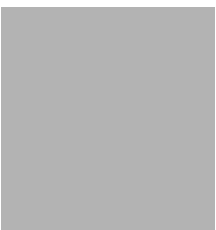


# QUESTIONNAIRE



ANTI-SOCIAL BEHAVIOUR ACT 2003  
THE HIGH HEDGES (APPEALS) (WALES) REGULATIONS 2004

<b>HIGH HEDGES APPEALS RESPONSE BY THE COUNCIL UNDER REGULATION 12</b>
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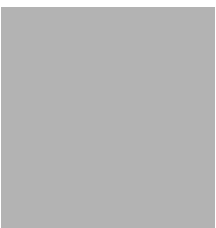
Deadline for sending to the Planning Inspectorate and the parties	11-11-19
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Details of the appeal	
Appellant	Mrs Yvonne Levitt
Site Address	131, Fontygary Road, Rhoose, CF62 3DU
Appeal Reference	3239648
Grid Reference	(E) 305381/ (N) 166200

I enclose a copy of the Complaint Form.	Yes
I enclose a copy of the Remedial Notice.	No
I enclose a copy of the Decision Letter.	Yes
I enclose copies of representations made by interested persons <u>other than</u> the parties.	No – None received.
I enclose a copy of the appeal notification letter sent to interested persons and a list of persons notified.	N/A
I enclose a copy of the Arboriculturalist's Report. Indicating what remedial works the hedge could bear, and a list of measurements used and calculations undertaken to determine the action hedge height.	Yes (sketch plan showing measurements and calculations spreadsheet)
Are there any other appeals, or matters relating to the same site or neighbourhood still before the National Assembly for Wales? If YES, please attach details and where necessary, give the Inspectorate's reference numbers.	No
Are there any other applications or matters currently before the Council relating to the same site? If YES, please attach details.	No

A copy of this questionnaire and background papers have been sent to the parties:	Yes
Date on which interested persons other than parties were notified:	Not applicable
Council contact name: Lisa Chichester	
Signature: L. Chichester	Date: 5 November 2019
Telephone number: 01446 704691	
E-mail: <a href="mailto:appeals@valeofglamorgan.gov.uk">appeals@valeofglamorgan.gov.uk</a>	
Address: Dock Office, Subway Road, Barry, CF64 4RT	

# COMPLAINT FORM



QUESTIONNAIRE



## Complaint form: high hedges

Use this form to submit a complaint to the Council about a high hedge, under Part 8 of the Anti-social Behaviour Act 2003. It should be completed by the person making the complaint or their representative.

Before completing this form, please read the guidance notes sent with it and the leaflet *High hedges: complaining to the council*. Please use **BLOCK CAPITALS** and black ink.

**YOU MUST PAY A FEE WHEN YOU SEND IN THIS FORM.** The current fee is £320.

The Council will rely on the information you provide so please make sure it is clear and accurate.

### 1. Attempts to resolve the complaint

Please describe what you have done to try to settle this matter. Give dates and say what the result was. Please provide copies of any letters that you mention.

#### 1.1 Approached neighbour/hedge owner and asked to discuss problem

LETTER	28/9/13	-	NO	RESPONSE
"	4/10/14	-	"	"
"	7/5/15	-	"	"
"	9/3/17	-	"	"
"	20/4/19	-	"	"
"	1/5/19	-	"	"

#### 1.2 Asked neighbour/hedge owner to try mediation

LETTER	28/9/13	-	NO	RESPONSE
--------	---------	---	----	----------

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#### 1.3 Informed neighbour/hedge owner of intention to complain to council

LETTER	1/5/19	-	NO	RESPONSE
--------	--------	---	----	----------

If you have not tried all the above steps, the Council might not proceed with your complaint.

#### 1.4 Anything else

FACE TO FACE APPROACHES PRIOR TO SEPT 2013 AND SUBSEQUENTLY. NO RESPONSE, OTHER THAN PARTIAL THINNING OUT OF HEDGE IN 2014.
---

**2. Criteria for making a complaint***About the hedge*

2.1 Is the hedge - or the portion that is causing problems - made up of a line of 2 or more trees or shrubs?

Yes

No

2.2 Is it mostly evergreen or semi-evergreen?

Yes

No

2.3 Is it more than 2 metres above ground level?

Yes

No

2.4 Even though there are gaps in the foliage or between the trees, is the hedge still capable of obstructing light or views?

Yes

No

2.5 Is it growing on land owned by someone else?

Yes

No

*Who can complain*

2.6 Is the complainant the owner or occupier (eg tenant) of the property affected by the hedge?

Yes

No

Please delete whichever does not apply.

 Owner / Occupier

2.7 Is the property residential?

Yes

No

If you have answered 'No' to any of the questions in this section, the criteria have not been met and so the Council cannot consider your complaint.

**3. Grounds of complaint**

**Please describe the problems actually experienced as a result of the hedge being too tall, and say how serious they are. It will save time and help your case if you stick to the facts and provide all relevant information to back up the points you are making.**

PLEASE SEE ATTACHED TYPED SHEET

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To help the Council understand your situation, please provide a photo of the hedge and a plan or sketch of both the site where the hedge is growing and the property it is affecting, with the hedge clearly marked on it.

#### 4. Previous complaints to the Council

4.1 Has a formal complaint been made to the Council before about this hedge?

Yes

No

4.2 If you have ticked 'Yes', do you know the date and/or reference number of the Council's decision letter?

Date

Ref

number

4.3 What has changed since the Council last looked at this?

If nothing has altered, the Council might not proceed with your complaint.

#### 5. Who's who/The parties

5.1 Complainant's contact details

Name	Title	Forename	Surname
	MRS	YVONNE	LEVITT
Address	BIRCHFIELD LITTLEWORTH LANE		
	PARTRIDGE GREEN		
City/Town	HORSHAM		
County	WEST SUSSEX	Postcode	RH13 8EJ
Daytime Telephone No.	[REDACTED]		
Mobile Telephone No.	[REDACTED]		
Fax No.	[REDACTED]		
Email Address	[REDACTED]		

Is the complainant content for us to contact them by email, at the address provided?

Yes

No

### 3. GROUNDS OF COMPLAINT

#### LOSS OF LIGHT IN LOUNGE

The amount of natural light passing through my bow window is reduced. In winter this results in a dismal environment, and in summer, a reduction in the amount of sunshine reaching my lounge, when the sun has passed to the west.

#### ENJOYMENT OF GARDEN

The height of the hedge has a detrimental effect on the amount of sunlight reaching the garden during certain times of the day. The close proximity (2 feet) of the high hedge restricts the plant and flower species that can be successfully grown. There is significant overhang of foliage, which aggravates the problem of natural light reaching my flower bed which is adjacent to the common boundary. My plants bolt to reach light, and the falling needles from the evergreen monkey tree which forms part of the highest part of the hedge, accumulates on my patio.

#### ENJOYMENT OF PATIO AND GARDEN

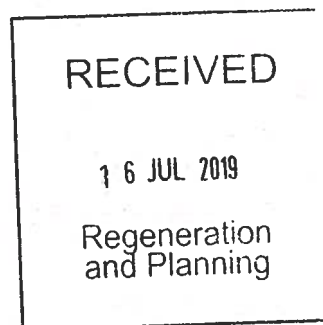
Both amenities suffer from increasing shade once the sun passes to the west. The amount of shade is significant, and as an example, early in a June evening, both the entire garden and patio are in shade. I look forward to being able to enjoy summer evenings more fully. I have documented by photographs the increasing shade as the afternoon and evenings progress.

#### ENJOYMENT OF BALCONY

My balcony floor is 2 metres above the level of my patio, yet the high hedge obstructs the view to the west from my balcony. The proximity of the tops of the high hedge to my balcony cause a loss of light to my bedroom.

In summary, the high hedge has the effect of living next to a long high wall. The enjoyment of the amenities of my property are adversely affected by the height and proximity of the high hedge, which extends the whole length of the common boundary of the rear gardens.

