Local Government and Communities Committee

Post-Legislative Scrutiny of the High Hedges (Scotland) Act 2013

Submission from Robert Howard

Dear Sir or Madam,

I think the definition in the Act is clear but being ignored by some local authorities who appear to have made up their own rules.

We rented a house in Aberdeen for 5 years. During that time, it became obvious very quickly that our neighbours’ trees on our southern boundary were affecting our sunlight, daylight and enjoyment of the property. The house was dark, dank and quite frankly depressing.

When we approached the tree owners, they were aware of the problem their trees caused us. They were also aware that other neighbours next door to us had applied for a High Hedge application to the Local Authority. They advised us that should the applicants be successful, they would cut their trees to the height required. If our neighbours’ application was unsuccessful, they would do nothing at all.

During the intervening years, our neighbours have been unsuccessful in their application as Aberdeen City Council (ACC) have refused to register or accept their application despite their boundary trees falling squarely within the definition of a high hedge. From what I have seen, the Council’s reasons for dismissing their most recent and 3rd application has been that they have their own criteria for deciding whether the vegetation is a hedge.

That being:

1. the original intention at the time of planting
2. the spacing of trees and shrubs
3. the past and current management.

I cannot see how one Local Authority can make up its own rules when the law is quite clear.

As I understand it, and to make matters worse, because the application has not been registered by the Local Council, no one can appeal to the body outside of the Local Authority, local politics and local personalities.

I find this quite unacceptable, unfair and unjust. Let’s look at this in order taking our example –

- How can one know what was the thinking of the person planting these trees 90 years ago?
- You could not possibly reject a row of trees 30m high but 50cms apart and not consider it a hedge based on the original intent of the person planting the trees 90 years ago.
The fact that these trees have largely been allowed to grow unmaintained or managed for 90 years should not prevent them from being so now.

Trees have a life span; they can be replanted with more suitable varieties within an urban setting more suited to the environment we find ourselves in now.

During our time in Aberdeen we had many large limbs fall from these trees, one indeed went through a neighbour’s garage, showing that many of these trees are at the end of their life cycle. By allowing LA’s to dismiss applications in this way they are giving endorsement to the Hedge owners to allow their trees to carry on growing in an unsafe manner knowing that their actions are now being backed by the law.

ACC seem to be giving priority and protection to the Hedge owner over the rights of the people suffering from the High Hedge. I am sure the Scottish Parliament did not intend their Act to be flouted in this manner.

This had a very negative effect on our lives during our time in the North of Scotland when daylight and sunshine is in short measure.

Robert Howard