



VALE OF GLAMORGAN COUNCIL

THE ANTI SOCIAL BEHAVIOUR ACT 2003

Part 8 – High Hedges

WRITTEN STATEMENT

**Appeal by Vivian Arthur Ricketts
Hedd Fan, Sully Road, Penarth**

TOWN AND COUNTRY PLANNING (REFERRED APPLICATIONS AND APPEALS PROCEDURE) (WALES)
REGULATIONS 2017

PLANNING INSPECTORATE REF. NO: 3247691

VALE OF GLAMORGAN REF. NO: 2016/00615/HH

**Marcus V. Bayona-Martinez
Planning Officer (Appeals and Enforcement)
Vale of Glamorgan Council,
Dock Office,
Barry.
CF63 4RT**

1. INTRODUCTION

- 1.1 This appeal relates to the decision of the Vale of Glamorgan Council to issue a High Hedge Remedial Notice, in respect of a hedge at Hedd Fan, Sully Road, Penarth. This appeal is submitted by the owner of Hedd Fan, Sully Road, Penarth, who also owns the hedge and does not wish to see the height of the hedge reduced.
- 1.2 A complaint was received under Part 8 of the Anti-Social Behaviour Act 2003, in relation to a hedge at Hedd Fan, Sully Road, Penarth. An officer undertook a site visit on 15th of August 2016. A full series of measurements were taken on site, from the rear gardens of Lyncroft and Cherry Croft, Sully Road, Penarth, which were annotated onto a site plan. Calculations were then undertaken using the site measurements, in accordance 'High Hedges Complaints System: Guidance (Welsh Government 2005)' and 'Hedge Height and Light Loss (Building Research Establishment - BRE)', which specifies the recommended methodology to assess the impact of a high hedge. These documents are provide as appendix A and B to this statement respectively. The aforementioned measurements and calculations are also included on pages 34 to 38 of the Local Planning Authority's questionnaire response.
- 1.3 The complaint was registered on the 23rd of May 2016 and it was considered expedient to serve a High Hedge Remedial Notice. A High Hedge Remedial Notice was first served on this hedge in March 2017 and a second was served in October 2018. Both of these notices were not complied with. However, as a result of consultation with the Council's legal department, it was concluded that legal proceedings would not be taken against non-compliance with these notices as they were not served on all of the correct persons. It was therefore deemed appropriate to serve a new High Hedge Remedial Notice to enable the Council to pursue legal proceedings, in the event of non-compliance with the Notice. The High Hedge Remedial Notice subject to this appeal was served on the 5th of February 2020. The High Hedge Remedial Notice requires the following:

Initial Action

(i) Reduce the Hedge to a height not exceeding 5 metres above ground level.

Preventative Action

(i) Maintain the Hedge so that at no time does it exceed a height of 5.5 metres above ground level.

(ii) The Hedge must be cut back annually to a height not exceeding 5 metres above ground level.

1.4 Full details of the site and context, as well as a description of the hedge, is set out in the Council determination report, which is included in appendix C of this report. Photographs of the hedge have been included in pages 24-27 of the LPA's questionnaire response.

2. THE LOCAL PLANNING AUTHORITY'S CASE

2.1 The Council's determination report, which is included in appendix C, is comprehensive and sets out in full the reasons for issuing a Remedial Notice. It is not, therefore, considered necessary to repeat here the arguments or considerations contained in the determination report. The determination report should be considered as the main basis of the LPA's case in this appeal.

3. COMMENTS ON THE APPELLANT'S GROUNDS OF APPEAL.

3.1 The following sections are included to specifically address the appellant's grounds of appeal and identify where the Council's case against these grounds of appeal can be found.

3.2 Whilst all grounds of appeal available were selected by the appellant, the Planning Inspectorate have clarified that this appeal is being made on the following grounds:

- 3(1)(b) - no action should be taken in relation to the high hedge to remedy the adverse effect on the complainant's enjoyment of their property or prevent the effect recurring

- 3(1)(c) - the notice exceeds what is necessary to remedy the adverse effect of the high hedge or prevent the effect from recurring
- 3.2. With regards to grounds of appeal 3(1)(b), the Council's determination report (appendix C) makes it clear that at its present height, the hedge has an unacceptable impact on the enjoyment of the complainant's dwelling, Lyncroft.
- 3.3. In relation to grounds of appeal 3(1)(c), in determining what was necessary to remedy the adverse effect of the high hedge, the Council consulted with guidance found in 'High Hedges Complaints System: Guidance (Welsh Government 2005)' and 'Hedge Height and Light Loss (Building Research Establishment - BRE). This resulted in the measurements and calculations identified on pages 34-38 of the LPA's questionnaire response, which identify that the hedge should be reduce to 4.9 metres in height. For clarity, the LPA has specified that the hedge should be reduced to 5.0 metres in height. This is fully explained in the Council's determination report (appendix C).
- 3.4. The appellant makes a brief statement where it is claimed that the hedge does not affect the light afforded to Lyncroft, the complainant's address, and that the complainant should not have occupied that dwelling if they did not want to be impacted by the hedge. For the reasons outlined in the Council's determination report (appendix C), it is considered that the hedge unacceptably impacts on the light afforded to the rear garden of Lyncroft. The decision of the complainant to occupy Lyncroft does not have any impact on whether or not the hedge unacceptably impacts on the enjoyment of that dwelling, and whether or not a High Hedge Remedial Notice is required.

4. Conclusion

- 4.1 In the opinion of the Council, as set out in the Council's determination report, it is considered that the hedge subject to this appeal causes demonstrable harm to the enjoyment of the complainant's dwelling house. As such, the hedge has to be reduced in height by serving a High Hedge Remedial Notice. The specified height for the hedge to be reduced, has been calculated by consulting with best practice government issued guidance.

4.2 For the reasons detailed in the report, the Inspector is respectfully requested to dismiss this appeal.