

KML

MINISTERIAL HEARING

(3rd Meeting)

21st June 2022**PART A (Non-Exempt)**

Present -

Deputy J.H. Young, Minister for Environment

In attendance -

G. Duffell, Principal Planner
 M. Jones, Senior Planner
 L. Davies, Planner
 G. Vasselin, Planner
 J. Gibbins, Trainee Planner
 N. Armstrong, Arboriculturist
 K.M. Larbalestier, Principal Secretariat Officer, States Greffe
 K. Boydens, Principal Committee and Panel Officer, States Greffe

Note: The Minutes of this meeting comprise Part A only.

Longridge, La
 Rue de la
 Valeuse, St.
 Brelade:
 proposed
 reduction in
 height of
 hedge.

HH/2019/1374

A1. The Minister considered a report which had been produced by the Department in connexion with an application which sought to reduce the height of a hedge to the western boundary of the property known as Longridge, La Rue de la Valeuse, St. Brelade, in accordance with the High Hedges (Jersey) Law 2008. The Minister had visited the site on 21st June 2022.

The Minister viewed a series of images of the hedge and noted that the site was located within the Built-Up Area of the Green Backdrop Zone and was within a designated Tourism Destination Area.

It was recalled that the High Hedges (Jersey) Law 2008 required the Minister to determine whether the reasonable enjoyment of property, for domestic purposes, was being adversely affected by the height of a high hedge on land owned or occupied by another person. The Minister was advised that the Department was satisfied that the complaint had been properly made in accordance with the Law.

It was noted that the residents of Chateau Valeuse alleged that the Cupressus Leylandii and English Elm trees, which were 10 metres high at their closely point to Chateau Valeuse, adversely affected reasonable enjoyment of the property. However, the owner of the hedge was reluctant to allow it to be cut back, having alleged that damage had been caused to the hedge on a previous occasion when such work had been undertaken without her permission. Furthermore, the owner of the hedge had highlighted the fact that the Chateau Valeuse development was significantly larger than the former Chateau Valeuse Hotel which had previously stood on the site and that the hedge provided privacy.

The Minister was advised that Mr. ■ Armstrong, Arboricultural Officer had recommended that the height of the hedge could be reduced by 2 metres without causing any harm to the health and vigour of the trees. The Department had assessed

the complaint and noted that this large hedge was in close proximity to Chateau Valeuse and had an unquestionable impact on the aspect of some of the apartments within that building. Consequently, it was recommended that the Minister endorse the recommendation to require a 2 metre reduction in the height of the hedge along the northern boundary of Longridge and that a Remedial Notice be served requiring that action be taken within 6 months of the date of the Notice. No action was considered necessary in respect of the section of the hedge which bordered the car park and a large, shared garden associated with Chateau Valeuse.

The Minister heard from Mrs. ■ Hocquard, ■ Mrs. Hocquard explained that ■ the trees adversely affected the amount of light received in the ■ room. She added that some of the trees appeared to be dead and that when they had been cut previously they had not been sufficiently reduced in height. Mrs. Hocquard also believed that a section of the trees had been cut to allow more light into Longridge.

The Minister heard from Mr. ■ Butler, ■ Mr. Butler advised that ■ this concerns related to trees overhanging the garden and car parking area. These trees generated a considerable amount of debris and Mr. Butler believed that they had not been cut back for a long time.

Whilst the provisions of the Law did not cover boundary maintenance, the case officer advised that the owner of Longridge had no objection to the residents of Chateau Valeuse pruning the trees which overhung their garden and parking area. Mr. ■ Armstrong, Arboriculturist advised that landowners had a duty to prune overhanging trees and that if the owners of a neighbouring property decided to carry out this work there was a requirement to obtain consent (preferably in writing).

The Minister heard from the Ms. ■ Bass ■ Mrs. Bass advised that ■ the new apartment complex was higher than the former hotel, so privacy was an issue. The hotel had also been set further back on the site. She added that the trees pre-existed the apartment block and she believed that they were approximately one metre higher than when the apartments had been constructed. It was not possible to confirm this unequivocally. Mrs. Bass advised the Minister that, on a previous occasion, arrangements had been made by the managing agents of Chateau Valeuse for a contractor to cut the trees without her knowledge and that this had resulted in damage to the trees. Mrs. Bass had subsequently planted replacement trees and there would be a visual improvement when these matured. She added that other trees in the immediate vicinity were on land which was not in her ownership.