The quality of living in my property is profoundly diminished, and it is disappointing that all approaches made to reach a resolution have not achieved a satisfactory response.



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5.2 Address of the property affected by the hedge and name of the person living there, if different to 5.1

Name	Title	Forename	Surname
Address	129 FONTYGARY ROAD		
	RHOOSE		
City/Town	BARRY		
County	SOUTH GLAMORGAN	Postcode	CF 62 3DU
Daytime Telephone No.			
Mobile Telephone No.			
Fax No.			
Email Address			

5.3 Contact details of Agent or other person acting on behalf of the complainant (if any)

Name	Title	Forename	Surname
Address			
City/Town			
County		Postcode	
Daytime Telephone No.			
Mobile Telephone No.			
Fax No.			
Email Address			

Is the Agent, or other person named above, content for us to contact them by email at the address provided?

Yes

No

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## 5.4 Address of the site where the hedge is growing and name of person living there, if known

Name	Title	Forename	Surname
	MR	H	THOMAS
Address or description of location	13) FONTY GARY ROAD RHOOSE		
City/Town	BARRY		
County	SOUTH GLAMORGAN	Postcode	CF 62 3DU
Daytime Telephone No.			
Mobile Telephone No.			
Fax No.			
Email Address			

## 5.5 Name and address of the person who owns the property where the hedge is situated, if different to 5.4 and if known

Name	Title	Forename	Surname
Address			
City/Town			
County		Postcode	
Daytime Telephone No.			
Mobile Telephone No.			
Fax No.			
Email Address			

### 6. Supporting documents

6.1 Have you enclosed the following:

Tick box

A photo of the hedge

A location plan of the hedge and surrounding properties

Copies of correspondence with your neighbour about the hedge

Copies of any other documents that you mention (please list these separately)

### 7. Sending the complaint

7.1 I confirm that I have completed as much of this form as a I can and that, to the best of my knowledge, the information provided is accurate.

Tick box

7.2 I enclose the fee of £x.

Tick box

Name

MRS YVONNE LEVITT

Date

15/7/19

7.3 POST OR EMAIL THIS FORM AND ALL ENCLOSURES TO:

Council to insert name and address of contact. Include an email address.



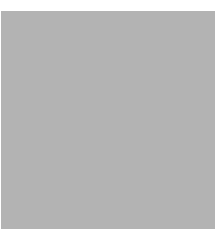
7.4 Please also send a copy of this form to the people identified in Section 5 above.

Tick the box to show you have done this

You can also download this complaint form from our website at [insert]

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# COMPLAINT FORM ENCLOSURES

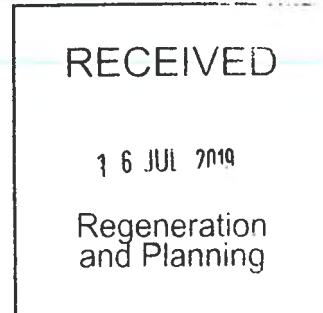


QUESTIONNAIRE



BIRCHFIELD  
LITTLEWORTH LANE  
PARTRIDGE GREEN  
HORSHAM  
WEST SUSSEX  
RH13 8EJ  
TEL: [REDACTED]

Mr & Mrs Thomas  
131 Fontygary Road  
Rhoose  
South Glamorgan  
CF62 3DU



Saturday 28 September 2013

Dear Mr & Mrs Thomas

**HIGH HEDGE BETWEEN THE REAR GARDENS OF 129 & 131 FONTYGARY ROAD RHOOSE**

I have visited my home in Rhoose during the last week in order to carry out garden maintenance and preparation for my forthcoming move back to Rhoose.

I notice that the height of the hedge between our rear gardens still remains at an estimated five metres or higher. This situation still exists in spite of several verbal requests, made on previous visits, by my husband to Mr Thomas to reduce the height of your hedge to a height that does not cause me loss of amenity and removes the nuisance of the considerable overhang of foliage along your rear garden (eastern) boundary. Where I mention "hedge" in this letter, I also include the ivy and privet clad tree(s) which are adjacent to my patio and the bow window of my downstairs lounge.

My husband has on more than one occasion verbally invited Mr Thomas to my rear garden to view the issues caused by your high hedge, with a view to discussing how we as neighbours can amicably resolve my concerns. The Guide to the High Hedges Procedures, introduced by the Anti Social Behaviour Act 2003, does indicate that any height over 2 metres does constitute a high hedge. Up until now, these invitations have not been accepted.

I now formally request in writing that you reduce the height of your rear garden (eastern boundary) hedges to two metres, and maintain the total length at this height. I am prepared to meet with you and, if you are in agreement, we can use the services of a local Community Mediator in order to address and progress this matter towards an amicable agreement.

I trust that we can progress this matter to a satisfactory conclusion and I look forward to your response.

Yours sincerely

[REDACTED]  
Mrs Yvonne Levitt

190 0779 HH

BIRCHFIELD  
LITTLEWORTH LANE  
PARTRIDGE GREEN  
HORSHAM  
WEST SUSSEX  
RH13 8EJ  
TEL: [REDACTED]



Mr & Mrs Thomas  
131 Fontygary Road  
Rhoose  
South Glamorgan  
CF62 3DU

Saturday 4 October 2014

Dear Mr & Mrs Thomas

**HIGH HEDGE BETWEEN THE REAR GARDENS OF 129 & 131 FONTYGARY ROAD  
RHOOSE**

I have visited my home in Rhoose during the last week in order to carry out garden maintenance.

I notice that the height of the hedge between our rear gardens still remains at an estimated five metres or higher. This situation still exists in spite of several verbal requests and my formal request to you made in my letter dated 28 September 2013, to reduce the height of your hedge to a height that does not cause me loss of amenity and removes the nuisance of the considerable overhang of foliage along your rear garden (eastern) boundary. Where I mention "hedge" in this letter, I also include the ivy and privet clad tree(s) which are adjacent to my patio and the bow window of my downstairs lounge. My fence is being pushed over by the weight of your vegetation.

Jonathan Barlow has mentioned to me that he has been requested by you to contact me to request permission to carry out some work on the vegetation from your hedge which overhangs my property, in some places in excess of five feet. I have told him that you should contact me directly to discuss your request. To date, I have not heard from you, nor have I received a reply to my letter dated 28 September 2013 (copy enclosed).

Last week our front gardens hedges were cut. As in previous years, my husband spoke to Mr Thomas and offered to trim the overhang on your front drive from this hedge. On this occasion, this offer was declined, and Mr Thomas stated that "Jonathan would attend to this". My husband also offered to remove any stray cuttings from your drive, but this offer was also declined. As you are aware, I do not wish my hedges to cause you any problems, so we will continue to offer to cut and remove any overhang from my hedge(s), affecting your property.

The Guide to the High Hedges Procedures, introduced by the Anti Social Behaviour Act 2003, does indicate that any height over 2 metres does constitute a high hedge. The loss of amenity caused by your high hedge is now intolerable, so, in the disappointing situation of no response from you, I am advised that a formal High Hedge Complaint to the Building Inspectorate of the Vale of Glamorgan Council can be made. Their Investigation could lead to their serving what is known as a Remedial Notice.

I trust that we can progress this matter to a satisfactory conclusion, without my having to proceed in this manner. I look forward to your response. Please note that I will be staying at 129 Fontygary Road shortly, and will be available should you now wish to discuss the matter and your intentions further.

Yours sincerely

[REDACTED]  
Mrs Yvonne Levitt

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BIRCHFIELD  
LITTLEWORTH LANE  
PARTRIDGE GREEN  
HORSHAM  
WEST SUSSEX  
RH13 8EJ  
TEL: [REDACTED]

Mr & Mrs Thomas  
131 Fontygary Road  
Rhoose  
South Glamorgan  
CF62 3DU



Thursday 7 May 2015

Dear Mr & Mrs Thomas

**HIGH HEDGES BETWEEN THE REAR GARDENS OF 129 & 131  
FONTYGARY ROAD RHOOSE**

As of my last visit in April 2015, there has been no significant reduction in the impact of your high hedges, along our shared back-garden boundary.

