

Committee: Development Control

Date: 18 May 2005

Agenda Item No: 6

Title: High hedges regulations

Contact: M Ovenden (01799) 510476

Summary

- 1 This report advises Members about the regulations relating to the controls over high hedges that have been introduced by Parliament and come into force on 1 June. Development Services will administer the regulations, with powers to determine applications having been delegated at full Council on 26 April 2005 to the Executive Manager for Development Services. The report outlines the powers and identifies the fee that applicants will be required to submit with an application.

Background

- 2 High hedges and the perceived and actual problems they cause have often been the subject of neighbour disputes, on occasion resulting in violence between the parties. Parliament has passed legislation that seeks to give a legitimate procedure for the affected person to obtain relief and gives local authorities a role in the process as an arbiter of last resort. Part 8 of the Anti-Social Behaviour Act 2003 introduced these powers and they come into force in England on 1 June 2005.

Procedure

- 3 The regulations relate to hedges of more than two metres in height, formed by two or more trees or shrubs that are evergreen or semi evergreen. Semi evergreen trees are those that keep some live or green leaves all year round. It will not include species that retain brown or dead leaves in the winter. Due to regional variations in climate species that are considered to be semi evergreen in the south of England might not be so considered in the north, e.g. Privet. Furthermore in order to be subject to the regulations the hedge must be capable of obstructing light or views. The Act specifically rules out dealing with problems relating to root damage from trees or hedges.

- 4 Applicants applying to the Council will need to have already made a number of approaches to the owner of the hedge, ranging from informal approaches, meetings, including with independent mediators, as well as making written contact. The applicant will need to demonstrate that they have made significant efforts to attempt to resolve the matter prior to involving the Council.
- 5 Applicants will be required to complete a form and attach the required fee. Officers propose to adopt the model form prepared by the ODPM. This includes a number of questions to which the applicant must answer 'Yes' in order for the application to be valid. The form also provides space for the applicant to explain the problems relating to the hedge. A copy of the completed form will need to be given to the owner. Following initial vetting of the application, the Council will need to contact the owner to allow him to set out his case and an officer will make a visit to inspect the hedge. The officer will make a judgement on whether the hedge affects the reasonable enjoyment of the applicant's home and garden. There is no statutory timescale for dealing with applications although the guidance notes suggest that applicants should not expect an answer for at least 12 weeks.
- 6 If it is determined that the hedge affects the reasonable enjoyment of the applicant's home and garden, the Council will serve a remedial notice specifying the action required to be taken and a period within which it is required to occur. It cannot require the hedge to be removed completely or lowered to less than two metres in height but it may require the hedge to be maintained to a specified height in order to prevent the problem reoccurring. This may be achieved by requiring the top of the hedge to be lowered to a height of two metres, or higher if that resolves the problem. The applicant has a right of appeal to the Planning Inspectorate against the decision as has the owner. These appeals would be via written representations or informal hearings. Failure to comply with a notice may result in prosecution.

Workload implications

- 7 It is difficult to predict the volume of applications likely to be submitted under the regulations. Anecdotal evidence from Wales where similar legislation has been in force for a few months is that few applications have been received so far. However as the legislation becomes more widely known the number of application may be expected to rise. Also given that the regulations require a number of attempts at dialog between the two parties prior to an application being made it is understandable if there is a time lag between the regulations being introduced and formal applications being submitted. Conversely the consultation paper issue last year predicted an initial flurry of applications resulting from a backlog of cases to which previously there have been few methods to resolve. The number of applications that will be received in this District is therefore uncertain.
- 8 All applications would be vetted on receipt and either returned as invalid, for example that the applicant has not made sufficient effort to resolve the matter prior to making the application, or commence correspondence between the Council and the two parties. Valid applications would require a detailed site visit. The outcome of the decision would be reported to both parties. Last year the ODPM estimated that each case would take

around eight hours in officer time, although following implementation of the regulations a shorter or longer time may become apparent. Other development control work sometime leads to attempts to involve officers in neighbour disputes and officers are keen that it does not increase under these new regulations. There is a right of appeal to both parties and that would require officers to carry out further work. The proportion of cases that will end in appeals is uncertain.

Application fee

- 9 The ODPM explanatory document makes reference to the submission of a non-returnable fee with applications. However in England unlike the situation with planning applications, there is no set fee and no maximum fee. Local authorities are able to set a fee they consider to be appropriate. Given the uncertainties about the work involved, the difficulties in comparing the handling of these applications with planning applications, the need to avoid getting involved in neighbour disputes, setting the fee is a matter of judgement and different local authorities are setting different amounts.
- 10 Officers consider that the work involved in determining a case could be significant suggesting that a high fee would be appropriate. On balance officers have taken the view that it would be appropriate to adopt the maximum fee in Wales, which is £320. Whilst this figure has no statutory weight in England, the Welsh Assembly has taken the view that such a figure would be reasonable and in the absence of any other guidance it is simpler to adopt this 'official' figure. A sum of this level was also mooted in the consultation paper issue by ODPM last year.

