HEDGING FOR PRIVACY

Introduction

1. The Bill appears to envisage two metres in height as an appropriate height for a hedge, should the local authority determine for reduction, but does not directly address the use of hedging for privacy, which may require further height in certain circumstances. It is such circumstances which I wish to draw to your attention together with experience of a local authority which suggests introducing some further detail into the Bill.

Discussion

2. Presumably taken from planning legislation “Amenity” is given as an appropriate consideration for a local authority to employ when determining an application for a Notice, but as shown below, when used in a planning context, this term has proved insufficient security for safeguarding privacy.

3. The following comes from experience.

4. We had neither wish nor need of a hedge until our neighbour built an extension some 8.5 metres distant from our house wall, erecting two windows and door to face our kitchen and family room with a clear view into both, then through into our dining area. A bright external light was also placed high beside the new door. Both his and our floors are raised 2 feet above ground level and the effect is therefore to afford occupants both houses an average vision height of seven feet and several inches above ground level ie a two metres barrier – a fence that height was put in place -could not provide privacy or shield us from our neighbours’ very bright exterior light, the latter making it difficult to work at the kitchen sink and surround.

5. We have therefore put in a hedge which has now grown high enough to eliminate these problems. To require a reduction to two metres would again face us with the intrusion noted above.

6. We do understand that a difficulty with legislating in this sort of context is that any detailed specification must lead to anomalies in practice and civil legislation therefore usually leaves such decisions to an adjudicating body, in this proposed instance the local authority. Guidance is provided in the expectation that adjudicators will take this on board when considering cases. In planning “Amenity” is already a necessary consideration.

7. I cannot speak for others, but our own local authority is Highland Council, which in determining our neighbour’s planning application paid scant regard to either issues of amenity in the sense of privacy or to guidance issued by the Scottish Government. The question of “Amenity” was not seen as relevant to our request for maintaining privacy, including shielding from bright light, while our reference to
Scottish Government planning guidance was met with the bald assertion that there was no obligation on the local authority to observe that guidance.

8. To restrict the Bill’s address of privacy issues within the context of “Amenity” would therefore allow this local authority and perhaps others to continue with the same lack of concern and appropriate consideration which characterised their approach to that planning decision.

Conclusion

9. We suggest that the Bill would provide some safeguard for the useful and necessary role of hedging above two metres height by expanding the section giving “amenity” to include “privacy” and “shielding from artificial light” as factors which the local authority are required to take into account when considering the height of a hedge under legislation.