I have not received any response, either verbally or in writing to my previous letters, dated 28 September 2013 and 4 October 2014, concerning the matter of your high hedges. I therefore will be contacting the relevant department(s) of the Vale of Glamorgan Council, in order to progress this matter.

Yours sincerely

[REDACTED]  
Mrs Yvonne Levitt

190 0779 HH

BIRCHFIELD  
LITTLEWORTH LANE  
PARTRIDGE GREEN  
HORSHAM  
WEST SUSSEX  
RH13 8EJ  
TEL: [REDACTED]

Mr & Mrs Thomas  
131 Fontygary Road  
Rhoose  
South Glamorgan  
CF62 3DU

Saturday 20 April 2019

**DELIVERED BY HAND**

Dear Mr & Mrs Thomas

**HIGH HEDGE BETWEEN THE REAR GARDENS OF 129 & 131 FONTYGARY ROAD  
RHOOSE**

**FINAL REQUEST FOR SATISFACTORY ACTION BY YOURSELVES**

I draw your attention once again to the high hedge situation which continues to be a nuisance and cause I and my husband a loss of amenity and enjoyment of our garden, patio and property.

During last week, I noticed that the height of the hedges between our rear gardens still remains at an estimated three metres or higher. This situation still exists in spite of several verbal and written requests and my formal request to you made in a previous letter, to reduce the height of your hedge to a height that does not cause us loss of amenity and removes the nuisance of the considerable overhang of foliage along your rear garden (eastern) boundary. Where I mention "hedge" in this letter, I also include the monkey tree and the privet (which I notice have increased in height to over 5 metres) which are situated adjacent to my patio and the bow window of my downstairs lounge. My fence is also being pushed over again, by the weight of your vegetation.

The Guide to the High Hedges Procedures, introduced by the Anti Social Behaviour Act 2003, does indicate that any height over 2 metres does constitute a high hedge. The loss of amenity caused by your high hedge is now source of stress for me so, in the disappointing situation of no response from you, I am advised that a formal High Hedge Complaint to the Building Inspectorate of the Vale of Glamorgan Council can be made. Their Investigation could lead to their serving what is known as a Remedial Notice.

In addition, I would like to make you aware that the overhanging vegetation from your high hedges, along our common boundary, is proving stressful, as due to ill health and age, my husband is no longer able to manage the overhanging vegetation. If you would kindly bring and maintain your hedges and trees down to a maximum height of 2 metres or less, this would facilitate the management and allow us to enjoy the amenities of our patio, garden and property.

I trust that we can progress this matter to a satisfactory conclusion, without involving the Local Council. I look forward to your response. Please note that I will be staying at 129 Fontygary Road for the next few days, and will be available should you now wish to discuss the matter and your intentions further.

Please do not return this letter to me, as a record of correspondence is being compiled, should we be left with no alternative but to involve the Local Council.

Yours sincerely

[REDACTED]



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Mrs Yvonne Levitt

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BIRCHFIELD  
LITTLEWORTH LANE  
PARTRIDGE GREEN  
HORSHAM  
WEST SUSSEX  
RH13 8EJ  
TEL: [REDACTED]

Mr & Mrs Thomas  
131 Fontygary Road  
Rhoose  
South Glamorgan  
CF62 3DU

Monday 1 May 2019



Dear Mr & Mrs Thomas

**HIGH HEDGE BETWEEN THE REAR GARDENS OF 129 & 131 FONTYGARY ROAD RHOOSE**

I write to confirm the outcome of our meeting last week, when my husband and I knocked your front door to discuss the ongoing High Hedge issue.

Our letter dated 20 April 2019 was delivered to and accepted by Mr Thomas on Friday morning 26 April 2019.

I made a verbal request for Mr Thomas to address the issue and reduce the height of his hedge along our rear gardens shared boundary with a view to discussing the reduction in the height. This request was refused and I informed Mr Thomas that I would have to take matters to the local council for possible action as the hedge was too high and overbearing for occupants to enjoy amenities at my property. Finally I asked Mr Thomas again to cut them down and maintain them at the recommended height; Mr Thomas replied that he would wait for the council to attend his property in connection with my forthcoming complaint to the Building Inspectorate of the Vale of Glamorgan Council regarding the high hedge.

Yours sincerely,

[REDACTED]  
Mrs Yvonne Levitt

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BIRCHFIELD  
LITTLEWORTH LANE  
PARTRIDGE GREEN  
HORSHAM  
WEST SUSSEX  
RH13 8EJ  
TEL: [REDACTED]

Mr & Mrs Thomas  
131 Fontygary Road  
Rhoose  
South Glamorgan  
CF62 3DU



Monday 15 July 2019

Dear Mr & Mrs Thomas

**HIGH HEDGE BETWEEN THE REAR GARDENS OF 129 & 131 FONTYGARY ROAD RHOOSE**

**HIGH HEDGE COMPLAINT TO THE VALE OF GLAMORGAN COUNCIL**

I am required as part of the Complaint Procedure to provide you with a copy of submitted written complaint. Therefore kindly find this copy attached.

Please do not return this letter to me, as a record of correspondence is being compiled.

