Local Government and Communities Committee

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

Submission from Harry Jamieson

An invitation came through a friend. I would have thought that instructing Local Authorities to send this to persons that had been successful, or not, as well as those not registered would have got more reaction for scrutiny. However publishing submissions is excellent. In my opinion they mostly demonstrate the strength of feeling that there are problems. I concur with the majority, but not that some professional planners are content. I look forward to being around, if another chance of applying for a notice arises if new interpretations are in the place.

Has the definition of a high hedge as set out in the Act proved helpful?

Since the definition was decided by experts, and in the Act. I simply took this as the benchmark. However a document, under the DPEA Saltire shows this.

Notes for Appellants

Who can apply for a High Hedge Notice

An owner or occupier of a domestic property (the applicant) may apply to the relevant authority for a High Hedge Notice where they consider that the height of a high hedge situated on neighbouring land owned or occupied by another person adversely affects the enjoyment of the domestic property which an occupant of that property could reasonably expect to have.

Local Authority decision

The local authority must decide if the height of the hedge adversely affects the enjoyment of the domestic property and, if so whether any action to remedy the adverse effect or to prevent the recurrence of the adverse effect (or both) should be taken by the owner in relation to the high hedge. Then no action or a notice.

This too seems clear, but I have not seen it mentioned much. Is this still in being?

The height consideration seemed to add weight in my application, but maybe not. Living in the same property for almost 55 years, I was aware that 10 small sitka first growing behind a wooden border fence were planted to become a hedge in later years. The landowner also attempted to get permission to erect a house in this area. Midlothian in October 1985 decided to make a TPO order on an island area "to protect the amenity of the area as the trees act both as a screen and an important visual element, and could be endangered by possible development of the site." I
wonder if this was actually successful? Eventually I was informed that the five tall fir trees remaining and some others opposite made a hedge.

In 2004 my neighbour, an elderly lady in very poor health was told by the LA that despite wishing to enjoy better daylight, before she died, nothing could be done for her about the five very tall TPO trees opposite her house. Her widower husband cannot use his satellite dish on his chimney for a signal as that is obstructed by the trees. It was later announced that permission had already been given to a new landowner by the LA to fell those TPO trees on arboricultural grounds, some five years earlier. I understood that these should have been replaced with mature trees, but instead a new house appeared, with little or no screening, "but to the satisfaction of the LA"

However the photograph will show what now exists.

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

Although I was promised by letter that a decision on my application would be made within two months, it was almost five months before this arrived, meaning that until then I was unable to make a formal appeal to the DPEA. I asked a professional experienced person to prepare an appeal to the DPEA. when I was told that no action would be taken.

I found the DPEA case worker in their office helpful, human and understanding. No words were ever exchanged with the LA in the waiting period. However 3 months later the Reporter visited and supported the hedge owner.

From 2013 in Holyrood two important years of life were upset after a spark of hope, that after 14 years of chat with the earlier owner getting nowhere, I imagined that someone may at least adjudicate the situation from a neutral viewpoint. I never felt that during any of the process. Maybe time for obvious change now.

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

Having been a "no action" applicant, I have no experience in this matter. I believe that my LA is politically intent on preserving trees and that this initial period is only being used as a trial or educational period, for themselves. It is said of course by hedge owners that reduction in height would kill the growth totally.

As this official hedge is beside a boundary fence I have again asked Midlothian if they would maintain the grassed public area and cut tree overhangs and remove tree roots just as a householder is permitted or required to do, like roots growing through public footpaths. I am still waiting a final response.
The photograph will explain this.

Do you have any comments on the fees and costs?

The variance in fees that can be imposed by each of 32 councils is difficult to understand for a common Act, although distances could be meaningful. Making their own interpretation of the Act demonstrates that the first three of five years, have been chaotic from the start, using this wordy Act, with equally confusing Guidance to Local Authorities, and little for Applicants I suppose that it should have been forseen that the ultra cautious planning departments were not prepared to consider all the facts in reasonable and up to date fashion.

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

Undoubtedly negative. The time, effort and in my case extra expense to achieve a cold "No Action", having felt my lengthy application, with photographs over my time in residence was at least a basis for discussion.

I seemed to be responsible for the extraordinary time delay, in my case for being the first applicant in Midlothian. The LA was not prepared until 23 April 2014 to even receive my form and payment. Robotic planners visited, would not link in conversation, and "were only there to look out of the house windows for a possible hedge", all insulting and autocratic, as officially it had a year to determine their strategy.

All Midlothian (three?) has been rejected, I believe.

The Hedge mainly consists of evergrowing evergreens, without ever been managed. Midlothian even giving permission to fell exactly the "same" tree which were to be preserved. They were acknowledged to be at the end of their lives.

Any other issues relating to the Act which you wish to bring to the attention of the Committee?

Is any consideration given to the health or situation of the applicant by planners?

Is any consideration ever given to free solar energy available to applicants that has been taken away by some hedges?

I know that it’s not in the Act but the Trees in this hedge can produce a lot of noise, in stormy weather that might be an annoyance for some.
If someone had told me that trees (or a hedge) could be any height, and that if could read book in my room, that would have no chance for action with a formal application for a HH notice.

I certainly would not have bothered with this process.

Harry Jamieson