Local Government and Communities Committee

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

Submission from S Allan

Noted below is an account of the outcome and experience of myself and three neighbours on submitting an application and appeal under the High Hedges (Scotland) Act 2013.

Has the definition of a high hedge as set out in the Act proved helpful? If not, please provide details.

Our situation was such that we (4 owners of upper and lower villa flats) made an application to the City of Edinburgh Council in August 2014 for a High Hedge Notice to be served on the owners of two properties on the western boundary of our property where a beech hedge had been allowed to grow to a height of 10-12 metres. The City of Edinburgh Council defined part of the hedge in the garden of one of the two properties, as a hedge made up of closely spaced beech trees which constituted a high hedge for the purposes of the Act and adversely affects the enjoyment of the domestic properties. A High Hedge Notice was served by the City of Edinburgh Council on 22 July 2015 requesting that the hedge be reduced to a height of 4.5 metres above ground level. The owner of this property complied with this Notice by completely removing the hedge at ground level.

The adjacent property, on which the remaining hedge was situated, was not served with a High Hedge Notice.

The City of Edinburgh Council's conclusions and recommendation incorporated the under noted points:

- The vegetation identified in the application and falling within the scope of the High Hedges Act is (mainly) a single line of closely planted (>2 per m) beech trees.
- They stated that they have grown considerably since last maintained as such.
- When viewed from the applicants' properties the trees were considered to form a hedge.
- When viewed from the neighbouring land they are hedge like in the garden of the property on whom the Notice was served.
- When viewed from the property where the Notice was not served they were much more of a natural tree character which is likely to be due to different management where side branches have not regularly been pruned or trimmed over the garden thus allowing certain trees to become more dominant and develop naturally.
- A reduction in the height of the trees, which have a more natural tree like appearance, would have a significantly detrimental impact and destroy the character of the trees and the amenity the owners of this property say is provided to them.
We felt this decision by the City of Edinburgh Council gave a clear message that if you plant a hedge and do not maintain it, thus allowing it to grow into mature trees, this is quite acceptable and does not merit a High Hedge Notice being served despite said hedge meeting the criteria under the High Hedges (Scotland) Act 2013.

**Do you have any experience of the appeals procedure as set out in the Act?**

In light of the above decision not to serve a High Hedges Notice we then submitted an appeal to the DPEA on 17 July 2015.

We received the appeal decision on 24 September 2015 advising that while the row of beech trees constituted a high hedge for the purposes of the High Hedges (Scotland) Act 2013 that there was no adverse effect from the high hedge.

One of the points of their reasoning was "the hedge is aligned in an almost north-north-west and south-south-east direction. This means that any loss of sunlight as a result of the hedge would occur in the early afternoon period to almost sunset. There is potential for overshadowing to increase at times of the year when the sun is lower in the sky. However, the screening effect of the trees will be reduced when the leaves have fallen."

The applicants' view on this point was that in order to achieve sunlight in this garden after early afternoon, you would have to wait until late Autumn/Winter when you could sit in your garden and enjoy the sunlight provided you were well wrapped up!

**Do you have any comments on the enforcement procedures under a high hedge notice?**

Our experience of the enforcement procedures of the High Hedge Notice on the part of the hedge served appeared to work well and action was taken within the scheduled timescale.

**Do you have any comments on fees and costs?**

As there were four applicants, the fees and costs were shared making it less onerous than the cost falling on one applicant.

**Overall, are there any aspects of this Act which has had a positive or negative impact on your life?**

It obviously had a partial positive impact with part of the hedge being removed. However with the rest of the remaining hedge still at the height of approximately 10-12 metres this remains a negative impact on the lives of the applicants, especially the applicant whose garden is nearest the 10-12 metre hedge which stops sunlight in their garden from early afternoon to sunset in the height of the Summer although allows the sunlight to penetrate when the trees are not in leaf.
Any other issues relating to the Act which you wish to bring to the attention of the Committee?

We find the decision to serve Notice on part of the hedge while allowing the remainder to remain at a height of 10-12 metres absolutely bizarre which was also the opinion of our local MSP when we discussed this with him.

S Allan