Yours sincerely

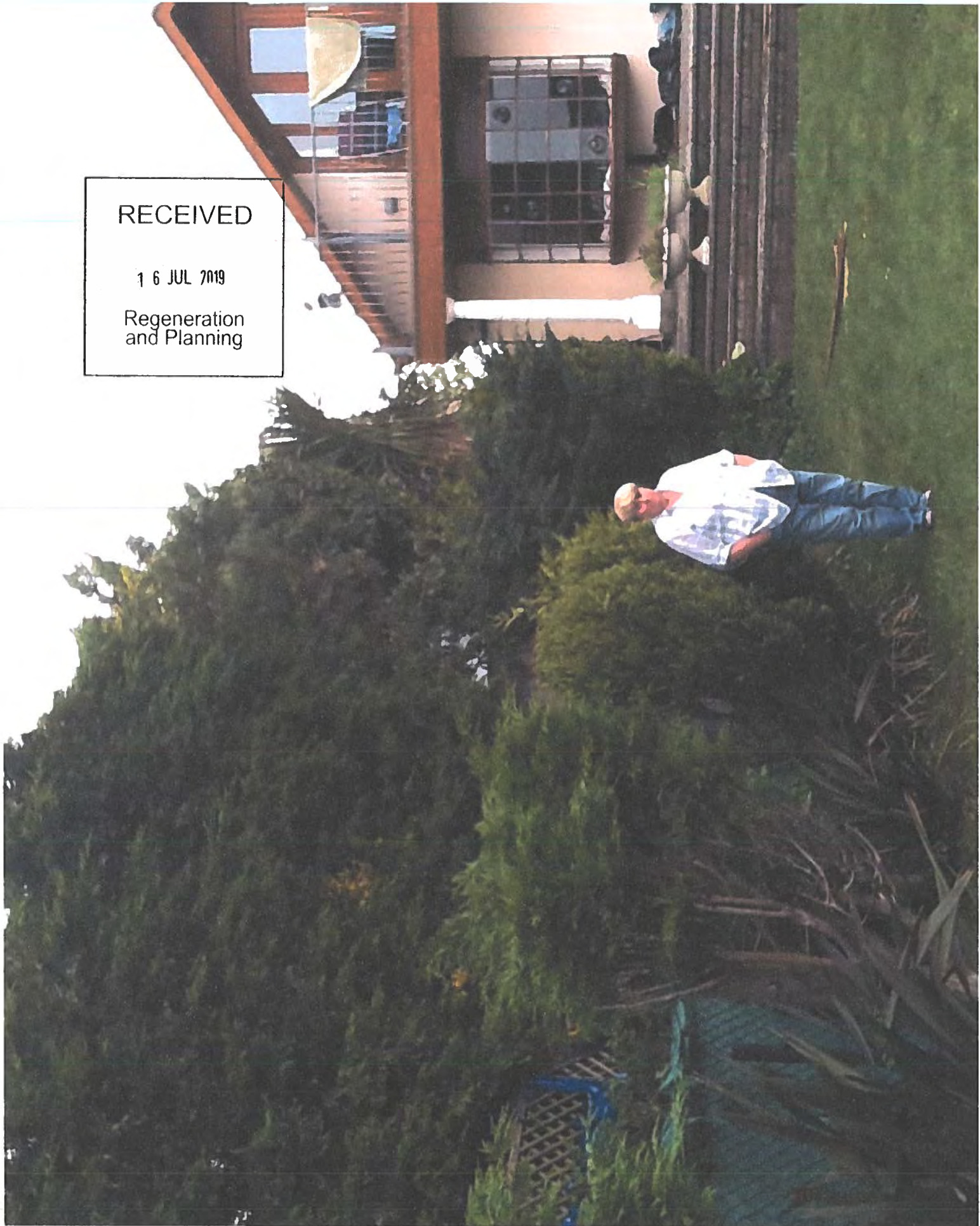
[REDACTED]  
Mrs Yvonne Levitt

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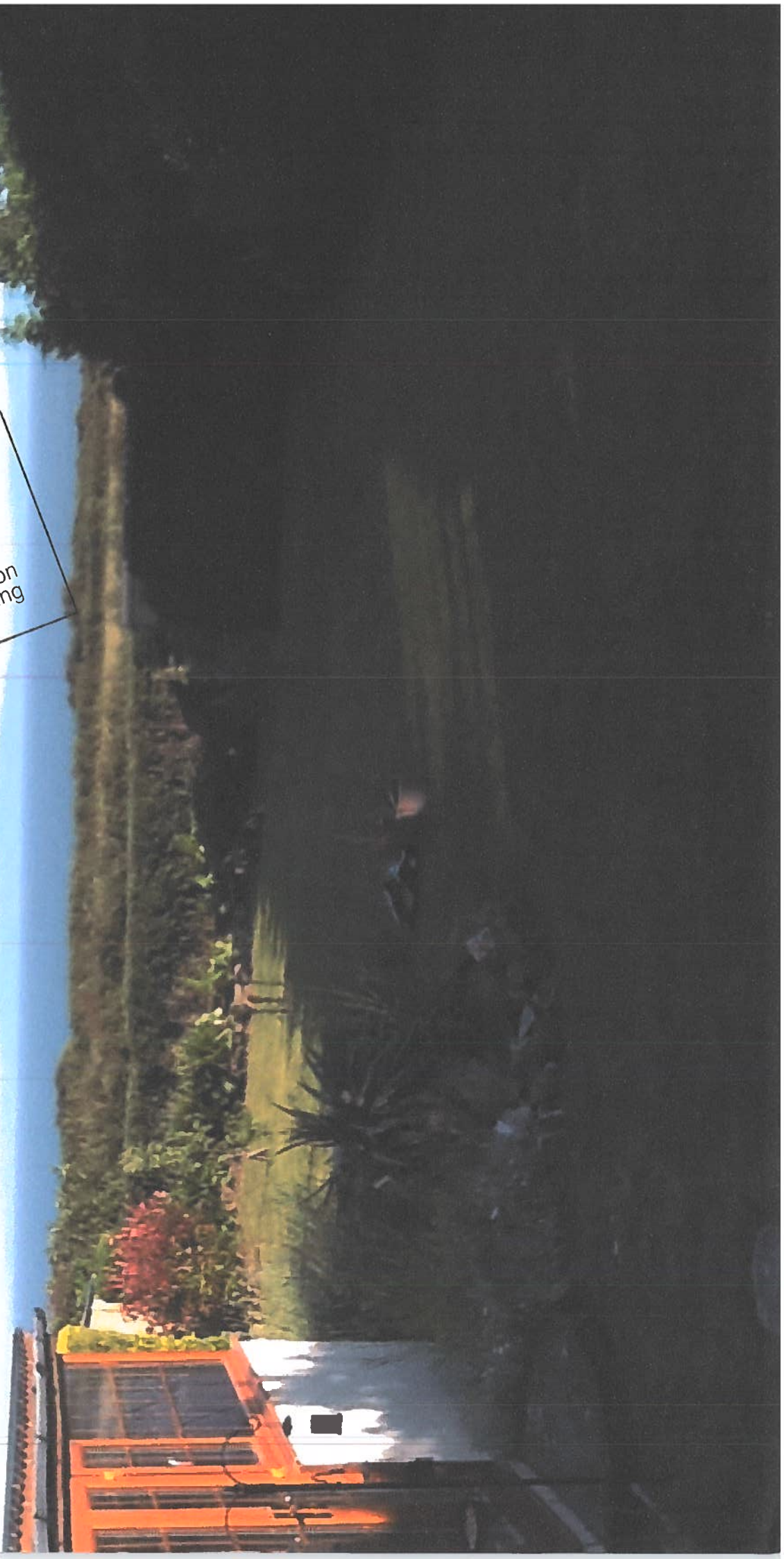
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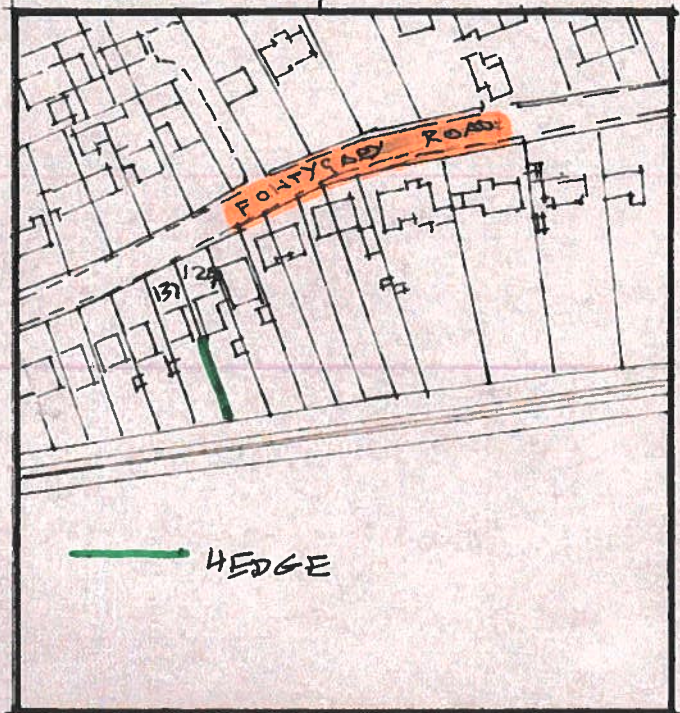
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ANY DISCREPANCIES ARE TO BE  
IMMEDIATELY BROUGHT TO THE ATTENTION  
OF THE ARCHITECT

ALL DIMENSIONS TO BE CHECKED  
FROM SITE

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NOTES

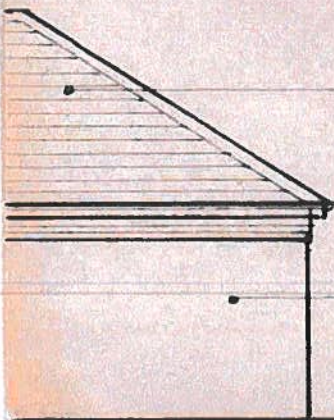


location plan  
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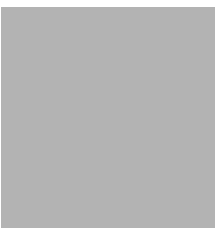
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RENDER

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# DECISION LETTER



QUESTIONNAIRE



**THE VALE OF GLAMORGAN COUNCIL**

Dock Office, Barry Docks, Barry. CF63 4RT

Telephone number: (01446) 704651

My Ref.  
2019/00779/HH

When telephoning please ask for:  
Helen Davies

Mrs. Yvonne Levitt,  
Birchfield  
Littleworth Lane  
Partridge Green  
Horsham  
West Sussex  
RH13 8EJ

9 September 2019

Dear Mrs Levitt,

**Reference Number 2019/00779/HH  
Notification of Complaint Under Part 8 of the Anti-Social Behaviour Act 2003  
Complaint About a High Hedge Situated at 131, Fontygary Road, Rhoose, CF62  
3DU**

I refer to your complaint, made under Part 8 of the Anti-social Behaviour Act 2003, about the high hedge situated at 131, Fontygary Road, Rhoose, CF62 3DU. The complaint alleged that the hedge is adversely affecting the enjoyment of the domestic property at 129, Fontygary Road.

