

Record of officer decision

Decision title:	Service of notice under Section 154, Highways Act 1980 – hedge obstructing footway at Link Road, Hereford
Date of decision:	21/10/2019
Decision maker:	Engineering Manager
Authority for delegated decision:	<p>Directorate scheme of delegation: updated 1 November 2018 Directorate: Economy and Place, section 69.</p> <p>To act on behalf of the council in respect of the legislation specified in the foregoing:</p> <p>Traffic Management Act 2004, Road Traffic Act 1988 Acting Assistant Director for Highways and Transport (Traffic Manager designate) and The Traffic Manager may in making arrangements to ensure that the authority has: (a) determined specific policies or objectives in relation to different roads or classes of road in their road network; (b) monitored the effectiveness of – 117</p>
Ward:	College
Consultation:	None
Decision made:	That notice under Section 154, Highways Act 1980, is served on the occupier of land on which a hedge is growing in Link Road, Hereford, and which is overhanging the footpath to an extent so as to obstruct the 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 hedge growing on land in Link Road, Hereford is overhanging the footpath to such an extent that the footpath is obstructed. • The Locality Steward has written to the occupier of the premises on which the hedge is growing requesting that it is cut so as to remove the obstruction. Whilst some work was carried out on the hedge it is still obstructing over half of the footpath. The Enforcement Officer has subsequently written to the occupier requesting further work is carried out. To date this has not been done, the deadline for work has passed, and the footpath remains 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. • 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 occupier requiring that the hedge is cut so as to remove the obstruction.
Highlight any associated risks/finance/legal/equality considerations:	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>Legal considerations – The authority to serve a notice on the occupier 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> <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.</p>
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 obstruction, and associated risk to pedestrians, remains. 2. The council could instruct BBLP to cut the hedge 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 occupier may also be less likely.
Details of any declarations of interest made:	None.

Signed:

Date: 21/10/19

**ENGINEERING MANAGER
AUTHORISED OFFICER**

