**Trees and Hedges Guidance**

Below the Council’s guidelines relating to hedges, trees and other vegetation over-hanging the pavement or other parts of the Highway. It covers the responsibilities of householders and owners describing the actions that the Parish Council will take, either in response to complaints received from members of the public regarding obstruction or other nuisance or proactively itself.

However, it does not cover disputes relating to high hedges or neighbour-to-neighbour disputes as these are covered by the Anti-social Behaviour Act 2003 and outside of the Parish Council’s control/jurisdiction.

**Background:**

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

Middleton Cheney Parish Council upholds the ethos that residents want an attractive, welcoming and safe environment. Therefore, 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 the 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 written 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, including carriageways, footpaths and verges. 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 sent or received, and actions taken.

**Legal Basis:**

Section 154 of The Highways Act 1980 allows the Highways Authority to 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, and 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.

Although the Parish Council has no legal powers to deal with this issue, the County Council, as the Highways 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.

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.

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 send the owner the bill. This is because the Highway Authority themselves have a duty under Section 130 of the Act to remove obstructions.

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
* Awareness of the issue through publicity e.g., the Cheney Chatter issued quarterly with a copy on the village Notice Boards and the Parish website.
* On receipt of a justified complaint (A complaint that is relevant to overgrowth affecting 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 action (enforcement).

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