Delegated Report

Planning Ref: 25/00508/HEDGE
Applicant: Hayley Merrick
Ward: Twycross Sheepy & Witherley

Hinckley & Bosworth Borough Council

Site:, Sheepy Magna, Atherstone, Leicestershire, CV9 3RT

Proposal: High Hedge Complaint
Officer: Rudi Simpson

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1. Recommendations

1.1. Hedgerow Remedial Notice Not Served

2. Planning Application Description

2.1 This application relates to a High Hedge Complaint at Sheepy Lodge, Twycross Road, Sheepy Magna, Atherstone, Leicestershire, CV9 3RT

3. Description of the Site and the Surrounding Area

3.1. The hedge which is the subject of the complaint is located on land to the rear of 2 Cotton Fell, Twycross Road, Sheepy Magna (the complainant). The hedgerow measures just over 5.5 metres in height and approximately, 92.50 metres in length. The site is not covered by Tree Preservation Orders nor is it located within the Sheepy Magna conservation area.

3.2. The hedgerow comprises of mature Leyland cypress (Cupressocyparis leylandii), is positioned to the northeast and is set back from the rear garden boundary of 2 Cotton Fell, Twycross Road, by approximately 17 metres.

3.3 This site has been subject to a previous high hedge complaint (22/00056/HEDGE) and two subsequent appeals from both the complainant (Appeal A: Ref: APP/HH/2140) and the hedge owner (Appeal B: Ref: APP/HH/2149).

4. Relevant Planning History

22/00056/HEDGE

- High Hedge Complaint
- HED
- 09.03.2023

5. Publicity

5.1. The application has been publicised by sending out letters to local residents.

5.2. No comments have been received

6. Consultation

6.1. HBBC Arboricultural Officer

As discussed with the case officer, it appears it would be suitable and in the best local interest to reduce the remaining hedge down the height of the section which was previously enforced and routinely maintained after the fact.

7. Policy

7.1. Anti Social Behaviour Act 2003 (Part 8 – High hedges)

7.2. Hedge height and light loss (ODPM, October 2005)

Case for hedge owner

7.3. A letter was sent informing the hedge owner of the complaint on 18 June 2025. The deadline for returning comments was 9 July 2025. No comments were received by this date.

7.4. A second letter was sent on 14 July 2025 advising of the original complaint and providing an additional 5 working days for the owner to comment prior to the determination of the application. The hedge owner responded to this letter asking for an extension to 11 Aug 2025. This was accepted and the new timescales relayed to all parties.

7.5. On 11 August 2025, the hedge owner wrote to us to advise that there had been a fire on the land which sadly resulted in many of the trees subject to the complaint being incinerated.

7.6. It was therefore agreed by all parties that any decision should be delayed until a thorough assessment of the remaining trees could be carried out.

7.7. Case for the complainant
The complainant states that the hedge to the northern boundary of Sheepy Lodge, Twycross Road is having an adverse effect on the reasonable enjoyment of their property, 2 Cotton Fell, Twycross Road.

7.8. This is the second high hedge complaint from this complainant regarding this site in recent years. The first complaint was submitted in 2022, application reference number 22/00056/HEDGE and related to the hedge on the western boundary.

7.9. As a result of the hedge complaint 22/00056/HEDGE, a remedial notice was served by the local authority requiring the hedge to be reduced in height to 4.25 metres above ground level and thereafter maintained so that at no point does it exceed 4.50 metres in height.

7.10. A successful appeal was launched by the complainant (Appeal A: Ref: APP/HH/2140) in which the planning inspectorate recommended a further reduction in height. The appeal decision requires the hedge owner to “Reduce all parts of the hedge to a height not exceeding 3.75 metres when measured from the base of the stems and “Maintain all parts of the hedge so that at no time does it exceed a height of 4.0 metres when measured from the base of the stems.”

7.11. The complainant was under the impression that the hedge to the northern boundary of Sheepy Lodge, Twycross Road was also included within the original high hedge application 22/00056/HEDGE. However, the original complaint bares no reference to this section of hedge. As such a new complaint has been logged in order to seek a reduction in height for the remaining hedgerow.

8. Appraisal

8.1. Part 8 of the Anti-Social Behaviour Act 2003 allows local councils to deal with complaints about high hedges whose area contains the land on which the hedge is situated

8.2. Key Issues

- Visual Amenity
- Public Amenity
- Obstruction of Light
- Privacy
- Other relevant factors

8.3. Visual Amenity
An initial site visit was carried out on 10 July 2025, the inspection took place from the complainant's garden at 2 Cotton Fell and access was gained to the hedge itself via a neighbouring property. At the time of the site visit the hedge measured just over 5.5 metres in height.