The Council has taken into account:

- Representations and other information submitted by you as the the complainant and by the owner of the land where the hedge is situated.
- The contribution that the hedge makes to the character and amenity of the area
- The assessment of the site made by a Planning Officer of the Council during and following a site visit on 23 August 2019.

**Main Considerations, Conclusion**

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

The main considerations in this case are whether the problems complained of are sufficiently serious to justify action being taken in relation to the hedge, bearing in mind the effect such action would have on the property where the hedge is situated and on the wider area.

A full account of the assessment made is available in the report produced under this application. That report can be accessed from the Vale of Glamorgan Council Planning Register at the following link - <http://vogonline.planning-register.co.uk/Plastandard.aspx> and then searching using application number 2019/00779/HH. The report is available under the documents tab.

### **Formal Decision**

The Council has decided that the height of the hedge in question is not adversely affecting your reasonable enjoyment of your property and no action should be taken in relation to the hedge.

### **Reason(s) for Decision**

On the basis of a site assessment, it is not considered expedient to issue a Remedial Notice to require the height of the hedge to be reduced. On a qualitative basis, the hedge is currently lower than the action hedge height so there is no justification to reduce the height on the basis of the loss of light to windows or garden. On a qualitative basis, the hedge is not considered to cause demonstrable harm to the reasonable enjoyment of the dwelling house or impact negatively on the streetscene. The height of the hedge is therefore considered acceptable and no action can be justified under section 69 of Part 8 of the Anti-social Behaviour Act 2003.

### **Right of Appeal**

You can appeal to the Planning Inspectorate against the Council's decision. Further information is in the leaflet *'High hedges: appealing against the Council's decision'*, a copy of which is enclosed. An appeal must be submitted to the Planning Inspectorate, on their official form, within 28 days from the date of this letter.

The form is available on the Planning Inspectorate website at:  
<https://gov.wales/planning-inspectorate>

Or from:

The Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ

Inspectorate general enquiries, information about appeals in Wales or copies of decisions:

Telephone - 0303 444 5940

E-mail - [wales@planninginspectorate.gov.uk](mailto:wales@planninginspectorate.gov.uk)

Inspectorate queries relating to online appeals service:

Telephone - 0303 444 5000

E-mail - [pcs@pins.gsi.gov.uk](mailto:pcs@pins.gsi.gov.uk)

You can appeal on either of the following grounds:

- That, contrary to the decision of the Council, the hedge in question is adversely affecting your reasonable enjoyment of your property; and/or
- That the adverse effect warrants action being taken in relation to the hedge.

I am copying this letter to the owner of the land where the hedge is situated.

Yours faithfully,

*M. J. Goldsworthy*

Head of Regeneration and Planning

**THE VALE OF GLAMORGAN COUNCIL**

Dock Office, Barry Docks, Barry. CF63 4RT

Telephone number: (01446) 704656

My Ref.  
2019/00779/HH

When telephoning please ask for:  
Administration

Mr. H. Thomas  
(Owner of Hedge)  
131, Fontygary Road  
Rhoose  
Vale of Glamorgan  
CF62 3DU

9 September 2019

Dear Mr and Mrs Thomas

**Reference Number 2019/00779/HH**  
**Notification of Complaint Under Part 8 of the Anti-Social Behaviour Act 2003**  
**Complaint About a High Hedge Situated at 131, Fontygary Road, Rhoose, CF62 3DU**

I refer to the complaint, made under Part 8 of the Anti-social Behaviour Act 2003, about the high hedge situated at 131, Fontygary Road, Rhoose, CF62 3DU. The complaint alleged that the hedge is adversely affecting the enjoyment of the domestic property at 129, Fontygary Road.

The Council has taken into account:

- Representations and other information submitted by the complainant and by you as the owner of the land where the hedge is situated.
- The contribution that the hedge makes to the character and amenity of the area
- The assessment of the site made by a Planning Officer of the Council during and following a site visit on 23 August 2019.

**Main Considerations, Conclusion**

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

The main considerations in this case are whether the problems complained of are sufficiently serious to justify action being taken in relation to the hedge, bearing in mind the effect such action would have on your property where the hedge is situated and on the wider area.

A full account of the assessment made is available in the report produced under this application. That report can be accessed from the Vale of Glamorgan Council Planning Register at the following link - <http://vogonline.planning-register.co.uk/Plastandard.aspx> and then searching using application number 2019/00779/HH. The report is available under the documents tab.

### **Formal Decision**

The Council has decided that the height of the hedge in question is not adversely affecting the complainants reasonable enjoyment of their property and no action should be taken in relation to the hedge.

### **Reason(s) for Decision**

On the basis of a site assessment, it is not considered expedient to issue a Remedial Notice to require the height of the hedge to be reduced. On a qualitative basis, the hedge is currently lower than the action hedge height so there is no justification to reduce the height on the basis of the loss of light to windows or garden. On a qualitative basis, the hedge is not considered to cause demonstrable harm to the reasonable enjoyment of the dwelling house or impact negatively on the streetscene. The height of the hedge is therefore considered acceptable and no action can be justified under section 69 of Part 8 of the Anti-social Behaviour Act 2003.

### **Right of Appeal**

Both parties have a right of appeal to the Planning Inspectorate against the Council's decision. However, as no remedial Notice is to be served on you, in this case, any Appeal to be made is likely to be by the complainant.

Further information is in the leaflet '*High hedges: appealing against the Council's decision*', a copy of which is enclosed. An appeal must be submitted to the Planning Inspectorate, on their official form, within 28 days from the date of this letter.

The form is available on the Planning Inspectorate website at: <https://gov.wales/planning-inspectorate>

Or from:

The Planning Inspectorate, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ

Inspectorate general enquiries, information about appeals in Wales or copies of decisions:

Telephone - 0303 444 5940

E-mail - [wales@planninginspectorate.gov.uk](mailto:wales@planninginspectorate.gov.uk)

Inspectorate queries relating to online appeals service:

Telephone - 0303 444 5000

E-mail - [pcs@pins.gsi.gov.uk](mailto:pcs@pins.gsi.gov.uk)

The complainant may make an appeal on either of the following grounds:

- That, contrary to the decision of the Council, the hedge in question is adversely affecting their reasonable enjoyment of their property; and/or
- That the adverse effect warrants action being taken in relation to the hedge.

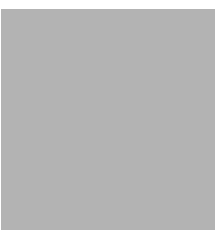
I am copying this letter to the complainants.

