

	Extraordinary Full Council 12 October 2026
	Report from the Corporate Director Finance & Resources
	Lead Member - Leader of the Council & Cabinet Member for Adult Social Care (Councillor Muhammed Butt)
Changes to the Constitution <u>(updated on 7 October 2026)</u>	
Wards Affected:	All
Key or Non-Key Decision:	Council
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
List of Appendices:	Three: Appendix 1: Proposed tracked changes relating to Planning Committee reforms <u>(updated on 7 October 2026)</u> <u>Appendix 2: Proposed tracked changes to the terms of reference of the Planning Committee accepted but highlighting changes made following the Full Council meeting on 14 September 2026</u> <u>Appendix 3: Flowchart – who decides planning applications</u>
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Pameel Crowther-Newman, Interim Director of Law and Monitoring Officer 020 8937 4102 Pameel.Crowther-Newman@brent.gov.uk

1.0 Executive Summary

- 1.1. This report proposes constitutional changes to the terms of reference of the Planning Committee (Part 4 of the Constitution), including consequential changes and the Members' Allowance Scheme (Part 6 of the Constitution).

- 1.2. First, the planning reforms set out in this report introduce national changes to planning powers, with new rules on which applications **must** be delegated to officers in all cases and which types of planning applications **may** be referred to the Planning Committee.
- 1.3. The council already has a scheme of delegation where almost all applications are determined by professional officers under officer delegated authority. For that reason, the impact of the reforms is limited and a light touch approach has been taken, retaining the thresholds from the current terms of reference to the Planning Committee that remain legally permissible but removing thresholds that are not.
- 1.4. The changes are likely to affect a very small number of planning applications in Brent. Significantly, the proposed changes do not change any other aspects of the consideration of a planning application.
- 1.5. Second, it is proposed that the Members' Allowance Scheme (in Part 6 of the Constitution) be amended so that the remuneration payable to the Independent Chair of the Audit and Standards Advisory Committee be increased from £1,561pa to £5,332pa. Whilst remuneration arrangements vary considerably across the sector, recent examples including Hillingdon Council and Croydon Council demonstrate the increasing value being placed on independent governance roles and the need for councils to remain competitive when seeking to attract suitably experienced candidates.
- 1.6. These changes in their original form were considered by Full Council at its meeting on 14 September 2026 but were not approved. However, as the council has a statutory duty to amend its planning delegations before 31 October 2026 and there is an urgent need to commence the recruitment of a new Independent Chair of the Audit and Standards Advisory Committee, they are the subject of this Extraordinary Council Meeting in revised form (see text highlighted in Appendix 2). The changes to the main body of this report following original publication on 2 October 2026 have also been highlighted and set out in italics and underlined.

2.0 Recommendation(s)

Having reviewed the changes to the Constitution set out in this report and the Appendices.

- 2.1 To agree the changes to the Constitution set out in this report and the Appendices relating to planning delegations in accordance with the council's duty and authorise the Interim Director of Law and Monitoring Officer to amend the Constitution, accordingly, including making any necessary incidental or consequential changes.
- 2.2 To agree that the Members' Allowance Scheme (in Part 6 of the Constitution) be amended so that the remuneration payable to the Independent Chair of the

Audit and Standards Advisory Committee is increased from £1,561pa to £5,332pa.

3.0 Detail

3.1 Contribution to the Borough Plan and Strategic Priorities

- 3.1.1 Ensuring the Constitution is kept up to date and supportive of good governance contributes to the delivery of all the strategic priorities within the Borough Plan by supporting and enhancing the Council's activity.

4.0 Background

- 4.1 A general review of the provisions of the Constitution and its operation is being undertaken on an on-going basis to not only ensure it remains up to date and fit for purpose but also to secure improvements and deliver the objectives of the Council.
- 4.2 The proposals set out in this report have been informed by cross-party discussion at the Constitution Oversight Group (COG). COG is an informal officer/member working group. The political membership of the COG is balanced and **has** met **three times** to discuss the proposed changes.

