already carried out)	Head of Planning Applications
7	In respect of a planning obligation that the authority concerned considers is connected with a Schedule 2 approval— (a)a request to agree to modify or discharge that obligation under section 106A(1)(a) of TCPA 1990 (modification and discharge of planning obligations); (b)an application to modify or discharge that obligation under section 106A(3) of TCPA 1990 (modification and discharge of planning obligations). In this paragraph, "Schedule 2 approval" means any permission, agreement, consent or approval (other than a planning obligation) pursuant to an application which is of a kind specified in Schedule 2.	Director of Growth and Communities or Director of Infrastructure or Director of Highways and Transportation Director Environment and Circular Economy or

		Head of Planning Applications
8	A reserved matters approval application in respect of a large outline permission.	Head of Planning Applications
9	An application made under regulation 9(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (application for express consent to display advertisement) (b).	Not Applicable
10	An application made under regulation 16(1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (application for consent under tree preservation order) (c).	Not Applicable

Note 1: Schedule 2 refers directly to schedule 2 of The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026.
Note 2: Where the Nominated Officer is listed as 'Not Applicable', this refers to applications which are not County Council functions, but are listed to demonstrate compliance with the regulations.

Appendix 3

Delegation Decision and Gateway Triage Process For Planning Applications



Stage Summary

Stage	Route	Key caveat
1	Schedule 1 Statutory Delegated Decision	Subject to own-interest caveats.
2	Schedule 2 Triage Under Delegated Powers	Local triage determines whether Stage 5 is needed.
OI	Own-interest transparency review for Regulation 3 Applications	If Yes, progress to a nominated officer and member discussion on need for a committee decision; if No re-enters normal triage.
R	Delegated refusal route	Used for lack of information or clear refusal grounds.
3	No Significance Trigger - Routine Schedule 2 Delegated Decision	Routine delegated decision.
4	Planning Issues Clear and Capable of Mitigation. Delegated Decision	Delegated decision with fuller report.
5	Gateway Review / Test	Only where significant unresolved issues remain.
6	Test A/B not met	Delegated decision with gateway outcome recorded.
7	Committee Decision	Where Test A/B met and both Nominated Officer and Member agree referral (or resulting from a transparency review).
8	Nominated Officer & Member unable to agreement on Test A/B	Defaults to delegated decision under statutory powers – Enhanced Delegated Report with outcome of Test A/B recorded