Having considered the matter, the Minister endorsed the recommendation to require a 2 metre reduction in the height of the hedge along the northern boundary of Longridge and directed that a Remedial Notice be served requiring that action be taken within 6 months of the date of the Notice. No action was considered necessary in respect of the section of the hedge which bordered the car park and the large, shared garden associated with Chateau Valeuse.

Lande a Geon,
Le Vieux
Beaumont, St.
Peter:
proposed
reduction in
height of
hedge.

A2. The Minister considered a report which had been produced by the Department in connexion with an application which sought to reduce the height of a hedge to the north-western and north-eastern boundaries of the property known as Lande a Geon, Le Vieux Beaumont, St. Peter, in accordance with the High Hedges (Jersey) Law 2008. The Minister had visited the site on 21st June 2022.

The Minister viewed a series of images of the hedge and noted that the site was located within the Green Zone.

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HH/2020/

It was recalled that the High Hedges (Jersey) Law 2008 required the Minister to determine whether the reasonable enjoyment of property, for domestic purposes, was being adversely affected by the height of a high hedge on land owned or occupied by another person. The Minister was advised that the Department was satisfied that the complaint had been properly made in accordance with the Law.

It was noted that [REDACTED] the property known as [REDACTED] No. 5 Beaconsfield Farm, St. Peter, which was one of 2 dwellings located to the north-west of Lande a Geon, alleged that 2 Cupressus Leylandii hedges at Lande a Geon adversely affected the reasonable enjoyment of [REDACTED] property. The Department had concluded that it was evident that the hedges acted as a barrier to light and created shadowing to the complainant's property. The supporting documentation submitted by the complainant illustrated that the hedges had not been maintained for some years and the parties involved had been unable to agree on a resolution. The Arboricultural Officer had recommended that the height of the north-eastern hedge be reduced one metre and pruned back 300 millimetres away from the boundary line. However, any reduction in the height of the north-west boundary hedge would cause the wood to decline and whilst the trees closest to the boundary overhung the neighbouring property, the owner of trees was duty bound to cut the trees to the boundary to allow light back into the gardens. There was also a large Macrocarpa tree on the tip of the northern boundary which overhung the neighbouring garden and this overhang should also be addressed by the owner of the tree. It had also been suggested that a line of small Leylandii trees on the north-western boundary could be removed and that plants on the complainant's land also be cut back to allow light in.

In line with the guidance provided by the Arboricultural Officer, the Department was recommending that a Remedial Notice be issued, requiring that the Leylandii hedge located on the north-eastern boundary was reduced to a height of 2.5 metres annually and the north-western hedge between the properties be pruned from 2022 onwards. It was also considered that the hedge to the north-western boundary should be cut back to the boundary and a Macrocarpa tree and line of small Leylandii trees should be removed.

The Minister heard from the Mr. [REDACTED] Watts [REDACTED] [REDACTED] Mr. Watts stated that the trees shaded [REDACTED] property, making it dark and damp. He advised that [REDACTED] basement [REDACTED] was particularly affected. Mr. Watts went on to advise that the guttering on [REDACTED] property frequently had to be cleared due to debris from the trees. He was also concerned about the potential for damage from falling branches. He concluded by stating that [REDACTED] he had photographic evidence to show that there had been no trees [REDACTED] [REDACTED]

The Minister heard from Mrs. [REDACTED] Burston [REDACTED] who wished to understand the impact of the recommendations set out within the Department report. It became apparent to the Minister that the report contained conflicting information, and the Minister advised that he would wish to rely on the advice of the Arboriculturist, who stated that the trees should be no higher than 3.5 metres and now lower than 2.5 metres. Mrs. Burston informed the Minister that the hedge acted as a noise buffer.

Having considered the matter the Minister decided that a Remedial Notice should be issued, requiring that the Leylandii hedge located on the north-eastern boundary was reduced to a height of 3 metres annually and the north-western hedge between the properties be pruned from 2022 onwards. It was also considered that the hedge

Beau Sejour
(land parcel to
the north), La
Grande Route
de la Cote, St.
Clement:
proposed
reduction in
height of
hedge.

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to the north-western boundary should be cut back to the boundary and a Macrocarpa tree and line of small Leylandii trees should be removed. It was agreed that the work should be carried out within 6 months of the date of the Notice.