5.0 Proposals

Planning Committee Reforms

Background

- 5.1 The Planning and Infrastructure Act 2025 amends the Town and Country Planning Act 1990 and allows the Secretary of State to make regulations implementing a National Scheme of Delegation of planning functions. The Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (the regulations) come into force on **31 October 2026**.
- 5.2 The regulations are also supported by statutory guidance, namely, Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England published on 1 June 2026 (the guidance). The council must have regard to the guidance in making and operating arrangements for the delegation of planning decisions and can be accessed via this link: [Planning Committees and the National Scheme of Delegation of Planning Functions: Guidance for local planning authorities in England - GOV.UK](#). In accordance with general public law principles, the council must follow the guidance unless there is good reason to depart from it.
- 5.3 These reforms will introduce national changes to planning powers, with new rules on which applications **must** be delegated to officers in all cases and which types of planning applications **may** be referred to the Planning Committee.

- 5.4 Also by way of background, the length of time taken to determine planning applications has long been recognised as a potential barrier to economic growth and the delivery of new homes by Central Government. The efficient operation of the planning system is essential to the prosperity of Brent residents and success of Brent businesses, third sector organisations and all others who undertake development. The Government has introduced the national rules to streamline the planning process and ensure that decisions are not unnecessarily delayed.
- 5.5 The council already has a scheme of delegation where almost all applications are determined by professional officers under officer delegated authority. In that regard for a number of years the council has operated a strategic planning committee where only large development proposals, those that meet public interest criteria and those “called in” by members are determined by Planning Committee. This is to ensure that decisions on planning applications that raise no significant planning issues are made quickly and that resources are appropriately concentrated on the applications of greatest significance to the local area that are determined by Planning Committee.

Summary of new delegation arrangements

- 5.6 The regulations set out types of applications where decisions:
- 5.6.1 **must** be delegated to officers in all cases (these are referred to as any ‘Schedule 1 application’); and
- 5.6.2 are **presumed** to be delegated to officers (these are referred to as any ‘Schedule 2 application’) **unless**:
- exceptionally, ‘the nominated member and nominated officer’ **agree** at least one of the criteria in regulation 5(3) is met; **or**
 - it is ‘an own-interest application’ which is an application made by or on behalf of the council, a member or officer of the council (whether or not jointly with any other person) or, in the view of the nominated member and the nominated officer, the council or any of its members or officers has an interest in the application. This could, for example, include an entity owned or controlled (whether wholly or partly) by the council or any of its members or officers; **and**
 - the nominated member and nominated officer **agree** they should be referred to a planning committee or sub-committee for determination.
- 5.7 The regulation 5(3) criteria are as follows:
- 5.7.1 The application raises a significant planning matter having regard to the development plan and any other material considerations.

- 5.7.2 The application raises an economic, social or environmental issue of significance to the local area.
- 5.8 In considering whether to make a referral, the nominated member and nominated officer must have regard to the guidance.
- 5.9 References to 'the nominated member and nominated officer' include more than one member or officer and allow substitutes to be nominated *but only one nominated member and nominated officer can act at any given time. The proposed changes to the terms of reference of the Planning Committee (see Appendices 1 and 2) set out who can act as the nominated member and the nominated officer.* According to the guidance:
- 5.9.1 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; and
- 5.9.2 the nominated member should be the chair of the planning committee. 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.
- 5.10 The regulations state expressly that where an application is to be determined by an officer, "the authority must not make arrangements that limit the officer's discretion as to how to determine that application".
- 5.11 Where a planning function is not listed in either Schedule 1 or 2, it is for the local planning authority to decide whether it should be delegated to an officer or referred to a committee or sub-committee for a decision as part of its Constitution.
- 5.12 Under the national scheme of delegation, current practices set out in local authority constitutions, such as the power for ward councillors to require cases to be called in for committee consideration or having trigger points for referral to committee if a certain number of objections is reached, will not be possible. Local authorities are required to amend their constitutions to align with the national scheme of delegation. *However, it is recognised that at the Full Council meeting on 14 September 2026 and the All Member Briefing on 1 October 2026 Members expressed concerns about these changes. In response, paragraph 2 of the terms of reference of the Planning Committee has, so far as possible, been reinstated but with necessary modifications (see Appendices). In outline, this will allow three or more Brent councillors (irrespective of political group membership) to request that certain applications be considered for referral to the Planning Committee.*
- 5.13 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.