8.4. The original high hedge complaint (22/00056/HEDGE) concluded that despite the distance between the hedge and the complainants dwelling, the hedge dominated the scene and had an adverse effect on the visual amenity of the complainants dwelling.

8.5. This is further supported by the high hedge complaints: prevention and cure guidance which states that “if the surrounding development is characterised by openness, it might be reasonable to expect that the property should not be unduly enclosed by a high hedge”

8.6. However, in light of the recent fire during the summer the visual amenity of the hedge had to be reconsidered. The HBBC Arboricultural officer conducted a further site visit on 30 September 2025 in order to assess the damage that had been caused. It was concluded that the first 47 metres of hedgerow on the Northern boundary of the site has been destroyed. The damage has also spread to sections of the Western hedgerow however, this is not the subject of this complaint so will not be assessed as part of this application.

8.7. Public Amenity
The hedgerow is not visible from the highway on Twycross Road. It is therefore not considered to add any significant value to the character of the street scene nor to the public amenity of the area.

8.8. Obstruction of Light
The British Standard; Lighting for Buildings: Code of Practise for Day Lighting (BS 8206 Part 2) sets the standard for what is a reasonable amount of daylight and sunlight for people to receive to their houses. It works on the basis that properties should receive sufficient natural light during daylight hours to enable normal domestic tasks to be carried out without eyestrain.

8.9. An assessment to calculate loss of light to the garden was carried out using formulas provided by the Office of the Deputy Prime Minister. As part of these regulations, the Building Research Establishment (BRE) devised a method of calculating what height an evergreen hedge should be in order to deliver the windows of a house the amount of daylight and sunlight recommended in the British Standard. The calculations are intended for use in analysing the effect on the habitable rooms of a house, including living rooms, dining rooms, kitchens, and bedrooms.

8.10. The regulations provide details on calculating the 'action hedge height' of the hedge. The action hedge height prior to the fire damage was calculated at 21.06 metres. The action hedge height was later re-calculated based on the distance from the complainant's property to the nearest remaining living trees. The new action hedge height is 66.47 metres.

8.11. Taking into account the action hedge height, the angle of the hedgerow and the distance from complainants property, it must be concluded that the occupiers of 2 Cotton Fell are not negatively affected by a loss of light caused by the height of the hedgerow.

8.12. Privacy
Due to the location of the hedgerow it is not considered to have either a detrimental or beneficial impact upon the privacy of any dwelling.

8.13 Other relevant factors
Under the terms of Part 8 of the Anti-Social Behaviour Act 2003 a remedial notice cannot specify works which involve the removal of the hedge or works that would result in the death or destruction of the hedge. With this in mind, any remedial action that may be necessary should also ensure the continued health of the hedge.

9. Equality Implications

9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

A public authority must, in the exercise of its functions, have due regard to the need to:

a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application

9.3. There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data

Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The Council's role in these cases is to strike a balance between the competing rights of neighbours to enjoy their respective properties and thereby formulating a proportionate response to the complaint.

10.2. The nature of this complaint is largely concerned with the visual impact of the hedge as opposed to any perceived loss of light.

10.3. At the time of the complaint the hedge was well established and is situated in a semi-rural location. Consequently, it felt inconsistent with the surrounding landscape. The recent appeal decision also notes that "a long and uniform conifer hedge is highly incongruous' within the setting.

10.4. However, whilst it was originally argued that the hedgerow presented a visual intrusion within the countryside, given that almost 50% of it has been lost to fire damage it can no longer be regarded as imposing. The nearest remaining healthy tree is located approximately 47 metres away from the start of the original hedgerow and approximately 58 metres away from the complainants dwelling.

10.5. On balance, whilst it is acknowledged that the hedgerow originally could be described as forming a means of enclosure within a setting otherwise characterised by openness, this is no longer the case as much of it has been destroyed.

10.6. The action hedge height also suggests that no action should be taken. It would therefore be unreasonable to expect the height of the hedge to be reduced in order to provide the occupants of 2 Cotton Fell with views of the landscape beyond.

10.7. The comments of the Council's Arboricultural officer have been carefully considered in the recommendation.

10.8. Given there are so few healthy trees remaining and the significant distance from the complainants property it is not possible to conclude that the current hedge is having an adverse impact on the reasonable enjoyment of the complainant's property.

10.9. The guidance document *Matters Relating to High Hedges Notes to Local Authorities* states that 'a notice cannot be issued that requires only preventative action'. With this in mind, whilst the landowner has informed us of her intention to replace the hedgerow the local authority cannot issue a remedial notice restricting the height of any future replanting. As such, it is recommended that no action be taken.

11. Recommendation

11.1 **Hedgerow Remedial Notice Not Served**