

Wokingham Borough Council: Trees and Landscape Team

Determining complaints made under the High Hedges legislation

1. Upon receipt of a written application (accompanied by the appropriate fee) under the Anti Social Behaviour Act (High Hedges) a written acknowledgement will be sent to the applicant within 5 working days. Included with the acknowledgement, the applicant will be sent a copy of the ODPM Advisory leaflet – ‘High Hedges: complaining to the Council’.
2. The details of the application will be assessed at this stage (registration) within 10 working days by the Senior Technical Officer to consider whether the applicant has sufficiently tried to resolve the matter with the hedge owner before contacting the Council. Assessment of applications will be undertaken using the information in the guidance publication ‘High Hedges Complaints: Prevention and Cure’ (ODPM - May 2005).
3. If it is considered that insufficient consultation has occurred between the affected parties, the documentation will be returned to the applicant (along with the fee) giving specific details on why the application is being refused at this stage.
4. If the application is considered valid, a copy of the documentation will be sent to the hedge owner giving notification that an application has been registered with the Borough Council. It will also ask for the hedge owner to supply any written comments that they may have regarding the application, to be submitted within 21 days of notification. A copy of the ODPM Advisory leaflet – ‘High Hedges: complaining to the Council’, will also be sent to the hedge owner at this stage.
5. The Borough Council’s timescale for determining applications will be 16 weeks from the date of registration. However due to the potential complexities of the application, conflicting views and consultation periods, applicants will be advised that it may take considerably longer before a decision is made.
6. An initial site visit will be made by a Tree Officer within 20 working days of the application being registered, firstly to the applicant’s property and then to the hedge owner’s property to assess the merits of the case. The application will be assessed using guidance contained in ‘Hedge Height and Light Loss’ (ODPM - March 2004). A statement will also be obtained during this time from the hedge owner.

7. Once sufficient access has been granted to the properties and a statement has been obtained from the hedge owner, a report will be drawn up by the investigating officer detailing recommendations regarding the application.
8. To ensure the protection of valuable wildlife, consideration will also be made in the report to the Wildlife and Countryside Act (1981) and Countryside and Rights of Way Act (2000). These legislative controls give statutory protection to wild birds, bats, mammals, some invertebrate species and plants. It is important to ensure that this separate legislation is properly considered when determining applications, as this may affect the timing of when or how any proposed works to hedges are undertaken.
9. Applications will normally be dealt with by Council Officers under delegated powers. For applications made by either Council Members or Employees, a report will be compiled and presented for determination by Members of the Development Control Committee.
10. Following determination of the application, both parties will be formally notified of the decision. If appropriate, a formal notice will be served on the hedge owner giving details of work required to rectify the situation.
11. From issuing of a formal notice, the hedge owner will be given an eight-week period for compliance. It should be noted that the timing of the proposed works in a formal notice will consider the impact on wildlife and avoid works at times when birds are likely to be nesting.
12. Both the applicant and the hedge owner will be informed at this time that they have the right of appeal against the Council's decision by writing to the Planning Inspectorate within one month of receipt of the decision letter (or any such longer period as the Secretary of State may allow).
13. Failure by the hedge owner to comply with the formal notice, may allow the Borough Council to take enforcement action by undertaking the work using their own contractors. The Borough Council is entitled to reclaim the cost of undertaking the work from the hedge owner and can resort to legal action to recover costs where appropriate.

The Borough Council may also refer the case to the Magistrates Court for prosecution for non-compliance. Current Government Guidance states that the use of enforcement action is discretionary by local authorities and should only be used as a last resort.

14. For information purposes, each application will be allocated a sequential case number with the case details recorded electronically. All paperwork associated with the case will be converted to electronic form and stored accordingly. The case database will record the following information ;

- Number of enquiries about the legislation
- Numbers of formal complaints received (case numbers)
- Number determined
- Number of remedial notices issued
- Number of decisions appealed to the Planning Inspectorate
- Number of complaints about failure to comply with the requirements of a remedial notice (enforcement cases)
- Number resolved informally
- Number of prosecutions and outcome
- Number of occasions that the authority used its default powers to carry out works to the hedge.

JM/AB - 01.04.09