A3. The Minister considered a report which had been produced by the Department in connexion with an application which sought to reduce the height of a hedge located on the eastern boundary of a parcel of land adjoining the property known as Beau Sejour, La Grande Route de la Cote, St. Clement, in accordance with the High Hedges (Jersey) Law 2008. The Minister had visited the site on 21st June 2022.

The Minister viewed a series of images of the hedge and noted that the site was located within the Built-Up Area and was on the Eastern Cycle Route Corridor.

It was recalled that the High Hedges (Jersey) Law 2008 required the Minister to determine whether the reasonable enjoyment of property, for domestic purposes, was being adversely affected by the height of a high hedge on land owned or occupied by another person. The Minister was advised that the Department was satisfied that the complaint had been properly made in accordance with the Law.

It was noted that [REDACTED] New House, La Rue du Pontlietaut, St. Clement, which was located to the east of the high hedge, supported by Mrs. [REDACTED] Brown [REDACTED] [REDACTED] alleged that a row of Cupressus Leylandii hedges on the above parcel of land adversely affected reasonable enjoyment of [REDACTED] property. The Department had concluded that although the hedge was not considered to be of a significant height, it did have an impact in terms of the level of light available to the aforementioned properties, particularly during the winter months when the sun was low and in the evenings and when it was setting. The Arboricultural Officer had advised that the health of the hedge was good in some places, but it had been cut back hard previously and was struggling to survive in other places. In his view, the hedge could be reduced in height to a maximum of approximately 2.5 metres and maintained at this height. Consequently, the Department was recommending that the Minister serve a Remedial Notice requiring a reduction in the height of the hedge to 2.5 metres within 6 months of the date of the Notice.

The Minister heard from Mr. [REDACTED] Pashley, representing Mr. [REDACTED] Barrowman [REDACTED] [REDACTED] Mr. Pashley stated that a Bay Laurel tree also formed part of the hedge and he believed that this should have been included in the assessment. He added that the 'stumps' which were evident were the remains of previous trees and that no replanting had been carried out. Mr. Pashley proceeded to read from a comprehensive pre-prepared statement, in which he outlined the planning history of the site. [REDACTED]

[REDACTED] Mr. Barrowman alleged that [REDACTED] the hedge had not existed and this was supported by aerial photographs. Although Mr. Barrowman had reached agreement with the landowner to cut the trees in 2012 and on a subsequent occasion at his own expense, it was claimed that since that time the landowner had refused permission for the height of the hedge to be reduced and had permitted occasional trimming only. The trees which had been cut on the eastern side of the hedge, which had been cut back hard, could only be seen from the complainants' properties. It was noted that Mrs. Brown's fruit trees would be trimmed and maintained at 2 metres should the hedge be reduced to the same height. The current height of the Leylandii in front of Mr. Barrowman's property was approximately 4.2 metres and the southern end, in front of Mrs. Brown's property was higher. In his assessment the Arboriculturist estimated annual growth at between 300 and 800 millimetres, meaning that the hedge would need to be trimmed to 2.5 metres annually. 800 millimetres of growth would result in a height of 3.3

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metres and this would not overcome the concerns which existed. The preference was for the hedge to be reduced in height to 2 metres. Mr. Pashley added that references to a requirement within the Law which prevented the Minister from taking action which would imperil the health or chances of survival of the hedge were erroneous and that the Arboriculturist had not referenced any risk to the hedge of cutting it below 2.5 metres. He concluded by stating that, whilst the landowner enjoyed light and sunshine in [REDACTED] house and garden, the complainants' properties had suffered and this had adversely affected [REDACTED] mental health. Mr. Pashley concluded by urging the Minister to require a reduction in the height of the hedge to 2 metres (to include the Bay Laurel).

The Minister heard from Mrs. and Mrs. [REDACTED] Brown. Mrs. Brown advised that the hedge adversely affected the amount of light which [REDACTED] house and garden received. She believed that the height of the hedge had increased [REDACTED] [REDACTED] Mr. Brown was able to provide photographic evidence which appeared to demonstrate that the hedge had been lower than 3 metres [REDACTED] [REDACTED]

The Minister advised that he had met the landowner during his site visit [REDACTED] [REDACTED]

Having considered the matter, the Minister decided to serve a Remedial Notice requiring a reduction in the height of the hedge to 2.5 metres within 6 months of the date of the Notice. No reference was made to the inclusion of the Bay Laurel in the definition of the hedge and it was noted that the Arboriculturist believed that the shading from this particular tree affected a shed only.

