

Penderfyniad ar yr Apêl Gwrychoedd Uchel

Ymweliad â safle a wnaed ar 13/10/15

gan **Melissa Hall BA(Hons) BTP MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27/11/15

High Hedges Appeal Decision

Site visit made on 13/10/15

by **Melissa Hall BA(Hons) BTP MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 27/11/15

Appeal Ref: APP/Z6950/HH/2015/516116

Site address: 3 Heol Y Felin, Llantwit Major, Vale of Glamorgan CF61 1TS

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 71 of the Anti-social Behaviour Act 2003 [“the Act”], on the ground set out in regulation 5 of The High Hedges (Appeals) (Wales) Regulations 2004.
- The appeal is made by Ms Audrey Hannah James [the Appellant] against a decision made by Vale of Glamorgan Council [the Council] not to issue a Remedial Notice [RN].
- The complaint Ref 2015/00235/HH, dated 11 February 2015, about a high hedge [the complaint hedge] at the above site was made by the Appellant under Part 8 of the Act.
- The decision letter from the Council was dated 16 June 2015.

Decision

1. The appeal is dismissed.

Main Issue

2. 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 RN.

Reasons

3. The hedge the subject of the complaint lies within the garden of 3 Heol Y Felin, adjacent to the rear boundary with 7 Clos Yr Onnen. It consists of six interlocking evergreen trees, with a maximum height in the order of 4.4 metres.
4. It is evident that some works have already been carried out to the trees; I observed that branches from the hedge have been cut back and visible branch stubs remain.
5. Section 65(1) (b) of the Act indicates that complainants have to show that the reasonable enjoyment of their domestic property is being adversely affected by the height of the high hedge.
6. Paragraph 4.41 of the Department for Communities and Local Government’s ‘High Hedges Complaints: Prevention and Cure’ (HHC) 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

5.75 refers to further guidance contained in the Building Research Establishment's 'Hedge Height and Light Loss', which includes the recommended methodology used to assess the impact of the hedge.

7. This involves the concept of an 'action hedge height' (AHH), above which a hedge is likely to block too much light. The methodology and the measures used to calculate the AHH are based on the BRE guidelines. In this case, the effective hedge length used to calculate the AHH is 10.3 metres, taking into account the combined length of the individual trees forming the hedge. The overall AHH is shown at 5.45 metres.
8. The hedge is lower than the AHH that relates to the windows and garden of the appellant's property. The HCC advises that a hedge below the height derived from the BRE guidelines is unlikely to result in an unreasonable loss of light to windows or gardens and thus have an adverse effect on someone's reasonable enjoyment of their property.
9. From what I observed from the appellant's property at my site visit, the complaint hedge is seen in the context of a close boarded fence, a raised planting bed, decking and intervening garden structures. It thus represents a short incursion in the overall vista. Whilst there are other shrubs along this boundary, there are some gaps in the hedge, areas of sparse foliage and an otherwise more open skyline towards the north and south. Thus, its height and length is such that it does not dominate the garden.
10. From inside the dwelling, I accept that the outlook from ground and first floor habitable room windows is towards the complaint hedge. Nevertheless, the hedge is located a sufficient distance away from the habitable room windows and, together with its restricted length and height, does not represent an unreasonably dominant or enclosing feature affecting the outlook to an unacceptable degree.
11. Furthermore, given its orientation north-west of the appellant's property and its restricted length and height, any loss of light would be confined to a small area of the garden in the late afternoon. Consequently I do not find that the complaint hedge results in any serious overshadowing of the appellant's garden or dwelling.
12. My site visit was carried out at mid-morning and in fair weather, and it did not seem to me that the complaint hedge, in itself, had any significant impact in terms of loss of light to the house or garden. Additionally, and mindful that the height of the hedge does not exceed that derived from the BRE guidelines, I am satisfied that it does not affect the appellant's reasonable enjoyment of the property for the reasons I have given.
13. Similarly, the appellant alleges that the size of the trees have caused damage to the fence. The Act specifically excludes complaints about the effect of the roots of a high hedge and root-related property damage. This is outlined in paragraph 4.38 of the HHC guidance.
14. Meanwhile, paragraph 4.36 of the HHC guidance deals with the width of a hedge, and states that problems associated with overhanging will not normally be considered. I see no compelling reason why any overhanging branches in close proximity to the fence could not be trimmed to alleviate this problem and prevent damage to the fence. Consequently, I have not attached weight to these matters in coming to my decision.
15. I note the appellant's concern regarding the effect of the hedge on the growth of moss in the lawn. There is no compelling evidence before me that the complaint hedge is of

such a height that the shading it creates is solely or primarily responsible for moss growth, not least as there are also several domestic outbuildings in close proximity.

Conclusion

16. For the above reasons, and having regard to all matters raised, I conclude that the appeal should not succeed.

Melissa Hall

INSPECTOR