

Road Parish Council

Hedges, trees and other vegetation

This policy sets out the Council's policy with respect to hedges, trees and other vegetation that over-hang the pavement or other parts of the highway. It sets out the legal position, including the responsibilities of householders and other owners of such hedges etc and describes the actions that the Council will take, either itself proactively or in response to complaints received from members of the public regarding obstruction or other nuisance caused.

The policy does not cover neighbour-to-neighbour disputes, party hedges or disputes relating to high hedges, that are covered by the Anti-social Behaviour Act 2003

1. The issue of hedges and other vegetation overhanging and otherwise obstructing the highway (the definition of which includes the pavement) is a perennial one that regularly gives rise to complaints to the Parish Council from residents.

2. Whilst the Parish Council has no legal powers to deal with the issue, the County Council, as the Highway Authority do have such powers, by virtue of the Highways Act 1980. The Act also places a duty on the owners of hedges, trees and other vegetation who are obliged, by virtue of section 96 of the Act to ensure that their trees and hedges do not obstruct the highway.

3. Where the overhanging hedge etc causes either a nuisance or danger to road or pavement users then the Highway Authority can serve the owner of the offending hedge with a Notice under the relevant section of the Act, requesting that the owner remove the overhanging branches etc.

4. The Highway Authority has the power to enforce this if necessary; the letter will give the owner 14 days to cut the hedge back or the Highway Authority will arrange for it to be done and then send the owner the bill. This is because the Highway Authority themselves have a duty under section 130 of the Act to remove obstructions.

5. However, the Parish Council seeks to promote social, inclusive behaviour by residents and believes that it is always preferable for issues such as this to be resolved within the village, without the need to refer to another authority; the Parish Council would certainly only want to see legal enforcement action used as a last resort. To that end, the Council's Policy is;

- to promote responsible behaviour by hedge owners and awareness of the issue through publicity e.g. annual publication of the 'flyer' (see Annex A) with the Spring Edition of 'Roade News' together with a copy on Village Notice Boards,
- on receipt of a justified complaint, i.e. a complaint that is relevant to overgrowth which affects a public right of way, to write to the occupier drawing attention to the Guidelines and this Policy and the problem being caused and requesting that action be taken within 14 days; see template letter RPC1, Annex B
- if remedial action is not forthcoming, to then refer the matter to the Highway Authority for further (enforcement) action; see template letter RPC2, Annex C

Road Parish Council

OBSTRUCTION OF THE HIGHWAY BY HEDGES AND TREES POLICY GUIDELINES

Background:

The issue of hedges and other vegetation overhanging and otherwise obstructing the pavements is a perennial one that regularly gives rise to complaints to the Parish Council from residents.

Road Parish Plan, published June 2008, supports the statement that 'The residents of Road want an attractive, welcoming and safe environment.'

Out of respect for our community, in particular those who are young, elderly, or disabled, keeping our pavements free from obstruction in order that we may all walk around the village in safety is of importance to Road Parish Council. Members of the public should be able to use the public rights of way within the village without having to utilise the roadway in order to avoid obstructions. The Parish Council has therefore determined the following guidelines on natural encroachments:

Responsibilities:

It is the responsibility of the owner or occupier of any land or property to ensure that the frontage hedge or other vegetation growing on their land does not impede passage along the highway, which includes the carriageway, footpath and verge. Hedges should be cut back to the boundary or vertically above the rear of the footpath for a clear height of 2.2 metres. Trees should be cut back to at least 500mm behind the kerb line to a clear height of 5.2 metres above the carriageway on minor roads and 6.6 metres on main roads. The County Council is responsible only for trees and hedges on land that has been officially adopted or purchased for highway improvements. The responsibility for clearing any hedge or tree trimmings lies with the person who has cut the hedge / tree. The Parish Council will maintain a record of complaints received, correspondence and actions taken (Annex D).

Legal Basis:

Section 154 of The Highways Act 1980. The Highways Authority may serve a Notice requiring the pruning of vegetation that endangers or obstructs the passage and re-passage of vehicles or pedestrians, the view of drivers, the light from a street lamp to be cut. This section also covers the ordering of the removal of dangerous trees that may threaten users of the highway. The work should be carried out within 14 days. The highway authority may decide to undertake the works themselves and to recover their expenses from the owners.

Whilst Parish Councils do not have legal powers to enforce these requirements, they do have the ability to report any serious or deliberate obstructions of the highway (which includes pavements) to the Highway Authority (Northamptonshire County Council) which has power to take action on these matters.

However, the Parish Council seeks to promote social, inclusive behaviour by residents and believes that it is always preferable for issues such as this to be resolved within the village, without the need to refer to another authority; the Parish Council would certainly only want to see legal enforcement action used as a last resort. To that end, the Council's Policy is;

- to promote responsible behaviour by hedge owners and awareness of the issue through publicity e.g. annual publication of the 'flyer' (see Annex A) with the Spring Edition of 'Road News' together with a copy on Village Notice Boards;
- on receipt of a justified complaint, i.e. a complaint that is relevant to overgrowth which affects a public right of way, to write to the occupier drawing attention to the Guidelines and this Policy and the problem being caused and requesting that action be taken within 14 days;
- if remedial action is not forthcoming, to then refer the matter to the Highway Authority for further (enforcement) action.

ROADE PARISH COUNCIL

HEDGES AND TREES THAT OBSTRUCT THE PAVEMENTS CAUSE PROBLEMS

If you have a hedge or tree that borders the pavement or roadway, you are legally required to keep it trimmed back to your boundary so that it does not obstruct the pavement, so please;

- Keep your hedges / trees trimmed back to your property line
- If you don't, then expect to get a polite letter from the Parish Council requesting you to do it.
- If you do not do so in the requested time, enforcement action could well be taken by the Highway Authority requiring you to do it.

This is a legal requirement and you are responsible for the upkeep of your hedges and trees.

Be a good resident and neighbour and help us to keep Roadé an 'Attractive, Welcoming and Safe Environment'.

Copies of the full Roadé Parish Council Hedges and Trees Policy and Policy Guidelines are available to view in Roadé Library, the Parish Office, and on www.roadévillage.co.uk Website.

Roade Parish Council

ANNEX B

Dear

I am writing to you in connection with the hedge / tree / other vegetation that adjoins your boundary with [name of road]. The responsibility for maintaining hedges / trees / other vegetation lies with the occupier of a property; if you believe that a person other than yourself is responsible for maintaining the hedges / trees / other vegetation in question then please return this letter to me, indicating who you believe to be the responsible person and why.

The Parish Council has received representations from a member of the public about the extent to which the hedge / tree / other vegetation overhangs / projects into [name of road] making it difficult for pedestrians to use the footpath in safety. The hedge / tree / other vegetation has been viewed and it appears that the extent of overgrowth does indeed obstruct the pavement.

The Parish Council has issued Policy Guidelines (copy enclosed) dealing with this issue, which are based on the legal requirements under The Highways Act 1980. I should be grateful therefore if you would please arrange for the overgrowth to be cut back to your boundary line, by [date].

If you are unable to comply with this request for any reason or should you wish to discuss the matter further, then please feel free to contact the Parish Office. Should I not hear from you, I shall assume that you will comply with this request. However, should the matter not be dealt with by the required date, the Parish Council will notify the Highway Authority, who have the right to take further action.

Thank you for your co-operation,

Yours sincerely,

John Marshall
Clerk to the Council

Enc: Roade Parish Council 'Obstruction of the Highway by Hedges and Trees, Policy Guidelines'