RECOMMENDATION: THAT MEMBERS NOTE THE NEW REGULATIONS AND AGREE THAT A FEE OF £320 PER APPLICATION WOULD BE APPROPRIATE.

Background Papers: [\[Click here to type in background paper details\]](#)

Committee: Development Control

Date: 18 May 2005

Agenda Item No: 7

Title: Notification of intent to fell 1no. Alder tree at 'Fearn's' Freshwell Street, Saffron Walden – within a Conservation Area.

Author: Mr B Smeeden (01799) 510466

Introduction

- 1 This item seeks Members' approval for the felling of 1 no Common Alder tree growing within the grounds of 'Fearn's' Freshwell Street, Saffron Walden. The tree stands within the Saffron Walden Conservation Area.

Background

- 2 Notification of intent to fell 1no Alder tree has been served on the Council by the owner District Councillor Stephen Jones member for Saffron Walden (Castle). The notifications states the reasons for felling the tree as follows:
 - "It is extremely ugly and unsightly"
 - "It is leaning towards the road and could cause damage in the future"
 - "It has been planted too close to adjoining trees and is affecting the health/growth of those trees"
 - "The catkins and twigs from the tree create a mess and can make their way into the drainage system"
 - "The tree creates a shade damaging/preventing growth of the lawn."

Assessment

- 3 The tree has been inspected by the Council's Landscape Officer and found to be some 8 metres in height and growing on the boundary with meadow land to the south of Freshwell Gardens. The main trunk bifurcates just above ground level. One the two issuing stems has been previously lost which has resulted in the remaining stem being unbalanced. No evidence was found at the time of inspection, which indicated that the tree was in a dangerous condition. The tree is, to some degree, is suppressing the growth and development of adjacent young trees and shrubs and lawn area. Minor debris falling out of the tree canopy together with leaf and 'catkin' fall are not considered likely to block nearby surface water gullies and drains if swept clear.

- 4 The tree is relatively prominent within the area of the Freshwell Gardens, however, there is a second Common Alder tree of similar age which is well formed and in good general health growing within 15 metres of the subject tree.
- 5 The Alder tree proposed to be felled is not considered to provide sufficient amenity as to warrant the tree being made the subject of a tree preservation order.

RECOMMENDED no objection be raised to the felling of the Alder tree.

Background Papers:

DEVELOPMENT CONTROL COMMITTEE – 18 May 2005
APPEAL DECISIONS

APPEAL BY	LOCATION	APPLICATION NO	DESCRIPTION	APPEAL DECISION & DATE	DATE OF ORIGINAL DECISION	SUMMARY OF DECISION
Mr Chris Gough	76 Little Walden Saffron Walden	UTT/0661/04/F UL	Proposed is a three storey side extension	DISMISSED 27 April 2005	6 July 2004	The Inspector concluded that the extension would be detrimental to the appearance of the house itself and to the street scene in general
Mr J Clarke	Woodview Stortford Road Hatfield Heath	UTT/0854/04/F UL	Proposed is a first floor extension	ALLOWED 27 April 2005	5 August 2004	The Inspector concluded that the extension would have no adverse affect on the amenity of the occupiers of the adjacent property "Fairlight". Although there would be some loss of light she concluded that this would be insufficient justification to refuse permission.
N Hagger	Field House Berden	UTT/1018/04/F UL	Proposed is a first floor extension, three balconies and a dormer window	ALLOWED 27 April 2005	20 July 2004	The Inspector concluded that the extensions and balconies would be satisfactory in terms of their relationship to the house itself. The Council's argument that

						the house had been considerably extended in the past and that further extensions would be contrary to our policy of having regard to the scale and design in relation to the original building was not given weight. This is being pursued with the Inspectorate.
Mr and Mrs S Smith	Deansfield Crix Green	UTT/1208/04/F UL	Proposed is described as extensions to an existing dwelling	ALLOWED 25 April 2005	9 September 2004	The Inspector concluded that creating a two storey building from a bungalow outside development limits was an acceptable interpretation of the Council's policies.

