



PLANNING AND LICENSING COMMITTEE

AGENDA ITEM (10)

REVISION TO SCHEME OF DELEGATION

Accountable Members	Planning and Licensing Committee
Accountable Officer	Kevin Field Planning and Development Manager 01285 623000 Kevin.Field@cotswold.gov.uk
Report Author	Susan Gargett Principal Solicitor 01285 623223 Susan.Gargett@cotswold.gov.uk
Purpose of Report	To consider a recommended revision to the current Scheme of Delegation for the Planning and Licensing Committee.
Recommendation(s)	That the proposed revisions to section 9.2 of the Scheme of Delegation, as set out in paragraph 1.6 of the circulated report, be approved.
Reason(s) for Recommendation(s)	To promote the effective working of the Development Management and Heritage and Design Services.
Ward(s) Affected	All
Key Decision	No
Recommendation to Council	No
Financial Implications	Delegation of decisions to the appropriate level ensures that the correct legal processes are adhered to and effective services delivered to minimise costs and delay.
Legal and Human Rights Implications	The Council may need to pursue civil or criminal proceedings for breaches of Planning Legislation. The Council's Scheme of Delegation will provide guidance and advice to officers seeking authorisation to proceed with enforcement action in accordance with legislative requirements.
Environmental and Sustainability Implications	None directly arising from the report.
Human Resource Implications	None directly arising from the report.

Key Risks	<p>If the Council does not have effective enforcement processes, there is a risk of reputational damage.</p> <p>If the Council fails to follow legislative requirements without due regard to the Criminal Procedure and Investigations Act 1996 and the Police and Criminal Evidence Act 1984, then there are risks to an individual's rights, including any breach of Human Rights, and it could prejudice the Council's right to proceed.</p>
Equalities Impact Assessment	Not Required

Related Decisions	Revised Scheme of Delegation; Planning and Licensing Committee adoption and approval on 13 th December 2017.
Background Documents	Existing Scheme of Delegation
Appendices	None

Performance Management Follow Up	Implement Committee decision(s).
Options for Joint Working	Not applicable.

Background Information	
<p>1. <u>Update to Scheme of Delegation</u></p> <p>1.1 The Scheme of Delegation relating to the Planning and Licensing Committee is kept under constant review to ensure that it reflects prevailing conditions and assists the Council in the delivery of the planning service.</p> <p>1.2 The current Scheme of Delegation, at section 9.2, provides as follows:-</p> <p style="padding-left: 40px;"><i>To exercise the Council's enforcement powers to prosecute or serve an official caution under the relevant planning, listed building, control of advertisement and tree legislation.</i></p> <p style="padding-left: 40px;"><i>Where prosecution or the serving of an official caution is undertaken, such matters should be reported to the Planning and Licensing Committee.</i></p> <p>1.3 This power is delegated to the Head of Legal and Property Services, subject to prior consultation with Head of Development Services and the Cabinet Member with responsibility for Planning.</p> <p>1.4 As can be seen, the existing power does not provide a delegated mechanism for the Council to pursue remedies through the Civil Courts and, as such, revisions are recommended/required to address that deficiency.</p> <p>1.5 In addition, and in order to better reflect legislative requirements, it is recommended that the prior consultation requirements should also be removed - as the decision to prosecute should lie with a lawyer after applying the tests laid down in the Police and Criminal Evidence Act 1984.</p> <p>1.6 If the Committee is supportive of these revisions, section 9.2 in the updated Scheme of Delegation would read as follows:-</p>	

Delegated Item - 9.2

To exercise the Council's enforcement powers to prosecute or serve an official caution under the relevant planning, listed building, control of advertisement and tree legislation and pursue proceedings in the civil courts where appropriate.

Where prosecution or the serving of an official caution is undertaken, or civil proceedings are pursued, such matters should be reported to the Planning and Licensing Committee.

Delegated To

Head of Legal and Property Services

Exceptions and Conditions

None.

2. Report of Recent Enforcement Action

2.1 In accordance with the requirement under section 9.2 to report any prosecutions to the Planning Committee, the Council's Tree Officer and the Counter Fraud Unit jointly undertook an enforcement case recently.

2.2 On 11th June 2018, Mr John A Beer pleaded guilty to four offences under the Town and Country Planning Act 1990 for unlawful works to trees protected by a Tree Preservation Order.

2.3 Mr Beer received fines of £800 and was ordered to pay £120 towards the Council's costs.

(END)