Local Government and Communities Committee

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

Submission from Peter Grant

Dear Sirs,

I refer to your call for evidence in relation to the operation of the High Hedge legislation.

I am the applicant concerned in the Newton Mearns “Non Hedge” case raised by Scothedge in their examples to you of the failure of the Act to provide for a review/appeal where the Local Authority state there is no hedge in existence.

The Act defines a hedge as:

1 Meaning of “high hedge”.

This section has no associated Explanatory Notes.

(1)This Act applies in relation to a hedge (referred to in this Act as a “high hedge”) which—

(a) is formed wholly or mainly by a row of 2 or more trees or shrubs,
(b) rises to a height of more than 2 metres above ground level, and
(c) forms a barrier to light.

The trees on my boundary satisfy all the criteria laid down by the Act.

The hedge planted by a Golf Club on the boundary comprises 2 staggered rows of fast growing Sitka Spruce forming a classic impenetrable barrier hedge and the trees have been left to grow rampantly, with no action to alleviate the effect on our property despite years of requests.

My case was dismissed prior to the revised guidelines which removed the reference to the Oxford Dictionary definition of a hedge upon which East Renfrewshire Council placed reliance, however I did try to appeal as they had followed through their entire procedures, including neighbour notification of the affected houses in the road and seeking their responses within 28 days of copying the full application to them, then decided it was not a hedge after all. **If the Council had believed that to be correct then their subsequent actions in consultation etc are inexplicable.**
I tried to appeal however this was dismissed by the DPEA as “no remit”. This is a fatal flaw in the legislation.

I have been approached by 3 national newspapers to allow them access to the story here but have refused to do so thus far. Nonetheless I understand the case was reported in the Glasgow Herald and resulted in letters to the Editor calling for clarification and consistency in the application of the Act.

My MSP has been most supportive in trying to assist, however I have incurred both Local Authority and professional fees and cannot get this decision reviewed. There is no way forward other than your scrutiny of this and other aberrant decisions, which cost so much in time, stress and money.

I would urge you to add a Local Authority decision that a hedge is not a hedge to the grounds for appeal to the DPEA.

I would be happy for you to speak directly to my MSP to gain any further information and you are welcome to visit our property to enable you to form an independent view as to whether this decision was vexatious.

Yours sincerely

Peter Grant