

Delegated Report

Planning Ref: 25/00350/HEDGE
Applicant: Mr Derek Bramley
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 25 Passchendaele Drive, Burbage, Leicestershire, LE10 2FP

Proposal: High Hedge Complaint

1. Recommendations

- 1.1. Hedgerow Remedial Notice Not Served

2. Planning Application Description

- 2.1 This application relates to a High Hedge Complaint at 25 Passchendaele Drive, Burbage, Leicestershire, LE10 2FP

3. Description of the Site and the Surrounding Area

- 3.1. The application relates to a high hedge complaint at a two storey residential dwelling in Burbage. The hedge which is the subject of this complaint is located at 25 Passchendaele Drive.
- 3.2. The hedge is situated towards the south east of the complainant's property (23 Passchendaele Drive) separating the adjoining gardens.
- 3.3. The hedgerow comprises of several Cherry Laurel trees and spans approximately 8 meters in length.

4. Relevant Planning History

15/01292/OUT

- Residential development for up to 80 dwellings, open space and
- associated works (outline - access only) (resubmission)
- OUT
- 27.01.2016

17/00795/REM

- Approval of reserved matters (appearance, layout, scale and landscaping)
- of outline planning permission 15/01292/OUT for residential development
- of 72 dwellings).
- PER
- 10.11.2017

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. LCC Archaeology
No Comments received

HBBC Arboricultural Officer

I have visited the site above regarding the high hedge complaint. The hedge is approximately 3.75m high. Although it may meet the criteria for the complaint I cannot see at all how it can be adversely affecting the enjoyment of their garden. Arguably it adds some visible softness to a hardly landscaped area.

I agree with the hedge owner in his written statement, any shading by the hedge would be likely a matter of minutes in the mornings.

7. Policy

- 7.1. Anti-Social Behaviour Act 2003 (Part 8 – High hedges)
- 7.2. Hedge height and light loss (ODPM, October 2005)
- 7.3. Case for hedge owner
On 9 April 2025 The Local Planning Authority sent a letter to the landowners at 25 Passchendaele Drive, Burbage notifying them that a complaint had been received and asking for their views on the hedge. No response was received so a second letter was sent on 28 April 2025. A written response was received on 13 May 2025.
- 7.4. The hedge owner has confirmed that they planted the cherry laurel hedge in an effort to gain more privacy within their garden due to the close proximity of the neighbouring dwellings.
- 7.5. The owner claims that during their occupation of 25 Passchendaele Drive, they entered into several discussions with the neighbour regarding the hedgerow.
- 7.6. Whilst, the hedge owner accepts that he has not always actioned any requests to reduce the height of the hedge immediately, he feels they have made a conscious effort to keep the trees at a respectable height and have also previously suggested that the neighbours at 23 Passchendaele Drive trim the branches overhanging their boundary.
- 7.7. Despite initial attempts to settle the dispute between themselves, the hedge owner and the complainant have been unable to come to a satisfactory resolution between them.
- 7.8. Ultimately, the hedge owner feels that the trees offer an aesthetic benefit and welcomes similar planting in neighbouring gardens.
- 7.9. The hedge owner doesn't feel that the trees are having a negative impact on 23 Passchendaele Drive. He considers that his hedge casts very little shadow on the property.
- 7.10. Moving forwards, the land owner has declared that they will "make every effort to

keep the trees trimmed neatly and topped to an acceptable height”.

