Dear Committee members

My High Hedge Application (16/0145/HH) of 23rd August 2016 was deemed unsuccessful by Perth & Kinross Council on 3rd November 2016 as was my subsequent High Hedge Appeal (HHA-340-13) of 17th November 2016 relating to a 5.0m-high holly hedge which had been accepted as a high hedge by the council. It was decided that the latter was not sufficiently near (3m) to the NW of the boundary with my neighbour to affect "reasonable enjoyment of my property" on 13th February 2017.

My main concern in making the original application was the row of trees to the south end of the boundary, conifers measuring 11m high and a 9m-high weeping willow, which stand close to the boundary some 3.18m from my house. Although less than half the height of these trees, according to the Council the holly hedge did constitute a high hedge; hence our appeal to have it cut back so that the patio and the NW half of our back garden would benefit from longer periods of sunlight. At the moment half of the garden is in shadow by about 2 pm in the summer.

The unchecked growth (and roots) of trees at the SW corner of our garden caused the original brick boundary wall to collapse. I shared the cost of the removal of the old wall and the installation of a replacement fence with my neighbour as our deeds state that we have joint responsibility to maintain the boundary. Relations deteriorated when I refused to pay half the cost of the few trees along the line of it that he did have removed: I felt that that cost was totally his concern.

The whole process of determining what can be classed as a high hedge baffles me.

Within minutes of the Council Planning Enforcement Officer's visit to our home my wife and I concluded that we were on a hiding to nothing. His first words to us were that our neighbour had a right to privacy and that we should consider planting only shade loving plants in the border to the west of our property.

His resultant report confirmed that initial conversation, containing as it did some horticultural advice to ourselves and our neighbour (which the latter is under no obligation to follow); and the rather patronising view that perhaps we should not have bought our home in the first place.
Also it stated that we have a range of trees in our garden: this is false. When we queried this with the report's author, he described it as "an oversight" in an email of 13th December 2017. However, such an inclusion in the report implies that we want to hold on to our trees but want our neighbour's removed. A procedural point I raised at the same time was that we had never received a copy of our neighbour's reply to our High Hedge Application; this I had been told I was entitled to. It was eventually forwarded to us by e-mail a month after the report was issued.

Under the heading Site Assessment, the Council's report states that our neighbour's "trees and shrubs have been planted as an ornamental planting many years ago". Where does "ornamental" and "old" have any bearing in the Act when what exists now prevents light from the west reaching my property for most of the afternoon and early evening? To describe the planting as "a visual backcloth" to our neighbour's garden is all very well but our neighbour does not see what my wife and I have to look at day in, day out or how many times in the autumn/winter we have to clear up broken branches, leaves and cypress cones and needles from his trees from our house gutters and the western border of our garden. There is nothing in the Act that says "specimen trees and mixed ornamental garden planting for their amenity benefit" should be allowed to the detriment of the amenity of the people next door.

I made this application because of the lack of light on the western side of our garden, the sole factor the Act purportedly takes into account. Our neighbour's trees may not have been originally planted as a hedge but, because of neglect, they certainly comprise a very high, dark screen now, centimetres from the shared replacement fence and blocking any sunlight from parts of my garden from early afternoon until sunset. Confusingly, the Act states that to qualify as a high hedge it must form a barrier to light whereas the Council's report tells us that "light is not a right".

The decision letter refers to "the reasonable enjoyment of property". Does the High Hedges (Scotland) Act 2013 define property as bricks and mortar to the exclusion of the garden surrounding a home or both? Does reasonable enjoyment mean putting up with having to employ someone to cut back two dead stems from my neighbour's 11m-high Sawara cypress that were pulling our telephone line down; and having to worry during high winds as to whether some branches from his trees might topple onto our chimney stack or roof?

The Council report states: "It is recognised that the larger trees within the owner's garden do represent an impact on the applicant's garden, and property, by shade and by virtue of leaf litter and debris, however, they are not considered to be a high hedge, for the purposes of the Act." Thus we were given no chance of an appeal. I feel the language used in their report does not embrace the spirit of the Act at all.

I feel that a visual inspection by planning enforcement officers may be all that is needed in the first instance to determine what constitutes a high hedge in relation to
the Act. What is the point of spending time measuring growth and writing a report that is going to lead nowhere? Should the applicant decide not to pursue things further, the cost of a visit for such an assessment could then be deducted from the not inconsiderable advance payment of £270 and the balance returned to the applicant.

In early December 2016, before my High Hedge Appeal was considered, our neighbour decided to top about 3m off the conifers and a 1m off the weeping willow and the holly hedge. The resulting effect makes no real difference.

John Lewis