No. 2 Green Haven, La Chasse du Mourin, St. Saviour: proposed reduction in height of hedge.

A4. The Minister considered a report which had been produced by the Department in connexion with an application which sought to reduce the height of a hedge located on the eastern boundary of the property known as No. 2 Green Haven, La Chasse du Mourin, St. Saviour, in accordance with the High Hedges (Jersey) Law 2008. The Minister had visited the site on 21st June 2022.

The Minister viewed a series of images of the hedge and noted that the site was located within the Built-Up Area.

HH/2021/1649

It was recalled that the High Hedges (Jersey) Law 2008 required the Minister to determine whether the reasonable enjoyment of property, for domestic purposes, was being adversely affected by the height of a high hedge on land owned or occupied by another person. The Minister was advised that the Department was satisfied that the complaint had been properly made in accordance with the Law.

It was noted that the owners of the property known as No. 11 Rue Gallie, La Grande Route de St. Martin, which property shared a boundary with No. 2 Green Haven, alleged that a row Cupressus Leylandii hedges adversely affected reasonable enjoyment of [REDACTED] property. The Department had concluded that, as this species of hedge was classed as a mature Leylandii, any height reduction should be restricted to no more than one metre from the top and one metre from the vertical edge (south elevation). The overhang on the eastern back to the boundary line should also be reduced. The hedge would then align with the boundary wall at No. 11 La Rue Gallie. This recommendation had been made in line with the advice of the Arboriculturist. The Department acknowledged the existence of a landscaping condition which had been attached to the permit for No. 2 Green Haven which required the retention of all existing hedging around the boundaries of the site. The condition stipulated that the hedging should not be trimmed without the express consent of the former Environment and Public Services Committee. Notwithstanding this condition, it was evident that the hedge had not been well

maintained and had now become unmanageable. A reduction in height would not be prejudicial to privacy.

It was recommended that the Minister issue a Remedial Notice requiring the owner of the hedge to reduce the section bordering No. 11 La Rue Gallie by one metre in height and one metre in length, (measured from the south elevation of the hedge). The overhang on the eastern back to the boundary line should also be reduced. This action would be repeated annually from 2022 onwards.

The Minister heard from Mr. and Mrs. ■ Allen, the complainants. They advised that the roots of the trees absorbed significant amounts of water, which had an impact on what Mr. and Mrs. Allen could grow in ■ garden. More significantly, light to ■ property and garden was blocked by the trees. They claimed that the hedge had previously been maintained at a height of 3 metres and they understood that there had been a commitment to do this when the land was developed. Mr. and Mrs. Allen understood that, following consultation with a Departmental officer, the same landowner had reached agreement with another neighbour to remove a section of the hedge and replace it with a fence and they advised that they would support a similar boundary treatment. However, the complainants were advised that the Law did not permit the Minister to require the removal of the hedge. Mrs. G. Duffell, Principal Planner, suggested that the condition of the section of hedge which had been removed on the recommendation of a Departmental Officer might have been a factor. This was confirmed by the landowner, Mrs. ■ Fernandes.

Mrs. Fernandes addressed the Minister, advising that the section of hedge on her land was only one part of a much larger hedge which formed the boundary treatment between a number of properties. She explained that previous attempts to seek agreement with all of the relevant property owners to have the height of the hedge reduced had proved unsuccessful. She contended that reducing the height of one section of the hedge would not be aesthetically pleasing. However, it was pointed out that the Minister did not have the power to compel other parties to reduce the height of the hedge on their land. Mrs. Fernandes advised that she did not wish the hedge to be reduced to the extent that ■ privacy was prejudiced. There followed some discussion regarding what would be acceptable to the landowner versus what would benefit the complainants. Mr. Allen also pointed out that the absence of a clear datum point was a significant issue so measuring from ground level seemed to present the best solution.

The Minister adjourned the meeting in order to allow the parties time to arrive at a mutually beneficial agreement.

In reconvening the meeting and having noted that the parties had been unable to agree, the Minister took the decision to require a reduction in the height of the hedge to 3 metres (when measured from the landowner's side) within 6 months of the date of the notice and directed that a Remedial Notice be issued on this basis with a requirement for the hedge to be maintained at this height. The Minister noted repeated requests for a similar reduction along the entire length of the hedge and whilst he re-stated that other landowners could not be compelled to comply with such a request, the Department would consider the matter.