



Appeal Decision

Site visit made on 13 March 2026

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2026

Appeal Ref: APP/HH/2348

Hedge at 29 Church Lane, Desford, Leicestershire LE9 9GD

- The appeal is made under section 71(3) of the Anti-social Behaviour Act 2003 (the Act).
 - The appeal is made by Colin Coleman, the complainant, against Hinckley & Bosworth Borough Council's decision not to issue a Remedial Notice.
 - The complaint reference number 25/00214/HEDGE is dated 8 February 2025.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Where an appeal is made against the Council's decision not to issue a Remedial Notice (RN), the appeal must be determined on the basis of a review of the Council's decision when made, so my consideration is in respect of whether or not the Council could not have reasonably concluded that an RN should be served.
3. I am informed that the appellant sought to submit video evidence, which is not permitted for this type of appeal, and so this was returned and not considered. They were given the opportunity to provide written submissions and photographs, which were provided and I have had regard to in the determination of this appeal.

Main Issue

4. The main issue is whether or not the Council's decision not to issue an RN was reasonable and appropriate.

Reasons

5. The hedge subject of the complaint lies at the rear of the rear garden of No 63 High Street (No 63) within part of one side of a garden area of No 29 Church Lane (No 29). It forms part of a wider deep bed comprising a variety of trees, shrubbery and plants, which include a variety of evergreen and deciduous species of varying heights and species. A high hedge must comprise a line of two or more trees and while it can be a mix of species of trees and shrubs including some deciduous, the predominant type must be evergreen or semi-evergreen.
6. At either end of the hedge as defined in evidence before me, were Cypress trees on one side and what appeared to be Holly and Laurel species for much of the remainder. There is a couple of small areas where the vegetation comprises other shrubs and deciduous trees, although these appear all to have been around 2m or more in height. Though it exhibited variations in height, rooting position and

species, having regard to the photographic evidence and noting matters such as its condition, plant crowns and their relationship, I am satisfied the Council was correct to consider there was a high hedge at that time, along the boundary.

7. Upon the basis of its composition at the time, the Council took the view it formed one hedge with an effective length of around 22 metres (m). It appeared that some maintenance and changes had occurred to some vegetation by the time of my visit, and I have also noted some other pictures submitted by the appellant.
8. I could see the hedge was not a uniform one in terms of height and proximity to the boundary, and the differing species give further variance in its form and structure. However, from the evidence before me, the hedge formed some barrier to light above 2m. Taking into consideration the composition, structure, rooting positions, crown extents, and the nature of branch contact and overlap, I am satisfied that it should have been considered as a single hedge for the purposes of the Act. This includes the evergreen species with crowns within approximately 2m of the fence and a single deciduous tree just west of the cypress group on the eastern side.
9. The Council assessed the effect of the hedge using the Action Hedge Height (AHH) calculated as set out in Hedge Height and Light Loss (2004) (HH&LL) published by the Government. HH&LL sets out formulae for calculating loss of light to habitable room windows and gardens considering various attributes of properties and hedges. While not the only factor for consideration, loss of light to a property caused by the height of a neighbour's hedge, may be deemed unreasonable, if the hedge is above the AHH.
10. The Council's calculations found the AHH for No 63's garden to be 6.72m and 5.2m for the windows serving internal rooms. I have reached some different views and calculations to those of the Council, based upon measurements and observations at my visit, and accordingly have reached differing calculations of the AHH. The spreadsheet showing my calculations is attached at Appendix 1 of this decision.
11. I measured the garden of No 63 to be approximately 195 square meters. This includes a side patio area which is a well-maintained area of functional shape and size that flows with and appears used as part of the rear garden. In accordance with HH&LL, spaces less than 3m wide are generally excluded from the garden measurement, so an adjoining area gated from the front garden is excluded. It also excludes the conservatory, as a substantially structure that is not an outbuilding.
12. My garden measurement primarily differs from the Council's because they appear to include the side area less than 3m wide and quite a proportion of the front garden and driveway area, which is physically and functionally a separate space. I measured the effective hedge length to be 21.2m, the garden is northwest facing, with no discernible slope. Therefore, I calculate the AHH to 4.6m for the garden.
13. In accordance with HH&LL, the conservatory is not a main room of the dwelling, and based upon the property layout and conservatory construction, I see no reason to depart from this approach. The opening between it and the house is taken as the window position. In terms of the internal spaces, from my measurements the closest habitable room window is approximately 8.6m from the hedge, which is slightly greater than the Council's view, but even were I to apply the Council's lesser distance, as the lower AHH, the overall AHH is the 4.6m for the garden.