Yours faithfully,

M. J. Goldsworthy

Head of Regeneration and Planning

# MEASUREMENTS/CALCULATIONS



QUESTIONNAIRE

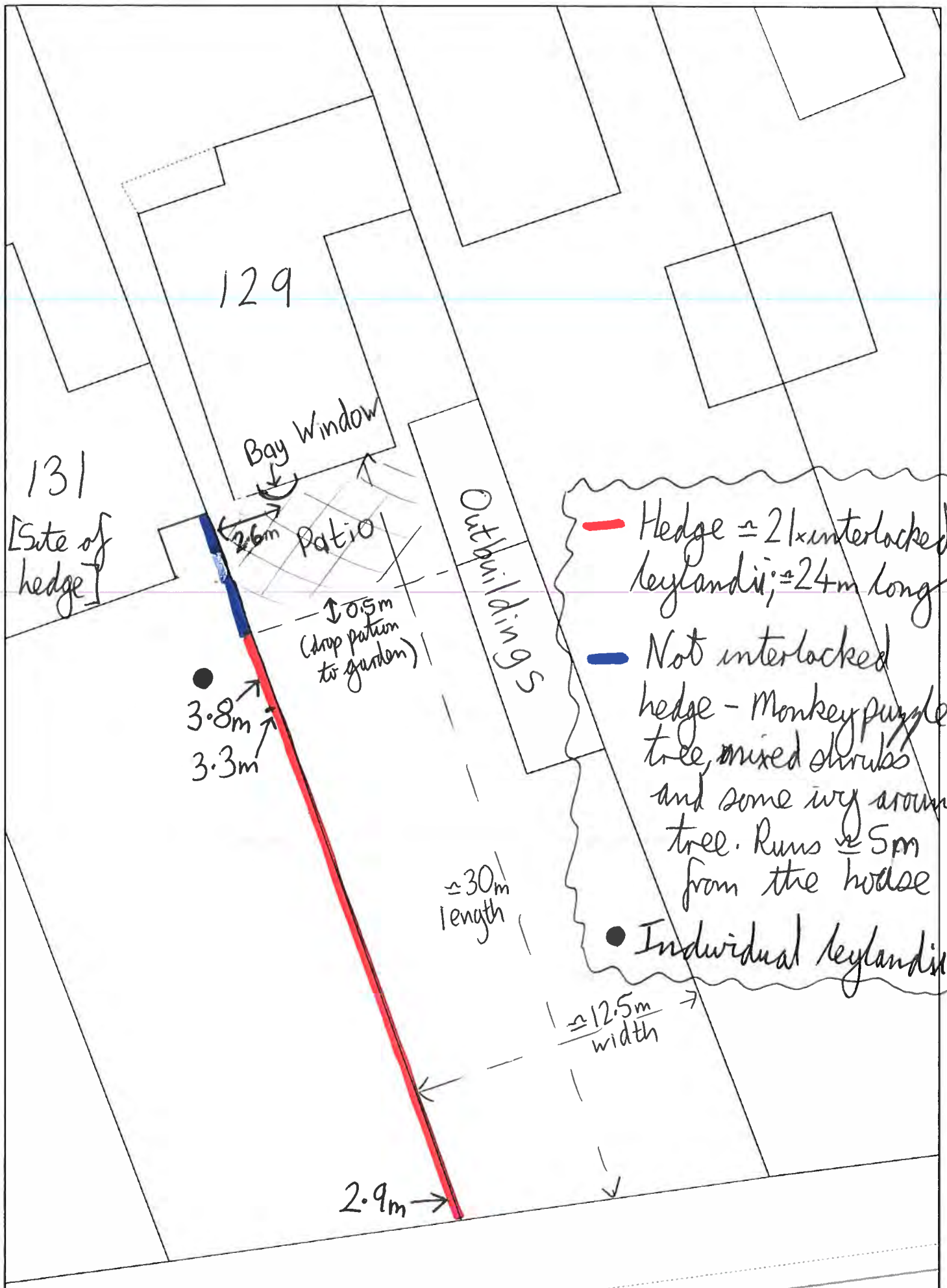




# A SPREADSHEET TO CALCULATE ACTION HEDGE HEIGHT

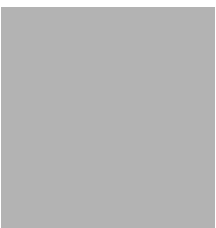
Only enter data in the green boxes

Measure distances in metres	Quantities you measure/ look up	Calculated values
<b>GARDEN</b>		
<i>If the garden is not rectangular, enter -</i> Area of garden (see section 4.2)	<input type="text" value="380"/> A	
Effective hedge length (see Figure 3)	<input type="text" value="24"/> B	
<i>Or, if the garden is rectangular, enter -</i> Depth of garden	<input type="text"/>	
Effective garden depth		(A ÷ B) or C <input type="text" value="15.83"/> C'
<i>Orientation</i> Compass direction of hedge from garden (S, NW etc)	<input type="text" value="W"/>	
Factor from Table 1 (section 4.2)		<input type="text" value="0.35"/> D (C' x D)
Uncorrected action hedge height		<input type="text" value="5.54"/> 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.	<input type="text" value="0"/> F	
<i>Slopes (section 4.3.2)</i> Distance between hedge and reference point for slope calculation		(C' ÷ 3) <input type="text" value="5.28"/> G
If garden slopes, enter height that a point in the garden metres away from hedge boundary is above the base of hedge (negative number if hedge is higher).	<input type="text" value="0"/> H	
Corrected action hedge height for garden		(E + F + H) <input type="text" value="5.54"/> J
<b>WINDOWS</b>		
<i>Measurements</i> Closest distance from hedge to centre of window (section 5)	<input type="text" value="2.6"/> 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	<input type="text" value="1"/> L	
If hedge at 45 degrees to window, write 1.5 here		
Uncorrected action hedge height for windows		(K ÷ L) + 1 <input type="text" value="3.60"/> M
<i>Amendments</i> Enter height of floor above ground (if first or above)	<input type="text" value="0"/> N	
If site sloping or stepped, enter height of base of window wall above base of hedge (negative number if hedge is higher)	<input type="text" value="0.5"/> P	
Corrected action hedge height for windows		(M + N + P) <input type="text" value="4.10"/> Q
<b>OVERALL ACTION HEDGE HEIGHT</b> (Lowest of J and Q, or 2 if greater)		<input type="text" value="4.10"/>



- Hedge ≈ 21x interlocked Keylandii; ≈ 24m long
- Not interlocked hedge - Monkey puzzle tree, mixed shrubs and some ivy around tree. Runs ≈ 5m from the house
- Individual Keylandii

# REPRESENTATIONS



QUESTIONNAIRE



**PART 8 OF THE ANTI-SOCIAL BEHAVIOUR ACT 2003**

**HIGH HEDGE COMPLAINT**

**Questionnaire to be completed by the owners/occupiers of the land where the hedge is in situation**

**Complaint in relation to hedge situated at:**

**Part A - Your name and contact details:**

Name: HAYDN THOMAS

Address: 131 Font-y GARY ROAD  
RHOOSE

Telephone number: [REDACTED]

Email address: [REDACTED]

Preferred means of contact: *letter*

**Part B - Legal restrictions:**

1. As far as you are aware, was the hedge planted under a condition attached to a planning permission?

*N/A*

2. Does a condition attached to a planning permission specify that the hedge must be retained to a particular height?

*N/A*

3. If you have answered YES to either of the two questions above, what year was the planning permission given (please supply a copy of the decision notice)?

*N/A*

4. To the best of your knowledge, what year was the hedge planted?

approx 15 year.

5. Have you seen any birds or bats nesting or roosting in the hedge?

Birds nesting. - Bats in the garden after dusk

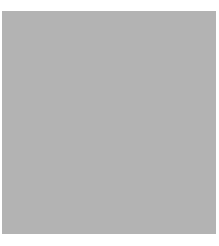
### Part C - Representations:

If you have any representations to make regarding the High Hedge complaint, please provide these below.