- 5.14 The guidance highlights where local planning authorities anticipate that there may be a significant number of applications which meet the criteria in regulation 5(3) or own-interest applications and which could therefore, be considered for referral to committee, they may wish to put in place a triage system to ensure that the nominated officer and nominated member are not overwhelmed and to avoid any unnecessary delays in planning decision making.
- 5.15 The guidance sets out as a minimum, the local planning authority should keep a record of the cases the nominated officer and nominated member have considered for referral to committee, the outcome of their consideration and the reasons for their decision. They should report this to the planning committee on a regular basis and make it available on their website.
- 5.16 The tracked changes to the Constitution relating to the Planning Committee reforms are attached as **Appendix 1**. The tracked changes to the Constitution relating to the Planning Committee reforms as accepted are attached as Appendix 2. The text highlighted in yellow show technical and other minor changes made since the Full Council meeting on 14 September 2026. A light touch approach has been taken, retaining the thresholds from the current terms of reference to the Planning Committee that remain legally permissible but removing thresholds that are not.
- 5.17 The proposed changes do not change any other aspects of the consideration of a planning application. Consultation will continue to be undertaken, and residents, councillors and others will still be able to comment on planning applications. The applications will continue to be considered against the policies in the Development Plan, the National Planning Policy Framework and other material considerations.
- 5.18 This change is likely to affect a very small number of planning applications in Brent.
- 5.19 A total of approximately 5,800 planning applications were determined by the council since 1 January 2025, with almost all of these delegated under current delegation arrangements. 25 applications were determined by the Planning Committee, accounting for 0.43% of applications during this period. If the proposed changes to the Constitution were applied to those 5,800 applications, 16 of the applications that were determined by the Planning Committee would have been delegated to officers under the new regime. This represents 0.1 % of all applications submitted to the council in this period (or 1 in every 1,000 applications).
- 5.20 Of those 16 committee applications, the committee decided 15 in line with the officer recommendation, with 1 application overturned by committee. So, over that 21 month period, the change would have affected the outcome of one application.
- 5.21 It is recognised of course that every planning application matters and whilst the overwhelming majority of applications are not controversial, the determination

of a small minority of applications which significantly affect residents remains of great importance and a public interest issue.

- 5.22 It is understandable that members may be concerned about some aspects of the mandatory changes especially the loss of the member call-in and objections threshold. To assure members further, planning applications that are determined by officers under delegated authority are subject to a robust decision-making process, where appropriately qualified and experienced professional officers consider the recommendations made by the case officer and apply judgement in the same way that the Planning Committee would do. They take into account all comments that are made by local residents and businesses as well as statutory consultees when determining the application. This process has been subject to periodic audit, with the procedures refined over many years to ensure that decisions are made in a legally robust and fair way.
- 5.23 All decisions that are made may be subject to appeal, formal complaint (via the Council's complaints system and the Local Government and Social Care Ombudsman) and Judicial Review. This is applicable whether they are made by the Planning Committee or by officers under delegated authority. The Council has a good track record of making sound decisions, both by the Planning Committee and under delegated authority.

Size of committees

- 5.24 The regulations also prescribe that the number of members on a planning committee or sub-committee must not be more than 13. This is a maximum figure and there is no requirement for the council to increase the size of its Planning Committee from 8 members.

