

FULL COUNCIL - 17 JULY 2018

PART I – DELEGATED

4. PROPOSED AMENDMENTS TO THE SCHEME OF DELEGATION (DCES)

1 Summary

1.1 To outline proposals to amend the scheme of delegation in order to:

(a) confirm the responsibilities of the Head of Community Services with regards to protected trees and

(b) outline the specific procedure relating to applications where trees are implicated in subsidence/damage claims.

2 Details

2.1 It is proposed to amend the scheme of delegation to formalise responsibilities relating to protected trees so such decisions are delegated to the Head of Community Services rather than the Head of Regulatory Services.

2.1.1 It is also proposed that applications specific to the felling of trees implicated in subsidence claims will no longer be subject to call in to Planning Committee (as in 11.5.2 of Part 3 – Responsibility for Functions). Members will still be made aware of these applications via the weekly Tree Bulletin.

2.1.2 This is due to the potentially significant risk associated with the delay of a decision outside of the statutory eight week deadline (hence deemed refusal and associated compensation claims that may ensue). The legal position is that if the application is not dealt with in the eight weeks this is a deemed refusal on the part of the authority and a compensation claim may arise.

3 Options and Reasons for Recommendations

3.1 To note and agree the proposed amendments to avoid any compensation claims.

3.1.1 If the amendments are not agreed, the Council may face future compensation claims for damage to buildings due to a deemed refusal where an application is not dealt with within the statutory deadlines.

4 Policy/Budget Reference and Implications

4.1 The recommendations in this report are within the Council's agreed policy and budgets. The relevant policy is entitled Strategic Plan and was agreed in February 2018 and ensures that Three Rivers District Council is achieving value for money.

5 Financial, Legal, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

5.1 None specific.

6. Equal Opportunities Implications

6.1 Relevance Test

Has a relevance test been completed for Equality Impact?	Yes
Did the relevance test conclude a full impact assessment was required?	No

7. Risk Management and Health & Safety Implications

7.1 In some exceptional cases (e.g. a recommendation “to note the report”) there are no risks associated with the decision Members are being asked to make, in which case enter ‘none specific’ and delete the remainder of paragraph 13.

7.2 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council’s duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

7.3 The subject of this report is covered by the Leisure and Landscapes service plan(s). Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

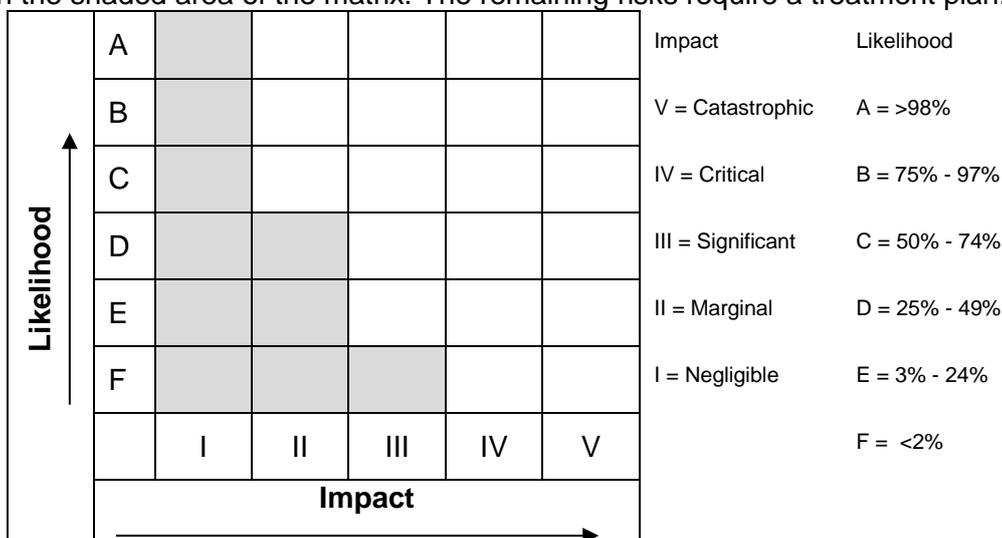
7.4 There are no risks to the Council in agreeing the recommendation(s).

The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

Description of Risk		Impact	Likelihood
1	That a compensation claim is successful against the Council for a deemed refusal of consent to undertake works to a protected tree	D	B

7.5 Of the risks detailed above none is already managed within a service plan.

7.6 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



7.7 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

Resources Committee quarterly. The effectiveness of all treatment plans are reviewed by the Audit Committee annually.

Description of Risk		Service Plan
No	Potential for claim against TRDC for damage to building caused by deemed refusal of consent to allow the felling of a protected tree.	Leisure and Landscapes

8. Recommendation

8.2 That:

Members agree the amendments to the Responsibility of Functions as they relate to trees protected by Tree Preservation Order as outlined in the attached extract.

Report prepared by: Julie Hughes, Principal Landscape Officer.

Data Quality

Data sources:

Data checked by: Julie Hughes

Data rating: Tick

1	Poor	
2	Sufficient	X
3	High	

Background Papers:

None.

APPENDICES / ATTACHMENTS

Proposed amendments to Part 3 of Council Constitution Responsibility for Functions.