In conversation / stated verbally during the site visit on 23/8/19, Mr + Mrs Thomas stated that

- They cut back the hedge every year
- They would not object to a Notice requiring the hedge to be maintained at a reasonable height, as they seek to do this anyway.
- They have not responded in writing to approaches by the complainant as they did not want to escalate matters, but instead have sought to reduce the hedge to a reasonable height in their ~~own~~ eyes.
- They want to maintain privacy between the rear balconies

# COUNCIL'S DETERMINATION REPORT



Mrs. Yvonne Levitt, Birchfield, Littleworth Lane, Partridge Green, Horsham, West Sussex, RH13 8EJ

Mr. H. Thomas (Owner of Hedge) 131, Fontygary Road, Rhoose, Vale of Glamorgan, CF62 3DU

**131, Fontygary Road, Rhoose, CF62 3DU**

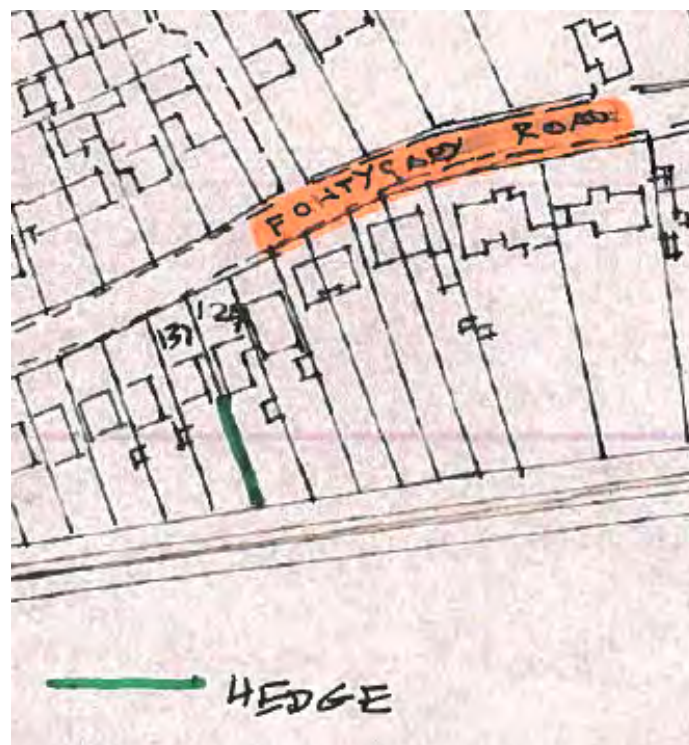
High hedge

SITE AND CONTEXT

This report relates to a complaint made under Part 8 of the Anti-social Behaviour Act 2003 (the Act) in respect of a high hedge. The hedge subject of this complaint is located in the rear garden of 131 Fontygary Road, Rhoose. The property that the hedge affects is a residential dwelling at 129 Fontygary Road, and the complaint is brought by the occupier of that dwelling.

The hedge is located on land that is not under the control of the complainant and the complaint relates to the hedge adversely affecting the reasonable enjoyment of the property of the complainant.

Both 131 and 129 Fontygary Road have substantial gardens which end at the railway line to the south. Beyond the railway line is open land to the coast.



## DESCRIPTION OF HEDGE

The hedge subject to this complaint is located on land owned by number 131 Fontygary Road, and is planted as a single row, close to the boundary line which forms the side boundary between the rear garden of number 131 Fontygary Road and number 129 Fontygary Road to the east.

A high hedge is defined in the Act as being formed wholly by a line of two or more evergreen or semi-evergreen trees or shrubs, rising to a height of more than two metres above ground level. In order to be covered by the Act, the evergreen trees or shrubs need to interlock to such an extent as to provide a barrier to light or access. Individual trees are not covered by the Act, and guidance from Welsh Government on how to apply the Act (contained in High Hedges Complaints System: Guidance, 2005) specifically stipulates (at 4.8) that climbing plants such as Ivy are excluded.

The first 5 metres of the boundary, from the rear elevation of number 131, consists of a section of privet, a monkey puzzle tree, and some lower level mixed shrubs, along with and ivy growing around the tree. The privet forms a thin section containing gaps and there is a further gap between the privet and the monkey puzzle tree. Between the monkey puzzle tree and the start of the row of leylandii there are some mixed shrubs to a height of no more than 2 metres. Ivy has climbed around the monkey puzzle tree and the leylandii and does form a more solid barrier to light forming a bridge between the top of the tree and the leylandii. However, ivy cannot be considered under the high hedge legislation so must be discounted. In addition, there is a gap between the mid-section of the individual monkey puzzle tree and the leylandii [See photos below].

Consequently, it is considered that the first 5 metres running south from the rear elevation of number 131 cannot be considered as a high hedge, as defined by the Act, so no formal action can be applied to this section.

The remainder of the boundary consists of approximately 21 closely spaced and interlocking leylandii, forming a hedge which runs for approximately 24 metres along the boundary between the rear gardens of number 131 and 129 Fontygary Road. The hedge is approximately 3.8 metres in height for a 3 metres long section to the north. The hedge height then steps down to approximately 3.3 metres and continues to decrease steadily in height for the remainder of the hedge length, dropping to a height of approximately 2.9 metres at the southern end of the hedge [See photos below].

Consequently, the 24 metres length of leylandii can be considered to be a high hedge as defined by section 66 of the Act as it is formed wholly by a line of more than two evergreens, and rises to a height of more than two metres above ground level, forming a barrier to light and access. Accordingly under the provisions of section 69 of the Act, the hedge is liable to formal action in the form of a Remedial Notice, should it be considered expedient to issue such a notice.

The expediency of issuing a Remedial Notice will be considered in terms of both a quantitative and qualitative assessment in this report.



Hedge photos

5 metres closest to rear elevation - viewed from number 129



5 metres closest to rear elevation - viewed from number 131



Hedge section to the north – viewed from 129



Hedge section to the north – viewed from 131



Hedge section to the south – viewed from 129



Hedge section to the south – viewed from 131



PLANNING HISTORY

No relevant planning history.

## ATTEMPTS MADE TO RESOLVE THE MATTER WITH THE HEDGE OWNER

The complainant states that they have made a number of efforts to discuss issues relating to the height of the hedge with the owner of the property and requested that the hedge be reduced in height. The complainant has provided copies of the letters relating to these requests as evidence of attempts to resolve the matter between the two parties.

Intermittent works have been carried out to the hedge but the work have not remedied the complainant's concerns. In view of this, the complainant felt it necessary to lodge a formal complaint to the Local Planning Authority.

The complainant submitted photographs of the hedge with their application. It is not stipulated on what date these photographs were taken. It was evident from the site visit to assess this application that works had been undertaken to reduce the height of the hedge at some time between the date when the photographs were taken and the site visit was made. It is noted that the complainant owns the affected property but does not currently live there full time so was unaware of these works until the date of the site visit.

## SUMMARY OF COMPLAINT

The complainant alleges that the hedge is causing:

- Reduced light in the lounge
- Reduced light in the bedroom
- Reduced light in the garden
- Shade on the patio on summer evenings
- Obstruction of the view to the west from the first floor balcony
- Overhanging branches
- Debris from hedge and monkey puzzle tree falling onto the patio
- Restrictions on the species of plant which can be grown in the garden

## REPRESENTATION FROM THE HEDGE OWNER

The owners of the hedge in their representation state that:

- The hedge has been there for at least 15 years
- It is cut back every year to a level they feel is reasonable
- They wish to maintain privacy between the first floor rear balconies on the rear elevation of both 129 and 131
- They had not responded to letters from the complainants as they did not wish to escalate matters, but had responded by cutting back the hedge to some extent every year.

## REPORT

### Guidance

This report has been prepared in accordance with Part 8 of the Anti-Social Behaviour Act 2003 and the guidance provided in the Welsh Government document High Hedges Complaints System: Guidance.

## Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### Issues

The principal issues to consider in this case is whether the reasonable enjoyment of the complainant's property is being adversely affected by the height of the hedge, and if so, whether it is reasonable and appropriate to issue a Remedial Notice.

The Welsh Government document High Hedges Complaints System: Guidance, paragraph. 4.40, indicates that the reference to reasonable enjoyment requires an assessment of the impact of the hedge on the enjoyment that a reasonable person might expect from their home and garden, thereby introducing a degree of objectivity to the decision-making process. Paragraph 5.77 refers to further guidance contained in the Building Research Establishment (BRE) document Hedge Height and Light Loss, which includes the recommended methodology to be used to assess the impact of a high hedge. The BRE document contains a formula for calculating an 'action hedge height', supported by a spreadsheet. The action hedge height is the height at which a hedge is likely to block too much light, resulting in an unreasonable loss of light to a main room in a dwelling or significant loss of light to a garden. An action hedge height is calculated for both windows and garden and then the lowest figure is used.