Training

- 5.25 For completeness, Members are advised that section 53 of the Planning and Infrastructure Act 2025 allows the Secretary of State to make regulations regarding the training of, among others, planning committee members. The regulations must provide for the satisfactory completion of the training to be evidenced by a certificate valid for a prescribed period.
- 5.26 If and when such regulations are made, a member who does not hold a valid certificate will be prohibited from exercising the council's planning functions.

Remuneration of the Independent Chair of Audit and Standards Advisory Committee

Summary

- 5.27 It is proposed that the Members' Allowance Scheme (in Part 6 of the Constitution) be amended so that the remuneration payable to the Independent Chair of the Audit and Standards Advisory Committee be increased from

£1,561pa to £5,332pa.

- 5.28 The proposed allowance aligns the remuneration of the Independent Chair with the existing Special Responsibility Allowance (SRA) paid to the Chair of the Audit and Standards Committee, recognising the strategic importance, responsibility, independence and time commitment associated with leading the Council's principal governance, audit, risk and standards forum.
- 5.29 The current Independent Chair has indicated an intention to step down following the December Committee meeting, following a successful period in office, creating the need to recruit a successor.
- 5.30 If approved, the increased allowance will take effect when a new Independent Chair is appointed.

Background

- 5.31 The council has operated a distinctive governance model for a number of years which includes the appointment of an Independent Chair to lead the Audit and Standards Advisory Committee.
- 5.32 This approach goes beyond minimum statutory requirements and reflects the council's commitment to strong governance, independent assurance and good decision-making.
- 5.33 The Committee plays a key role within the council's governance framework, providing independent scrutiny and challenge in relation to:
- Audit activity and assurance
 - Risk management
 - Internal control
 - Financial governance
 - Corporate governance arrangements
 - Standards and ethical conduct
- 5.34 The Constitution describes the Audit and Standards Advisory Committee as the body responsible for considering and advising on governance matters relating to audit activity, the council's regulatory framework and members' standards of conduct. The Committee also includes independent co-opted members, reflecting the council's long-standing commitment to independent oversight. The Constitution specifically provides for the appointment of up to five independent voting co-opted members to the Committee.

- 5.35 The council's arrangements are therefore more extensive than those found in many authorities and represent an established commitment to governance best practice.

Importance of Independent Leadership of Audit Committees

- 5.36 Over recent years there has been increasing national focus on the effectiveness of local authority audit committees following a series of high-profile governance and financial failures across the sector.
- 5.37 CIPFA identifies audit committees as a key component of an authority's governance framework, providing an independent and high-level focus on the adequacy of governance, risk management and control arrangements. Audit committees provide assurance to those charged with governance and help strengthen public confidence in an authority's governance arrangements.
- 5.38 The CIPFA Position Statement and accompanying Practical Guidance emphasise the value of independent voices within audit committees and recommend the inclusion of independent members to strengthen expertise, objectivity and challenge. Independent members help:
- Reinforce independence and objectivity.
 - Provide continuity outside electoral and political cycles.
 - Bring specialist governance, audit and financial expertise.
 - Promote a non-political focus on governance, risk and control matters.
 - Strengthen challenge and oversight of financial management and assurance arrangements.
- 5.39 These principles are also consistent with the recommendations arising from the Redmond Review and the subsequent strengthening of audit committee expectations across local government. Government has encouraged authorities to align their arrangements with CIPFA's guidance as sector best practice.
- 5.40 Whilst CIPFA's guidance specifically focuses on independent members, the rationale applies even more strongly to an independent chairing arrangement. An independent chair can provide:
- Visible independence from party political interests.
 - Enhanced public confidence in governance arrangements.
 - Objective leadership of discussions.
 - Constructive challenge to officers, auditors and members alike.

- Stability and continuity over a number of municipal cycles.

5.41 In an environment of increasing financial complexity, heightened regulatory scrutiny and growing governance expectations, the role of an Independent Chair has become increasingly important.

Brent's Current Arrangements and Successes

5.42 The council has benefited significantly from the leadership and expertise provided by its current Independent Chair over a number of years.

