

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**8 DECEMBER 2010**

**REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**Update Report on High Hedges Legislation.**

### **SUMMARY**

The purpose of this report is to provide Members with an update on the current situation and impact of the High Hedges Legislation.

### **RECOMMENDATION**

- 1. It is recommended that the content of this report be noted by Members.***
- 2. It is recommended that Members agree that the fee for High Hedges applications still remains at £350 and this is to be reviewed after a period of 1 year.***
- 3. It is recommended that Members agree that with immediate effect there are now no exemptions from the payment of the high hedges fee.***

### **BACKGROUND**

1. On the 1<sup>st</sup> June 2005 Part 8, High Hedges (Sections 65–84) of The Anti-Social Behaviour Act 2003 came into force, which gave powers to local authorities to deal with complaints about high hedges which are having an adverse effect on a neighbour's enjoyment of his property.
2. This legislation created a procedure for dealing with complaints about high hedges, to be administered by local authorities in England and Wales. Complaining to the local authority would be a last resort and people should have already tried to solve their hedge problems by negotiation with their neighbours before approaching the authority, otherwise their complaint could be rejected. It was agreed that the Head of Planning had the delegated powers to deal with these types of complaints and to help local residents guidance notes and leaflets were drafted which all were made available at planning reception and on the Council's website.
3. It should be noted that the offending hedge does not have to be growing in someone else's garden. It could, for instance, be on parkland that backs onto a garden or several gardens down the road. It is the effect of the hedge on a domestic property (empty or occupied) that is important here, not where it is located. Also the legislation does not deal with single trees but

only with hedgerows pronominally consisting of two or more evergreen or semi evergreen trees or shrubs.

- Another aspect of this legislation is that the complainant and the owner / occupier of the land where the hedge is situated can appeal against the decision of the local authority. This obviously meant that a high hedge complaint case takes more Officer hours than most of the normal planning complaint cases. However any high hedge appeal can only be conducted in writing (written reps). It should be noted that every high hedge complaint that the Planning Enforcement Section has dealt with, an appeal has been lodged with the Planning Inspectorate. But to date every appeal has been dismissed by the Inspectorate.

#### **COST AND IMPACT TO THE LOCAL AUTHORITY**

- The main costs fall on the local authority to administer the high hedge complaint system and the appeals. These costs are being met, in part at least, through fees paid by complainants. The legislation gave the local authority power to charge a fee if they want to. Each authority was able to decide whether to require a fee and how much that should be and in what circumstances it might be waived. Therefore members of the Planning Committee on 1<sup>st</sup> June 2005 agreed to a fee of £350 but that pensioners, people receiving income support and people on disability benefit would be exempt from paying this fee.
- Having now had a number of years to monitor high hedge complaints and contacting other Authorities in the area the following information can be noted:-

<b>Authority</b>	<b>High Hedges Fee</b>	<b>No. of Complaints Received from 1/6/2005 to Date</b>
Stockton on Tees Borough Council	£350 (Exemptions for old age pensioners, people receiving income support, people registered as disabled.)	8
Middlesbrough Borough Council	£350 (no exemptions)	4
Darlington Borough Council	£365 (no exemptions)	0
Redcar and Cleveland Borough Council	£350 (no exemptions)	2
Hartlepool Borough Council	£100 (no exemptions)	8

- It is also noted that out of the 8 complaints that have been dealt by the Planning Enforcement Section, 6 complaints were none fee earning (exempt) and only 2 high hedge complaints were fee earning.

## **CONCLUSION**

8. The Head of Planning after reviewing the legislation and taking into account central government information plus the impact on the service proposes that a flat fee of £350 should still be charged and not increased for a high hedges complaint but with no reduction in this charge under any circumstances to groups such as pensioners and people receiving income support due to financial constraints that the Planning Division are now having to operate under in the current economic climate.

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## **WARD AND WARD COUNCILLORS**

**All Wards & Ward Councillors**

## **IMPLICATIONS**

### **Financial Implications.**

As report

### **Environmental Implications.**

As report.

### **Community Safety Implications.**

As report

### **Human Rights Implications.**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

### **Background Papers.**

Part 8 High Hedges (Sections 65–84) of The Anti-Social Behaviour Act 2003.

Statutory instrument 2005 No. 710

Statutory instrument 2005 No 711

Statutory instrument 2005 No 714