- 7.11. A site visit was not carried out from the hedge owners land as we had not received a response from them at the time of the case officer's visit to the complainant's property. The tree officer also attempted to visit the site when he visited the complainant's property but there was no one available. However, in this instance it was felt that it wasn't imperative to view the hedge from the land owner's side in order to assess whether it was having an adverse impact on the reasonable enjoyment of 23 Passchendaele Drive.
- 7.10. By virtue of the above, the complaint satisfies the criteria set out under the terms of Part 8 of the Anti-Social Behaviour Act 2003.
- 7.11. Case for the complainant
The complainant has stated that the hedge situated on the boundary to the southeast of their property is having an adverse effect on the reasonable enjoyment of their property, 23 Passchendaele Drive.
- 7.12. The complainant has provided evidence confirming that they have formally contacted the hedge owner in writing on 4 August 2024. However, communication has broken down between them and high hedge complaint has now been submitted to the Local Authority.
- 7.13. The complainant states that the height of the hedge is causing a loss of light in the morning, which predominantly affects the use of the small patio area adjacent to the hedge.
- 7.14. Other concerns relate to the fact that the berries that fall from the tree are poisonous so there are fears for the welfare of their pet dog whom may become poorly should the berries be ingested. In order to mitigate this they have had to erect a net in order to limit the amount of berries falling into the garden (which can be seen in the photos provided by the complainants).
- 7.15. The complainants have also raised the issue that whilst the hedge owner has not objected to them cutting branches back to the boundary, the height of the hedge has now made it increasingly difficult to maintain from the complainants property (23 Passchendaele Drive).
- 7.16. A site visit was carried out on 8 May 2025. The HBBC Tree officer also conducted a site visit separately on 11 June 2025. At the time of the last visit, it was estimated that the height of the hedge reached approximately 3.75 meters and was approximately 8.00 meters in length.

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

- Overhanging Branches
- Other relevant factors

8.3. Visual Amenity

25 Passchendaele Drive is a two storey residential dwelling situated within the settlement boundary of Burbage. The property occupies a small plot with the Cherry Laurel hedge at subject of the complaint running along the boundary between number 23 and 25 Passchendaele Drive. It is the opinion of the tree officer that the hedge softens the landscape and provides a positive contribution in regards to visual amenity.

8.4. Public Amenity

The hedge is located in the rear garden of 25 Passchendaele Drive. Due to its position it has no visibility from the highway on Passchendaele Drive. The hedgerow is therefore not considered to be making a significant contribution to the character of the street scene or to the public amenity of the area.

8.6. Obstruction of Light

The British Standard; Lighting for Buildings: Code of Practice 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.

8.7. 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.

8.8. The regulations provide details on calculating the 'action hedge height' of the hedge. The action hedge height in this instance has been calculated at 3.95 metres.

8.9. Privacy

The hedge owner identified lack of privacy as a contributing factor when deciding to plant the hedge. Given the size of the plots on Passchendaele Drive, if the height of the hedge were to be significantly reduced it could have a detrimental effect on the amenity through loss of privacy.

8.10. Overhanging Branches

The Act deals only with complaints that relate to the height of the hedge. Problems associated with the width of the hedge will normally not be considered.

8.11. An exception might be where the hedge is so high that someone could not reasonably be expected to trim branches that overhang their property so that as a result they are unable to mitigate the adverse impacts of the hedge. On the evidence before the Council and from the site visits it is not considered that problems of overhanging branches are so significant as to require the action hedge height, that is set out above at paragraph 8.8, to be reduced.

8.12. 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.

- 8.13. The HBBC Arboricultural officer has reviewed the complaint and feels that whilst the complaint may satisfy the criteria set out under the terms of Part 8 of the Anti-Social Behaviour Act 2003 he does not support the claim that it is having a negative impact on the reasonable enjoyment of the complainant's garden. Conversely, he argues that the hedge adds some visible softness to a minimally landscaped environment.

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 hedge at the subject of this complaint comprises of Cherry Laurel trees planted along the boundary between 23 and 25 Passchendaele Drive. The trees form a complete linear hedgerow.
- 10.3. One of the complainant's main concerns is the loss of light to the small patio area located in the rear garden. Application of the guidance results in a

calculation of the action hedge height at 3.95 metres.

- 10.4. The issue of overhanging braches is not considered to require a reduction in this height.
- 10.5. With regards to the other concerns regarding the berries and the potential impact upon animal welfare, it is considered that this is a civil matter and therefore no weight is given to it in the Local Authority's decision making process.
- 10.6. The comments of the Council's Arboriculturalist have been carefully considered in the recommendation.
- 10.7. The action hedge height has been calculated at 3.95 metres. This therefore means that the overall action hedge height is greater than the height at which the hedge is currently being maintained. On this basis it is not possible to conclude that the hedge is causing a significant loss of light and having an adverse impact on the reasonable enjoyment of the complainant's property sufficient enough to warrant a reduction in height.
- 10.8. By virtue of the above, it is therefore considered that serving a remedial notice would be unreasonable. It is recommended that no further action is currently taken.

11. Recommendation

11.1 Hedgerow Remedial Notice Not Served