5.43 During this period the Committee has helped the council navigate:

- Significant financial pressures affecting the local government sector.
- External audit delays and national issues affecting local audit.
- Implementation of the CIPFA Financial Management Code.
- Ongoing governance and risk management developments.
- Standards and member conduct matters.
- Increasing scrutiny of local authority financial resilience.

5.44 The Committee's annual reporting to Full Council has consistently highlighted the importance of effective governance, risk management and financial oversight in supporting organisational resilience and long-term sustainability.

5.45 The effectiveness of the existing arrangements has been widely recognised internally and has contributed positively to the Council's overall governance framework.

5.46 The current Independent Chair has indicated an intention to step down following the December Committee meeting, following a successful period in office, creating the need to recruit a successor.

5.47 This presents an opportunity to review the remuneration attached to the role to ensure it remains attractive and proportionate to the responsibilities involved.

Future Importance of the Role

5.48 Looking ahead, the Council faces a range of significant challenges including:

- Continued pressure on local government finances.
- Greater expectations around financial resilience and sustainability.
- Evolving audit and assurance requirements.

- Increased public scrutiny of governance arrangements.
 - Rising expectations regarding standards and ethical leadership.
- 5.49 In this context it is important that the council continues to benefit from strong, independent leadership of its Audit and Standards Advisory Committee.
- 5.50 Maintaining an independent chairing arrangement helps ensure the Committee can continue to operate in a balanced and non-political manner while providing robust support and challenge to both officers and members.
- 5.51 An effective Independent Chair can also assist the Council in maintaining credibility with:
- External auditors.
 - Regulators and inspectorates.
 - Residents and stakeholders.
 - Members across all political groups.
- 5.52 The role therefore represents an important investment in good governance rather than simply a committee appointment.

Benchmarking and Market Considerations

- 5.53 The market for suitably qualified independent audit, governance and assurance professionals is becoming increasingly competitive. Whilst the council's decision to appoint an Independent Chair remains ahead of current practice in many authorities, the direction of travel across local government is towards greater independent oversight of audit and governance arrangements. This is expected to increase demand for individuals with significant expertise in governance, audit, finance, risk management and regulatory assurance.
- 5.54 Remuneration arrangements vary considerably across the sector, reflecting differences in role scope and responsibility. Recent examples include Hillingdon Council, which has advertised an Independent Chair of its Audit, Finance and Performance Committee at £24,318 per annum, and Croydon Council, which pays £8,200 per annum for Chair of the Audit and Governance Committee. These examples demonstrate the increasing value being placed on independent governance roles and the need for councils to remain competitive when seeking to attract suitably experienced candidates.
- 5.55 Against this backdrop, the proposed allowance of £5,332 represents a proportionate and balanced approach. It:
- Reflects the significance of the role and its responsibilities.
 - Recognises the level of professional expertise required.

- Supports the recruitment and retention of appropriately qualified individuals.
- Remains modest when compared with remuneration levels being offered elsewhere in the sector.

5.56 Importantly, the proposal does not create a new remuneration benchmark within the council. Rather, it aligns the Independent Chair allowance with the SRA already paid to the Chair of the Audit and Standards Committee, providing greater consistency between the two roles while recognising the value of independent challenge and oversight.

6.0 Stakeholder and ward member consultation and engagement

6.1 The proposed changes have been considered by the Constitution Oversight Group. There was an All Member Briefing on the planning reforms on 1 October 2026.

7 Financial Considerations

7.1 The financial issues are addressed in the body of the report. The proposed change to the Members' Allowance Scheme remains within the budget set.

8 Legal Considerations

8.1 The statutory changes relating to planning delegations come into force on 31 October 2026.

8.2 The council is under a statutory duty, no later than 31 October 2026, to put in place the arrangements to meet the requirements of the regulations. If the council fails to do so, it is in breach of its statutory duty within the regulations. As such, the council would become exposed to a claim for judicial review through which relief in the form of a mandatory order may be sought. If such an order were to be granted (which the High Court would be highly likely to do), the council would be then obliged to make the required arrangement.

