

Application for a High Hedge Notice

High Hedges (Scotland) Act 2013



OFFICIAL USE ONLY	LPA Ref No	Receipt Date
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Please read the attached Notes for Guidance before completing this form.

Incorrect completion may result in your application not being registered or a delay in processing your application.

1	Applicant's Name.....
	Address

 Post Code.....
	Telephone.....
	Email

2	Agent's Name (if any)
	Address

 Post Code.....
	Telephone.....
	Email

3	Address of the property that is adversely affected by the high hedge:
	Address

 Post Code.....

4	Address of property where the high hedge is located:
	Address

 Post Code.....

5	Person occupying the property where the high hedge is located (hedge owner):
	Name.....
	If the owner of the property is different to the person named above, please give the owner's details:
	Name.....
	Address
 Post Code
	If you do not know who the owner is, what steps have you taken to find out who it is?

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The Application

Is the hedge formed by a line of 2 or more trees or shrubs?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Is the hedge more than 2 metres high?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Does the hedge form a barrier to light to your house or garden?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Is the affected property a residential property?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Are you the owner or occupier of the affected property?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Have you attempted to resolve the issue with the hedge owner?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

Note: if you answer 'No' to any of the above questions, the Council will not be able to consider your application.

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Problems caused by the high hedge

Please describe the problems actually experienced as a result of the hedge and say how serious they are. Please provide facts and as much relevant information as possible to back up the points that you are making. You must submit a plan (and preferably photographs as well) showing the hedge and its relationship to your house and garden (see the Notes for Guidance). Please remember that the High Hedges (Scotland) Act 2013 only deals with adverse effects on reasonable enjoyment caused by the hedge being a barrier to light (you may continue on a separate sheet).

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Checklist	
Have you:	
Completed all sections of this form?	<input type="checkbox"/> Yes
Completed the Appendix explaining your attempts to resolve the matter and enclosed copies of correspondence with the hedge owner?	<input type="checkbox"/> Yes
Enclosed a plan of the hedge and surrounding properties, marking clearly where your house and garden is (see guidance)?	<input type="checkbox"/> Yes
Enclosed copies of all other documents that you have mentioned?	<input type="checkbox"/> Yes
Paid the relevant fee?	<input type="checkbox"/> Yes
Declaration	
I declare that the information given within this form is true and accurate to the best of my knowledge.	
Signed
Date

If you are unsure of any aspect of the form, you should contact the Council on 0141 577 3001 to discuss it.

Ways to pay

Online: www.eastrenfrewshire.gov.uk/planningpayments

Select Planning Services from the payment type on the left hand navigation pane and enter the application reference number or the first line of the application development address.

By phone: Payment Contact Centre 0141 577 3008, Monday to Friday, 9am - 4.15pm, by quoting the application reference number or the first line of the application development address.

Please note - No card charges apply for payments made by credit or debit card to East Renfrewshire Council.

Submission

Submit all information to:

- planning@eastrenfrewshire.gov.uk or
- East Renfrewshire Council, 2 Spiersbridge Way, Spiersbridge Business Park, Thornliebank, East Renfrewshire G46 8NG

Data Protection Act 2018

The information you supply on this form will be used by East Renfrewshire Council to process your application. We may also use your information to verify your identity where required, contact you by post, email or telephone and to maintain our records. The council will use this information because we need to do so to perform a task carried out in the public interest. The information may be shared with the Scottish Government's Planning and Environmental Appeals Division (DPEA) should there be an appeal, and other Council services and agencies who may be consulted on the application. You can find out more about how we handle this information and your rights in respect of it by going to <http://www.eastrenfrewshire.gov.uk/planningandbuildingstandardsprivacy>. If you do not have access to a computer and wish a paper copy please let us know by contacting us at planning@eastrenfrewshire.gov.uk or by telephone at 0141 577 3001.

APPENDIX Attempts to resolve the matter before making this application

It is essential that you demonstrate that you have made serious and concerted efforts to resolve this matter before making this application. If this is not demonstrated, then the Council will dismiss your application (see the Notes for Guidance to see what is expected of you). Please give details of what conversations you have had with the hedge owner and give details of letters you have sent and replies that you have received. Please enclose copies of all letters and notes of all discussions (you may continue on a separate sheet).

