Local Government and Communities Committee

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

Submission from Donald Shearer

I applied to Midlothian Council for a High Hedge ruling in June 2014 as the boundary to the West of my house is lined by more than 28 trees some of which are 20 metres high. The Council rejected my application on the grounds that the trees appeared to comprise irregular groups of trees and advised me that I had no right of appeal.

I believe that the main reason for the rejection of my application was that the Government’s Guidance to Local Authorities at that time erroneously advised that a High Hedge must first be a hedge and also gave a very abbreviated and misleading definition of a hedge from the Oxford English Dictionary. If the full definition in the OED including the 3rd definition which reads:

“said of any line or array of objects forming a barrier, boundary or partition”

Had been included then the Act would have been correctly interpreted in the manner Parliament intended. Alternatively, if the definition of a High Hedge given in the Act is taken as standing on its own feet the broad interpretation that common sense requires would have been adopted.

Recent changes to the guidance will improve the interpretation but local authorities should be advised of the very wide definition of a hedge in the OED so they are aware that any barrier to light caused by trees or bushes fall within the Act. I believe this is very important in order to counteract the previous misinformation provided to local authorities on this point.

The Act itself is reasonably fit for purpose with the exception that it should allow appeals against any decision of a Local Authority. It is not reasonable that they should be able to reject or otherwise decide on an application with no right of appeal.

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