8.3 Under the regulations the council "must make arrangements" for (1) all Schedule 1 applications to be delegated to officers; (2) for Schedule 2 applications to be either considered for referral to the Planning Committee applying the statutory criteria set out in para. 5.5 of this report (this is what is referred to as the gateway process) or to be delegated to officers and for (3) own-interest applications to be either considered for referral to the Planning Committee or to be delegated to officers.

8.4 To allow Schedule 2 applications and own-interest applications to be considered for referral to the Planning Committee, Full Council must agree who can act as the nominated member and nominated officer. Otherwise, these applications cannot be referred to the Planning Committee because the regulations prevent it.

- 8.5 As the report explains, the discretions built into the regulations have been exercised so that to a very large extent the council's established delegation arrangements are maintained. This will secure legal compliance as well as substantial continuity and consistency.
- 8.6 If Full Council does not make the required arrangements to implement the regulations, it is in breach of its statutory duty under the regulations. That would be an unlawful decision with serious consequences.
- 8.7 The council would become exposed to a claim for judicial review through which relief in the form of a mandatory order may be sought. If such an order were to be granted (which the High Court would be highly likely to do), the council would then be obliged to make the required arrangement.
- 8.8 In the event that the Council were, after 31 October 2026, to determine a Schedule 1 or Schedule 2 application in a manner which was not consistent with the regulations, that decision may be subject to judicial review by anyone aggrieved by the decision. This may lead to the quashing of the decision.
- 8.9 Other consequences include increased number of non-determination appeals because of the inability to determine applications lawfully.
- 8.10 However, it should be noted that, in accordance with the Constitution, Part 2, SO 5(a), the Monitoring Officer's delegated power can be used to amend the terms of reference of the Planning Committee by removing requirements which are no longer in accordance with statutory law from 31 October 2026. That would include the 8 or more objections and significant departure thresholds as well as the member call-in provisions and the tracked changes to para. 1 ii and iv as per **Appendix 1**.
- 8.11 This would result in officers being able to decide all Schedule 1 applications and most but not all Schedule 2 applications. Decisions could still be open to challenge though because of the inability to consider referring applications to the Planning Committee.
- 8.12 In addition, the Government could put the council, in its capacity as the Local Planning Authority, into special measures as a result of applications not being determined within the minimum threshold on statutory timeframes or being overturned at appeal. A developer could then decide to submit certain application including major applications to the Planning Inspectorate and bypass the council. This would result in the loss of local control over the more strategic and significant applications and a significant reduction in planning fee income.
- 8.13 There is a further risk of intervention under the statutory best value scheme. According to section 3 of the Local Government Act 1999 and the statutory guidance issued to best value authorities, the council must be able to show that it has arrangements to secure continuous improvement in how it carries out its

work. One of the best value themes is governance. This includes legality and other public law decision making principles.

- 8.14 All of these implications and consequences would also involve the council incurring significant legal costs and suffering reputational damage.

9.0 Equity, Diversity & Inclusion (EDI) Considerations

- 9.1. Under section 149 of the Equality Act 2010, the council has a duty when exercising its functions to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 9.2 “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to the effect is a matter for the council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged. Depending on the circumstances, regard should be had to the following:

- the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision;
- the need to remove or minimise disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic;
- the need to take steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes taking account of disabled persons’ disabilities. There can be a positive duty to take action to help a disabled person. What matters is how they are affected, whatever proportion of the relevant group of people they might be;
- the need to encourage persons who share a protected characteristic to participate in public life (or in any other activity in which participation by such persons is disproportionately low); and
- the need to tackle prejudice and promote understanding.

- 9.3 No equalities implications arise directly from this report.

10.0 Climate Change and Environmental Considerations

- 10.1 None

11.0 Human Resources/Property Considerations (if appropriate)

11.1 None

12.0 Communication Considerations

12.1 None

Report sign off:

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Corporate Director, Finance & Resources