14. From what I saw and the evidence of the hedge in the Council's photographs the hedge was at varying heights, which it estimated to be between 3 – 4.2m in height. The appellant disputes this and refers to heights of 5m and 6m at the respective ends. However, neither the Council's nor appellant's photographs show a scaled straight vertical measuring device next to the hedge to where it is measured or perspective evidence. Based upon my measurements and references, at the time of the Council's visit it appears, that almost all of the hedge would have been below the AHH I have calculated, and at some points quite some way below it.
15. From the Council's and the appellant's photographs there appear to be a few limited points at which it appears the hedge was above the AHH height. These areas were set within a hedge of varying structure and composition, and the higher parts above the AHH, appeared some way rear of the boundary and not at it. One of these points is a small number of branches of a deciduous tree. The other points are limited extents of tree tips, but these it appears, were also set back from the boundary, and so the effects are commensurately less.
16. While the hedge appeared to be having some adverse effect upon garden, it having been quite a structurally varying hedge, with higher points rear of the boundary, moderates its effects. Though the hedge is northwest of the garden, this does limit its effect upon overshadowing and direct sunlight impedance, and that the host property is a bungalow and it has a relatively open broadly eastern and western outlook are also moderating factors.
17. It seems probable that from my visit, the hedge was having an influence upon and reducing the light into main room spaces. However, having considered the main rooms on the rear side of the dwelling, I noted they are served by what are proportionally well-sized windows for each space. The living room was also served by multiple openings. From my visit, despite some influence from the hedge, each of the rooms appeared quite well lit.
18. There is no substantive evidence demonstrating the hedge prevents the reasonable enjoyment of the internal rooms. Although there is a reference to the occupiers' health, no substantiating evidence is set out of adverse effects that would justify a departure from my findings above. Over the course of a day and year, the hedge will result in some light loss. However, this appears to have not been to such a degree, it resulted in harmful living conditions or prevented the reasonable enjoyment of the garden or main dwelling rooms. Based upon the evidence before me and what I saw, I cannot conclude the effects of the hedge were such the Council could have reasonably concluded an RN should be served.

Conclusion

19. On the basis of the above, and the evidence available, it was reasonable for the for the Council to have concluded that no action should be taken with a view to remedying the effect of the hedge to the complainant's reasonable enjoyment of their property or preventing its recurrence. I therefore conclude, the Council's decision not to issue an RN was reasonable and appropriate.

Mr D Szymanski

INSPECTOR

Appendix 1 – Action Hedge Height Calculations

Measure distances in metres	Quantities you measure/ look up	Calculated values
GARDEN <i>If the garden is not rectangular, or the hedge is shorter than the boundary on which it grows, enter -</i>		
Area of garden (see section 4.2 & 7.ii.a)	195 A	
Effective hedge length (see Figure 3) <i>Or, if the garden is rectangular and the hedge grows along the whole length of the boundary on which it is situated, enter -</i>	21.2 B	
Depth of garden	0 C	
Effective garden depth		(A ÷ B) or C 9.20 C'
Orientation Compass direction of hedge from garden (S, NW etc)	NW	
Factor from Table 1 (section 4.2)		0.50 D (C' x D)
Uncorrected action hedge height		4.60 E
<i>Hedge set back from boundary (section 4.3.1)</i> If hedge over 1 metre back from boundary, enter distance between boundary and nearest part of hedge.	0 F	
<i>Slopes (section 4.3.2)</i> Distance between hedge and reference point for slope calculation		(C' ÷ 3) 3.07 G
If garden slopes, enter height that a point in the garden G metres away from hedge boundary is above the base of hedge (negative number if hedge is higher).	0 H	
Corrected action hedge height for garden		(E + F + H) 4.60 J
WINDOWS <i>Measurements</i>		
Closest distance from hedge to centre of window (section 5)	8.6 K	
If hedge opposite window, or south of a window that faces within 30 deg S of E or W (see sections 5.2-3), write 2 here If hedge at right angles to window, write 1 here If hedge at 45 degrees to window, write 1.5 here	2 L	
Uncorrected action hedge height for windows		(K ÷ L) + 1 5.30 M
<i>Amendments</i> Enter height of floor above ground (if first or above)	0 N	
If site sloping or stepped, enter height of base of window wall above base of hedge (negative number if hedge is higher)	0 P	
Corrected action hedge height for windows		(M + N + P) 5.30 Q
OVERALL ACTION HEDGE HEIGHT (Lowest of J and Q, or 2 if greater)		4.60