

# Cheltenham Borough Council

## Council – 18 May 2026

### Revisions to the Constitution

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**Accountable member:**

Cllr Rowena Hay, Leader of the Council

**Accountable officer:**

Claire Hughes, Director of Governance, Housing and Communities (Monitoring Officer)

**Ward(s) affected:**

n/a

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**Key Decision:**

No

**Executive summary:**

The Report sets out proposed revisions to the Constitution

**Recommendations: That Council:**

- 1. Approves the revised Planning Protocol as set out in Appendix 1 to replace the existing Planning Protocol at Part 5D of the Constitution.**
- 2. Approve the addition of the Head of Public Protection as an Authorised Officer under s 27, 28 and 2of 9 the Regulation of Investigatory Powers Act 2000 in Part 3F of the Constitution (Statutory and Proper Officer Appointments).**
- 3. Notes the amendments made to the Constitution by the Monitoring Officer as set out in Para 2.5 below under her general delegation as set out at Part 3D of the Constitution**
- 4. Gives delegated authority to the Monitoring Officer to make all necessary changes to the Constitution to reflect these decisions.**

## 1. Implications

### 1.1 Financial, Property and Asset implications

There are no direct financial, property or asset implications arising from the recommendations

**Signed off by:** Jon Whitlock, Head of Finance (Deputy S.151 Officer)  
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### 1.2 Legal implications

1.2.1 Any decision to amend the Constitution rests with Full Council or as set out in part 3D of the Constitution. The Constitution should be kept under review and amended where necessary to provide a clear governance framework that will support effective, efficient and lawful decision-making in a manner that also supports accountability, scrutiny, and transparency.

1.2.2 There may be a need to further review the Planning Protocol and other provisions of the Constitution following the coming into force, later this year, of measures through the Planning and Infrastructure Act 2025 to:

- (i) give a new power to the Secretary of State to set out which planning functions should be delegated to planning officers for a decision and which should instead go to a planning committee or sub-committee;
- (ii) give a new power to the Secretary of State to control the size and composition of planning committees; and
- (iii) impose a new requirement for members of planning committees to be trained, and certified, in key elements of planning.

**Signed off by:** Alison McKane, Interim Deputy Monitoring Officer,  
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### Environmental and climate change implications

There are no direct environmental or climate change implications arising from this report

### 1.3 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Reducing inequalities, supporting better outcomes
- Taking care of your money

## 1.4 Equality, Diversity and Inclusion Implications

An equality impact assessment is not required for this report.

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## 2 Background

2.1 A full review of the Council's Planning Protocol has been undertaken by Officers, in consultation with the Council's Constitution Working Group and with members of Planning Committee.

2.2 If approved the new planning protocol will replace the existing protocol currently included in the Council's Constitution at Part 5D.

2.3 The proposed revised planning protocol is attached to this report at Appendix 1.

2.4 The addition of the Head of Public Protection as an Authorised Officer under s.27, s.28 and s.29 of the Regulation of Investigatory Powers Act 2000 in Part 3F of the Constitution (Statutory and Proper Officer Appointments) is required in order to increase resilience should an urgent authorisation be required in accordance with the Council's Regulation of Investigatory Powers Act 2000 – Surveillance and Covert Human Intelligence Source Policy.

2.5 The Monitoring Officer has updated the Constitution to reflect changes in staff job titles

## 3 Reasons for recommendations

### Planning Protocol

3.1 The existing protocol is out of date and requires revision in order to ensure that it reflects best practice and to strengthen the robustness, transparency and legal defensibility of the Council's decision-making process at Planning Committee. Amendments have also been made in order to update the language and format of the Protocol to make it easier to understand in terms of roles and responsibilities in the bringing of applications to Committee and in the decision-making process.

3.2 The key differences between the revised version and the existing protocol can be summarised as follows:

3.2.1 **Language and format:** As a general point the language contained in the protocol has been updated and some parts have been re-ordered in order to make it easier to read;

- 3.2.2 **Amendments to reflect actual practice:** Some parts of the protocol have been amended as they didn't reflect current (and best) practice. For example, paras.1.4 and 3.1.5 now make it clear that it is the responsibility of the Chair of Planning Committee, in consultation with the Head of Planning, to determine whether or not an application to call in a Planning Application should proceed to Planning Committee.
- 3.2.3 **Opportunity for ward members to comment on the content of s.106 Agreements affecting their area:** It was agreed at a full council meeting some time ago that case officers would consult ward members as to any suggested planning obligations for applications which have a s106 Agreement. Informally this has been taking place, however the existing Planning Protocol on this matter is silent, so this review is a good opportunity to add this (please see paras 3.1.7 and 3.1.8.).
- 3.2.4 **Member Behaviour:** We have updated the wording to include appropriate behaviour to assist members of the public who are watching in the Chamber or remotely, to enable them to follow the debate more easily.
- 3.2.5 **Voting and Decision Making:** This is the main area of material amendment. These changes are proposed to strengthen the robustness, and legal defensibility of the Council's decision-making process. The Flowchart at Appendix One to the protocol provides a guide to the new decision-making process. The key changes are:
- i. **Officer recommendation is not automatically taken as moved.** The current practice of treating the officer recommendation as automatically moved can reduce clarity around who is formally proposing a motion and may unintentionally limit debate. Requiring a motion to be formally proposed and seconded by a Member following questions and debate reinforces Member ownership of decisions, ensures that motions are clearly articulated, and aligns the process more closely with standard committee practice. This approach also helps make the decision-making process clearer to the public and provides a more transparent audit trail.
  - ii. **Requirement for all motions to be seconded.** Requiring all motions (whether substantive, amendments or procedural) to be seconded ensures that only motions with a minimum level of Member support are debated and voted upon. This helps to promote efficient use of committee time, avoids confusion, and supports orderly decision-making. It also provides consistency and clarity within the protocol, reducing the risk of procedural uncertainty during meetings. If motions are not seconded they fall.
  - iii. **Emphasis on clear reasons for motions contrary to officer**

**recommendation** Where Members are minded to make decisions that depart from officer recommendations, it is essential that these decisions are founded on clear, defensible planning reasons based on material considerations. Strengthening the wording within the protocol reinforces the importance of this principle and helps to mitigate the risk of successful appeals, costs applications, or judicial review. The revised wording also highlights the importance of seeking advice from planning officers, including assistance with drafting reasons and conditions, to ensure that any alternative motion is both technically sound and legally robust before it is put to the vote.

**3.2.6 Other amendments:** Following discussion at Constitution Working Group other amendments have been made to the protocol and current practice as follows: -

- i. **Member Call in:** The revised protocol includes clarification that Members who call in an application will be advised of the acceptance of call in and receive an alert for the Committee date. The speaking order for Members calling in an application has also been clarified (para 5.5).
- ii. **Provision for adjournment in exceptional circumstances:** the revised protocol sets out the circumstances and the process to be followed should this be necessary for clarification purposes.
- iii. **Training Requirements:** greater clarity around which training is mandatory and requires in person attendance.

## **4 Alternative options considered**

**4.1** None - but Council could decide not to approve the revisions to the Planning Protocol.

## **5 Consultation and feedback**

**5.1** Constitution Working Group and Members of Planning Committee have been consulted and their comments have been taken into account in the drafting of the revised planning protocol.

## **6 Key risks**

**6.1** None

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### **Report author:**

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**Appendices:**

1. Revised Planning Protocol

**Background information:**

[Cheltenham Borough \*\*Council\*\* Constitution](#)

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