The action hedge height forms the basis of a quantitative assessment. If a high hedge exceeds the action hedge height then it is likely to be expedient to issue a Remedial Notice requiring the hedge height to be reduced. If a high hedge does not exceed the action hedge height then it is unlikely to be expedient to issue a Remedial Notice requiring the hedge height to be reduced.

As every site is individual and will have particular circumstances, a qualitative assessment is also made alongside the quantitative assessment and in some cases may impact on whether or not it is expedient to issue a Remedial Notice.

### *Quantitative Assessment of action hedge height*

The following figures were calculated using on site measurements and backed up by electronic measurements taken using a GIS system.

- Area of garden – 380 square metres
- Effective hedge length – 24 metres
- Compass direction of hedge from garden – West
- Hedge setback from boundary – 0 metres
- Slope (away from hedge) – 0 metres
- Closest distance from centre of window to hedge line – 2.7 metres
- Angle of hedge to window – Right angle

- Height of floor above ground, if first or above – Calculation applies to ground floor as no adjustment needed here
- If site sloping or stepped, height of base of window wall above base of hedge – 0.5 metres

The measurements were entered into the spreadsheet which supports the document Hedge Height and Light Loss, which uses set formula to calculate the actionable hedge height. The results were as follows:

- Corrected action hedge height for garden – 5.54 metres
- Corrected action hedge height for windows – 4.10 metres
- Overall action hedge height – 4.10 metres

A copy of the completed spreadsheet is available as part of the application records, an image of which is reproduced below.

A SPREADSHEET TO CALCULATE ACTION HEDGE HEIGHT		
Only enter data in the green boxes		
Measure distances in metres	Quantities you measure/ look up	Calculated values
<b>GARDEN</b>		
<i>If the garden is not rectangular, enter -</i> Area of garden (see section 4.2)	<input type="text" value="380"/> A	
Effective hedge length (see Figure 3)	<input type="text" value="24"/> B	
<i>Or, if the garden is rectangular, enter -</i> Depth of garden	<input type="text" value=""/> C	
Effective garden depth		(A ÷ B) or C <input type="text" value="15.83"/> C'
<b>Orientation</b>		
Compass direction of hedge from garden (S, NW etc)	<input type="text" value="W"/>	
Factor from Table 1 (section 4.2)		<input type="text" value="0.35"/> D (C' x D)
Uncorrected action hedge height		<input type="text" value="5.54"/> E
<b>Hedge set back from boundary (section 4.3.1)</b>		
If hedge over 1 metre back from boundary, enter distance between boundary and nearest part of hedge.	<input type="text" value="0"/> F	
<b>Slopes (section 4.3.2)</b>		
Distance between hedge and reference point for slope calculation		(C' ÷ 3) <input type="text" value="5.28"/> G
If garden slopes, enter height that a point in the garden metres away from hedge boundary is above the base of hedge (negative number if hedge is higher).	<input type="text" value="0"/> H	
Corrected action hedge height for garden		(E + F + H) <input type="text" value="5.54"/> J
<b>WINDOWS</b>		
<b>Measurements</b>		
Closest distance from hedge to centre of window (section 5)	<input type="text" value="2.6"/> 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	<input type="text" value="1"/> L	
Uncorrected action hedge height for windows		(K ÷ L) + 1 <input type="text" value="3.60"/> M
<b>Amendments</b>		
Enter height of floor above ground (if first or above)	<input type="text" value="0"/> N	
If site sloping or stepped, enter height of base of window wall above base of hedge (negative number if hedge is higher)	<input type="text" value="0.5"/> P	
Corrected action hedge height for windows		(M + N + P) <input type="text" value="4.10"/> Q
<b>OVERALL ACTION HEDGE HEIGHT</b> (Lowest of J and Q, or 2 if greater)		<input type="text" value="4.10"/>

On a quantitative basis, using the methodology for calculating action hedge height as recommended by Welsh Government, a hedge to a height of 4.10 metres is considered to be acceptable for this site and context. The hedge is currently no more than 3.8 meters high at any point along the length of hedge which can be considered under the Act. Consequently, the current height is less than the action hedge height, so on a quantitative basis there is no justification to issue a Remedial Notice requiring the height of the hedge to be reduced.

Whilst it is acknowledged that the hedge will inevitably have some impact on light to the garden and rear windows of the complainants dwelling, the action hedge height provides a qualitative and impartial guide to the level of light which it is reasonable to expect.

#### *Qualitative assessment*

On a qualitative basis, the predominant outlook from the rear windows of the complainant property is to the south and beyond that to the coast. Whilst it is acknowledged that views to the west from the bedroom and the first floor balcony will be partially impeded by the high hedge, the main view to the south remains unimpeded. In this context the hedge does not have an unreasonable impact on the view which the complainants can enjoy from their property. It should also be noted that the main impedance to the view to the west from the first floor, would be the privet and monkey puzzle tree. As set out previously, these are not considered to be covered by the high hedge legislation. In addition, some higher level screening in the area nearest to the rear elevations can also be considered reasonable as it provides a level of privacy between the 2 properties, given that both have a significant size first floor rear balcony.

The hedge is not visible from the front of the property so has no impact on the streetscene.

The complaint also mentions the impact of debris from the hedge and monkey puzzle tree falling onto the patio. Welsh Government guidance states that *“Whether debris from an evergreen hedge (e.g. needles, berries) is caused by the excessive height of the hedge will depend on the particular circumstances..... In any event, the volume of debris falling from the evergreen hedge is likely to be low. Any resulting problems may not, therefore, represent a substantial interference with a complainant's enjoyment of their property. Normal garden maintenance to clear the debris may be the more appropriate means of dealing with this problem, even though this may be regarded as irritating and inconvenient.”* Consequently, the presence of some debris is not a justification for a reduction in hedge height.

Finally, the complaint also states that the hedge restricts the species of plants which can be grown successfully in the garden. However, High Hedges Complaints System: Guidance explicitly excludes this matter from being considered under the Act, stating that *“there is a wide range of plants that are suitable for a variety of conditions and situations, offering alternative solutions to any adverse effects of a hedge”*.

Consequently, on balance, nothing within this qualitative assessment of the site justifies overriding the quantitative assessment and the conclusion remains that it is not expedient to issue a Remedial Notice requiring the height of the hedge to be reduced.

## CONCLUSION

In view of the findings above, it is not considered expedient to issue a Remedial Notice to require the height of the hedge to be reduced. On a qualitative basis, the hedge is currently lower than the action hedge height so there is no justification to reduce the height on the basis of the loss of light to windows or garden. On a qualitative basis, the hedge is not considered to cause demonstrable harm to the reasonable enjoyment of the dwelling house or impact negatively on the streetscene. The height of the hedge is therefore considered acceptable and no action can be justified under section 69 of Part 8 of the Anti-social Behaviour Act 2003.

It is considered that the decision complies with the Council's well-being objectives and the sustainable development principle in accordance with the requirements of the Well-being of Future Generations (Wales) Act 2015.

## RECOMMENDATION

That no further action is taken in respect of the height of the hedge at 131 Fontygary Road and the parties be notified accordingly. The owners of the hedge will be requested to ensure that they maintain the hedge at a height which does not exceed the action hedge height of 4.10 metres.

A Remedial Notice is not warranted for the following reason(s):

1. That no further action is taken in respect of the height of the hedge at 131 Fontygary Road and the parties be notified accordingly. The owners of the hedge will be requested to ensure that they maintain the hedge at a height which does not exceed the action hedge height of 4.10 metres.

## NOTE:

**Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.**

**In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).**

**The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the**

**commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.**

**Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.**