

WARDS: Brierley Hill

DUDLEY METROPOLITAN BOROUGH COUNCIL

BRIERLEY HILL AREA COMMITTEE 27th OCTOBER 2005

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT – HIGH HEDGES LEGISLATION

Purpose of Report

1. To inform Committee of the background to the implementation of High Hedges legislation and the process of dealing with complaints.

Background

2. Following the report to the Brierley Hill Area Committee on 1st September, 2005, which detailed in full the purpose and intention of the High Hedges legislation and in response to Member requests to elaborate, the following information is provided. The Anti-social Behaviour Act 2003 (Part 8) gives local authorities powers to deal with complaints about high hedges.
3. To initiate a complaint, members of the public need to contact the Tree Preservation Order Support Officer direct on 01384 816822 or via Dudley Council Plus. In the first instance, an explanatory letter and leaflet (entitled "*Over the Garden Hedge*") is sent detailing the initial steps to be taken before a complaint can be accepted. Upon the second contact and the completion of the required steps a set of complaint forms are sent out along with the leaflet "*High Hedges: Complaining to the Council*". Upon receipt of the completed forms the complaint will be processed.
4. The authority's role in dealing with the complaint is as an impartial third party. It is not their role to mediate or negotiate; merely to adjudicate on whether or not the hedge will adversely affect the reasonable enjoyment of the complainant's property. Resort to the Council and this course of action is to be viewed as a last resort.
5. The only consultation that takes place is with the complainant and with the owner(s) of the hedge in question. There is no wider consultation process.
6. No guidance is given on the role of Councillors in the Government documentation. There is no clear role for Councillors in terms of lobbying or support, as the hedge either affects amenity or it does not, and the Authority can only seek reduction to the minimum required to ameliorate the impact, and powers of delegation exist to the Director of the Urban Environment to deal with the complaints. However, Councillors can play a

key role in informing constituents of the due process and suggesting that they contact the Council officers for advice.

7. Each case will be assessed on its merit, but if, having taken all views into account, the Local Authority finds the hedge to be adversely affecting the complainant's property, they are enabled to order the hedge owner to take action to remedy the problem and/or to prevent it reoccurring. This is done in the form of a remedial notice, which may include details of the reduced hedge height and maintenance at a lower level in perpetuity to prevent reoccurrence of any problem.

Finance

8. There are some direct financial consequences arising from this report. Section 68 of that Act requires that complaints are accompanied by such fee as the Local Authority determines.
9. It is intended that the fee to be charged will be £405. The Council agreed that the initial charge will be at a reduced rate of £300 to allow an assessment of the actual cost of service delivery. The Council needs to charge a fee as no funding to support the service has been provided by Government. The service needs, therefore, to be self funding and the fee cannot be refunded – irrespective of the outcome/decision. The local authority reserves the right of discretion in relation to cases of hardship.

Law

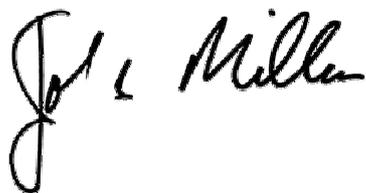
10. Part 8 of the Anti-social Behaviour Act 2003, brought into force by virtue of Statutory Instrument 2005 No. 711 (The High Hedges (Appeals) (England) regulations), places a statutory duty on local authorities to determine complaints made against high hedges.

Equality Impact

11. The proposals take into account the Council's Equal Opportunities Policy.

Recommendation

12. It is proposed that Committee considers and notes the contents of the report.



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Director of the Urban Environment

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List of Background Papers

High Hedges Complaints: Prevention & Cure
Regulatory Impact Assessment: High Hedges – Implementing Part 8 of the
Anti-social Behaviour Act 2003.
The Anti-social Behaviour Act 2003.