AGENDA ITEM NO: 9

Title: ENFORCEMENT OF PLANNING CONTROL – PROGRESS REPORT

Author: Clive Theobald (01799) 510463

	ADDRESS	UNAUTHORISED DEVELOPMENT	ACTION AUTHORISED	EFFECTIVE DATE FOR COMPLIANCE	APPEAL	COMMENTS
1	Land at Start Hill, Great Hallingbury (formerly Elliott's Yard)	(a) Storage of motor vehicles (b) Car repairs (c) Car valeting	28/2/00			Meeting held with landowner. Planning application granted 27/5/03. Unauthorised uses have ceased. Full compliance achieved. Site vacated.
2	Land at Anvil Cross Howe Green Great Hallingbury	Airport related parking and engineering works	20/2/04	3/8/04		Commencing injunction served. Application to set aside dismissed. Application for committal agreed. Committal proceedings heard landowner fined £50,000 with costs. Costs paid. Application for appeal against fine and for permission to appeal refused. Prosecution successful. £2,500 fine and full costs awarded. Direct action being considered
3	27 Silver Street Stansted	Conversion of dwelling into three flats	7/6/03	1.3.05 (works/use) 1.6.05 (utilities)	Yes	Enforcement Notice served. Further planning application refused. Planning permission 26/1/05. Appeal against planning refusal. Informal hearing set for 26/7/05.
4	Land at Oak Lodge/Waterside Cottage, Jacks Lane, Takeley	Use of detached annexe by non-dependents relatives	31.8.04	8/4/05	Yes	Enforcement notice served Informal hearing set for 07/06/05
5	Land at 8 Westbury	Derelict and neglected	31.8.04	24/2/05		Section 215 notice served. Request

	House, Stortford Road, Great Dunmow	condition of unoccupied dwelling and garden curtilage.				for report from Building Surveyor detailing works required to be taken in default to ensure compliance with S215 Notice awaited.
6	Land adjacent to Netherfield, Bigods Lane, Great Dunmow	Change of use of agricultural land to garden	31.8.04			S106 agreement signed.
7	Land adjacent to Sidestream, High Street, Clavering	Extension of garden curtilage, widening of access bridge, hardstanding and shed	20.9.04	(i)31/1/05 (ii)31/2/05 (hardstanding) (iii)31/3/05 (reseeding) (iv)31/5/05 (access bridge)	Yes	Requisition for Information served Enforcement Notice served. Public Inquiry set for 28/6/05.
8	Bonningtons, George Green, Little Hallingbury	Change of use of outbuilding to bed and breakfast and airport related parking	11.10.04			Enforcement investigations proceeding.
9	Hillenor, Chelmsford Road, Margaret Roding	Erection of building	1.12.04			Enforcement Notice served. Appeal lodged.
10	Broxted Business Park, Pledgdon Barn, Pledgdon Green, Henham	Airport related open parking/storage of vehicles	23.12.04			Prosecution for failure to provide information. Injunction being sought against use.
11	Canfield Service Station, Dunmow Road, Little Canfield	1 Airport related parking 2 laying of hard surface 3 Fence adjoining highway	12.1.05			Further requisitions for information served following further enquiries. Planning application received. Hearing for injunction at Harlow County Court on 8/6/05
12	Midsummer House, Water Lane, Debden.	Erection of children's play structure outside residential curtilage.	16.3.05			Enforcement notice served. Structure removed. Compliance achieved.
13	Stebbing View, Dunmow Road, Stebbing	Change of use of agricultural land to garden.	8.4.05			Enforcement notice to be served.

14	Griffin Farm, Great Canfield	1 B1/B2/B8 uses 2 Earth bound 3 Siting of mobile home	8.4.05	Planning permission refused for retention of uses. Further information being obtained.
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PROSECUTIONS

ADDRESS	DESCRIPTION
1 Manuden House The Street Manuden	Unauthorised felling of tree. Legal proceedings issued. First hearing date scheduled for 6 August 2004. Hearing adjourned to 1 October 2004. Pre-trial scheduled for 26 November 2004 Trial fixed for 19 April 2005 Defendant found guilty Fine imposed of £3,000 plus costs

Committee: Development Control
Date: 18 May 2005
Agenda Item No: 10
Title: Quarterly report on Development Control performance
Author: John Mitchell (01799) 510450

Summary

- 1 As part of the move towards better performance management Members agreed to receive quarterly reports on speed of decision in Development Control. The attached graphs show quarterly performance for each of the three Best Value targets for speed of decision over the last three years. In addition the charts show the trajectories for performance improvement that are necessary to meet the Best Value targets by 2006/7, and performance in relation to those trajectories.
- 2 The trajectories start from the last quarter of the financial year 2003-4, and the start point represents the average of performance up to that point, rather than the actual performance in that quarter. Members will recall that the Council has to share these trajectories with GoEast. It will be noted that performance exceeds the trajectories in all three categories, and, for the first time ever, exceeds the Best Value targets for all three categories of application. This follows the improvements in handling major applications by this Committee together with the changed delegation arrangements and improved performance management. The efforts of all staff involved in the delivery of development control services are to be congratulated.

RECOMMENDED that the report be noted.

Background Papers: trajectories attached to this report