1. Introduction

The procedures introduced by the above Act are intended to provide an effective means of resolving disputes where a high hedge is blocking light to a residential property.

The procedures are only to be used only **as a last resort** when other contacts, mediation and attempts to resolve the matter amicably has failed. Where the issue has not been able to be resolved amicably, home owners and occupiers now have the right to apply to the Council for a **High Hedge Notice**.

Upon receipt and registration of a High Hedges Notice application, the Council will check the information provided, and will (a) consider if the application is vexatious or frivolous; (b) if it is the applicant has made sufficient attempts, before making the application, to resolve the matter amicably; and (c) may undertake an initial site visit. If criteria (a) or (b) apply then the application may be dismissed at this stage.

When considering a valid application, the Council will consider all of the information provided, will consult with the hedge owner and will then make its decision. It is not the role of the Council to mediate between the parties, but rather to act as an impartial decision maker.

If the Council decide to serve a Notice, the hedge owner may be required to reduce the height of the hedge or even remove it altogether. The Council may also impose a requirement on the owner regarding the maintenance of the hedge in the future. Both the applicant and the hedge owner have a right of appeal if they are unhappy with the decision made.

These Notes for Guidance are only a summary of the procedures and laws involved. The [Act](#) itself provides the definitive legal situation. The Scottish Government has also produced [Guidance to Local Authorities](#) which provides fuller guidance than is contained in this Note.

2. What is a High Hedge?

The Act defines a 'high hedge' as a hedge that is:

- formed wholly or mainly by a row of two or more trees or shrubs;
- rises to a height of more than 2 metres above ground level; and
- forms a barrier to light.

The Act concerns hedges and is not designed to impact on woodlands and forests which as a general rule are not planted as hedges. A single tree with multiple stems from the same trunk or root plate remains a single tree and outwith the scope of the Act. A row of established mature trees that have good separation distance between their trunks with high coalescing crowns is unlikely to be considered a hedge.

3. What needs to be done before making an application for a high hedges notice?

As stated above, making an application to the local authority for a high hedge notice should be a last resort. First and foremost, an applicant must have made serious and concerted efforts to resolve the issue with their neighbour themselves before an application is made. Any application that a local authority receives where there is insufficient evidence of this having been attempted must be dismissed.

Records should be kept of all attempts to resolve the issue and should be included with the application. As an absolute minimum we would expect you to undertake the following (although in many cases more mediation will be appropriate):

- a) to try to speak to your neighbour about the matter, in which case you should give us details of the dates on which you spoke and a summary of the discussions; and
- b) to write to your neighbour on at least two occasions, one of which should be either by recorded delivery or a letter sent by your lawyer. This should demonstrate at least two occasions of attempted correspondence to the hedge owner in the six months prior to the making of a formal application to the Council for a High Hedge Notice. You should include copies of these letters and the responses from the hedge owner (if any) with your application.

Claiming your neighbour is unapproachable will not be sufficient. Please also be aware that this evidence will be sent to the hedge owner for their comments, so they will have the opportunity to refute your attempts to resolve the matter. Attempting to resolve the matter over a timescale extending into months would be expected. Long-standing issues dating long back before the Act came into operation will require an updated or fresh approach before a formal application is made to the local authority.

If you are a hedge owner, and your neighbour approaches you about a problem related to your hedge, we would advise you to engage positively with them to get an amenable solution. If you can agree a solution with them, then that is likely to be the end of the matter. If you do not get an amenable solution and you end up receiving a High Hedge Notice, you may be faced with having to take more action than you may have been able to negotiate, as well as having an on-going obligation for future maintenance actions to prevent recurrence (all at your expense). Additionally, the Notice will remain in force against the property, even if you sell it in the future. We therefore suggest that it is in your interests to resolve the matter before it gets to the stage of your neighbour applying to the Council for a Notice.

