Local Government and Communities Committee

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

Submission from John Bolbot

The High Hedges Act isn’t working because it has no teeth.

All details are on Clackmannanshire Council website. My neighbour’s Leylandii hedge has about 40 trees, 12-13 metres high and is 44 metres long. It horrifies passers-by. A first High Hedge Notice was served on him on 22 February 2016 (15/00002/HH) but excluded one large tree, I appealed against this exclusion and second High Notice (including the tree) was served on 8 June 2016 (HHA-150-3). This second notice became effective 7 July 2016 with an 8-month compliance period (expired 7 March 2017). Therefore he has had a total of one year and two weeks to comply. He has not.

I have been emailing the Clackmannanshire Council Officers in charge of the case since the beginning of February, first alerting them to the approaching compliance deadline and subsequently asking them what there are going to do now that it has expired and my neighbour is consequently in breach of the law. What I am receiving back is just vacillation and indecision. The High Hedges Act provides for a Council to send workmen to a non-complier’s property to cut a hedge, subsequently recovering costs from him, but Clackmannanshire Council seems frightened to do this.

Obviously if a precedent is set that a determined non-complier can simply ignore the law (or perhaps use the obvious excuse of ‘I can’t afford it’) and get away with it then word will quickly spread to other High Hedge Offenders and the High Hedges Act will be useless – a dead duck.

During my email correspondence with the Council regarding my neighbour’s non-compliance, they confirmed that they were contacting my neighbour to verify his position and his understanding of the Notice and the circumstances, and any plans he may yet have to comply with the initial steps. Given he was well aware that he had to comply, I did not understand this approach and asked the Council why they were not using their powers of enforcement contained in the Act. The reply stated that they were contacting the Scottish Planning Enforcement Forum to obtain information from other Scottish local authorities on their experience in dealing non-compliance.

This response, I believe could set a dreadful legal precedent such that High Hedge Offenders throughout Scotland will quickly realise that a Government High Hedge Notice is totally ineffectual, that the 'compliance period' can be ignored and that at its expiry, nothing whatsoever will happen to them, apart from perhaps some further inspections, some chats about 'circumstances' (obviously they will all say they ‘can’t afford to act’) followed perhaps by a conciliatory 'reassessment' to clear them and the government of responsibility.
If this state of affairs should come about, the Scottish High Hedges act will be totally useless henceforth and the offenders will have good cause for celebration. To make myself very plain, with respect, vacillating indecision will potentially destroy the High Hedges Act.

I paid my fee (£401) and waited patiently for well over a year and it is now for the Council to implement the law on my behalf. This whole situation is becoming very stressful, I shouldn't have to fight like this.

John Bolbot