

Record of officer decision

Decision title:	Service of notice under Section 154, Highways Act 1980 – hedge growing on land adjacent to Grandison Rise/Prospect Walk, Hereford
Date of decision:	4 September 2019
Decision maker:	Assistant Director for Highways & Transport
Authority for delegated decision:	Chief Executive Scheme of Delegation. Directorate Scheme of Delegation: Economy and Place, section 69. To act on behalf of the council in respect of the legislation specified in the Highways Act 1980.
Ward:	Tupsley
Consultation:	None
Decision made:	That notice under Section 154, Highways Act 1980, is served on the owner of land on which a hedge adjacent to footpath F82382 (Grandison Rise, Hereford) and footpath F80200 (Prospect Walk Hereford), is overhanging the footpaths to an extent so as to obstruct the free passage of pedestrians, such notice to require the owner to cut the hedge so as to remove the obstruction within such time as specified in the notice.
Reasons for decision:	<ul style="list-style-type: none"> • A garden hedge adjacent to footpath F82382 (Grandison Rise, Hereford) and footpath F80200 (Prospect Walk, Hereford), is overhanging the footpaths to such an extent that the free passage of pedestrians is obstructed. • Herefordshire Council (the highway authority) has a duty by virtue of Section 130 of the Highways Act 1980 to protect the rights of the public to the use and enjoyment of any highway and to prevent, as far as possible, the obstruction of the highway. • The occupier (tenant) of the property on which the hedge is growing has failed to comply with a notice served on them and has now left the property. • In line with the council's 'Overarching Enforcement and Prosecution Policy' the next incremental and proportionate enforcement action is to serve a statutory notice on the owner of the property requiring that the hedge is cut so as to remove the obstruction.
Highlight any associated risks/finance/legal/equality considerations:	<p>Risks – Non-compliance with requirements of notice. This would require further consideration of works in default of the notice and the recovery of costs which may require legal proceedings.</p> <p>Legal considerations – The authority to serve a notice on the owner is contained in Section 154, Highways Act 1980. This section states that where a hedge, tree or shrub overhangs a highway so as to endanger or obstruct the passage of vehicles or pedestrians, the highway authority may by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is growing, require him so to lop or cut it so as to remove the cause of the danger, obstruction or interference.</p>

	Herefordshire Council (the highway authority) has a duty by virtue of Section 130 of the Highways Act 1980 to protect the rights of the public to the use and enjoyment of any highway and to prevent, as far as possible, the obstruction of the highway.
Details of any alternative options considered and rejected:	<ol style="list-style-type: none"> 1. Take no further action. This option does not fulfil the council's duty under Section 130 Highways Act 1980 to protect the public's rights and prevent obstructions of the highway. It also means that the matter of the obstruction is not resolved. 2. The council could instruct BBLP to cut the shrubs without service of notice. Whilst this option resolves the issue more quickly, the risk is not assessed as requiring this, and it relieves the occupier of the land of responsibility. The recovery of costs from the owner may also be less likely.
Details of any declarations of interest made:	None.

I am an officer delegated to make the decision

Signed:

Print Name:

Clive Hall

Job Title:

Acting Assistant Director Highways & Transport