4. Making an application for a High Hedge Notice

You should apply for a High Hedge Notice using the form attached (also available from our website). Applications will be checked for competency and content, and will be immediately dismissed if you have failed to demonstrate reasonable attempts to resolve the matter amicably or if the application is considered to be frivolous or vexatious.

Please submit all information that you think is relevant with your application, as you will not get the chance to submit further information at a later stage. You must submit a plan (preferably to scale 1:500 or 1:200) showing the location of the hedge in relation to your house and garden and indicating relevant dimensions e.g. the length of the hedge that is causing the problems and the distance from the hedge to your house. The plan should include a north point. You should also submit photographs of the hedge.

The requisite fee for the application (which at the time of writing this note is set at £465) must also be submitted. In uncommon cases such as where there are multiple applicants applying with respect to one hedge in one ownership, the Council may use its discretion to reduce the fee to 75% of the standard fee for each applicant.

5 Determining an application for a High Hedge Notice

On the receipt and registering of a valid application for a High Hedge Notice the Council will acknowledge receipt to the applicant and will notify the hedge owner, advising them of the application and explaining the process involved. Copies of the application and supporting information will be sent to the owner with this notification, and they will have 28 days from the notification to make comment on the application.

Should the Council receive any comments from the owner/occupier, these comments will be copied to the applicant for their information. Please note that this is not an opportunity for a further round of responses from the parties, but is for information only. Occasionally consultations may be undertaken with other interested parties.

6. Making a decision

An additional more thorough site visit will be undertaken by a Council officer to see the situation on the ground and consider the effects of the hedge before the decision is made. The comments made by the applicant and the hedge owner (and any other parties consulted) will be taken into account. The Council must consider all circumstances of the case, including the amenity value of the hedge. The Council can only consider the nuisance caused by the hedge forming a barrier to light. Impacts caused for instance by overhanging branches or roots growing into your garden cannot be considered by the Council.

There is not a specified time period for the Council to make its decision, although it will always be after the 28 day notification period to the owner has elapsed. The Council will thereafter seek to determine the application as soon as possible.

7. The High Hedge Notice

If it is decided that there is an adverse effect on the applicant's property and that a High Hedge Notice should be served, the Council will decide what initial action the hedge owner should take to remedy the adverse effect and if relevant what future actions they need to take to prevent recurrence. It will also specify a reasonable timescale within which the actions should be taken.

In that case the Council will issue a High Hedge Notice on the owner (and/or property occupier) of the hedge. The applicant and other relevant parties will be notified of that decision. The Council will also prepare a report that will be issued with the High Hedge Notice explaining the reasons for the decision. Subject to the right of appeal, the Notice is binding on the owner (and future owners) of the hedge, although the Council may vary or withdraw the Notice in certain circumstances.

8. Appeals

All appeals are to be made to the Scottish Ministers within 28 days of the decision being notified to the parties. The parties will be informed of how to appeal once the decision is made.

If an application for a High Hedge Notice is not approved because the Council has decided that it has no adverse effect or that no action should be taken, the parties will be informed of the decision and the reasons for it, and the applicant has a right of appeal.

If an application for a High Hedge Notice is approved, there are the following rights of appeal:

- a) The owner of the hedge (or occupier of the land where the hedge is located) may appeal, and/or
- b) The applicant may appeal if they think that steps required by the High Hedge Notice are not sufficient.

A High Hedge Notice will not take effect while an appeal is in progress.

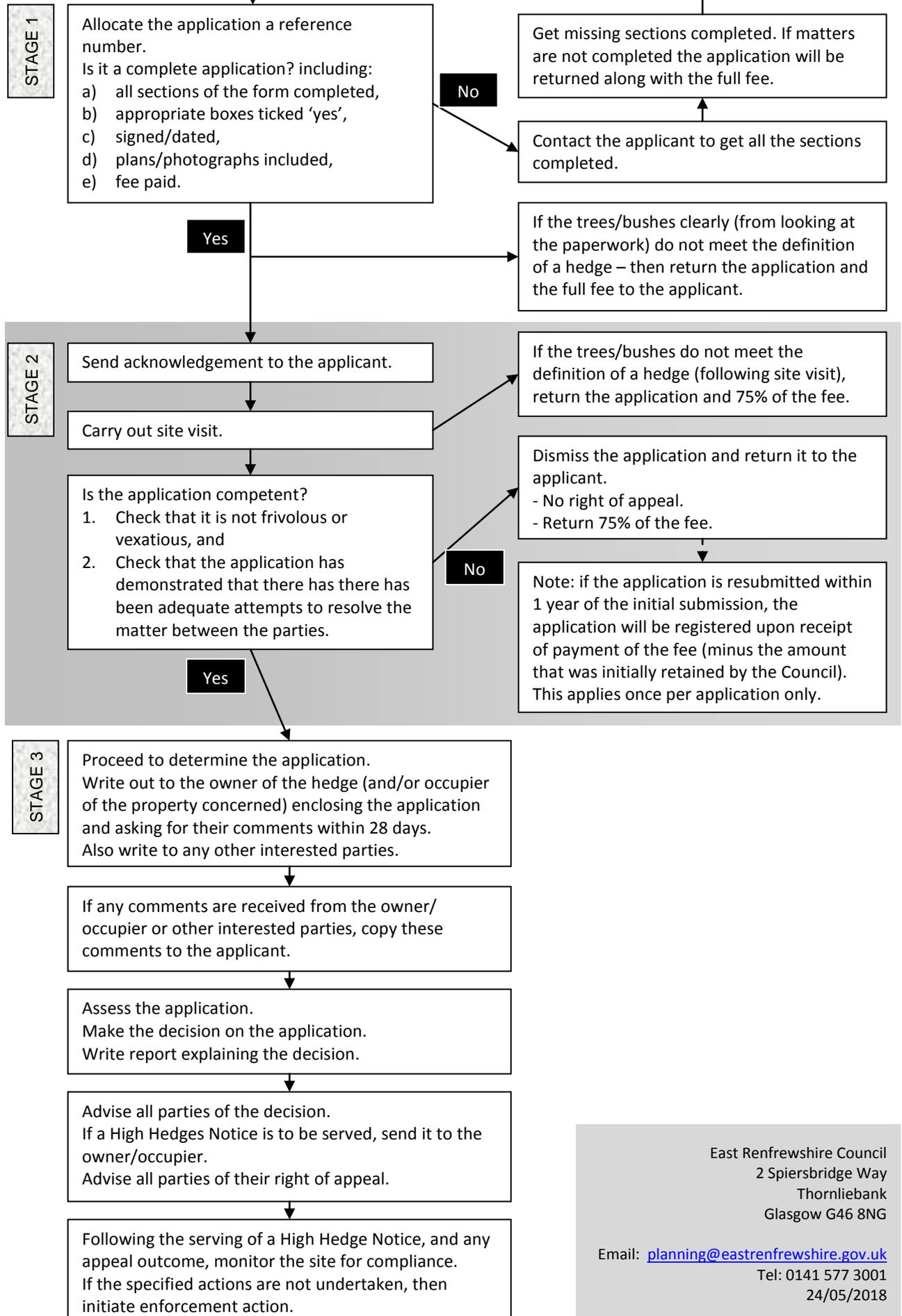
Please note that there is no right of appeal should the Council decide to dismiss an application either because they consider that reasonable steps have not been taken to resolve the matter or because the application is considered frivolous or vexatious.

9. Enforcement

A High Hedge Notice will specify the action that is needed to address the adverse effects, and set a reasonable compliance period within which the action should be taken.

It is the responsibility of the person on whom the Notice is served (the hedge owner or property occupier) to undertake these actions at their expense. If the required action is not taken within the time period specified, the Council can, if necessary (and with appropriate notification), enter the land to carry out the required works and recover all expenses that have been reasonably incurred (including administrative expenses and interest) from the owner.

Summary of Council procedures upon receipt of a High Hedge Notice Application



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2 Spiersbridge Way
Thornliebank
Glasgow G46 8NG

Email: planning@eastrenfrewshire.gov.uk
Tel: 0141 577 3001
24/05/2018