30 May 2017

Dear Bob

Post-legislative scrutiny of the High Hedges (Scotland) Act 2013

I am pleased that the Local Government and Communities Committee is undertaking post-legislative scrutiny of the High Hedges Act. I fully recognise that high hedges can have a negative impact on people’s lives and ensuring that our legislation is working effectively is an important duty of parliament. That is why at last week’s Committee meeting I confirmed that the Scottish Government was keen to listen to all suggestions on how the legislation and accompanying guidance could be improved, and I look forward to reading the Committee’s final report.

At the meeting the Committee sought some information and this letter seeks to respond to these requests.

Definition

The Committee asked for the Oxford English Dictionary definition of a hedge which was included in the original Guidance. I can confirm that the following wording was used in the original guidance document published in 2014:

For trees or shrubs to be considered as a high hedge, they must first be a hedge. A hedge is defined by the Oxford English Dictionary as:

“A row of bushes or low trees (e.g. a hawthorn, or privet) planted closely to form a boundary between pieces of land or at the sides of a road”.

If the Committee feels this or another definition should be included in the guidance I would be content to consider this.
Collection of data

In addition, during the meeting, you asked my view on the value of collecting data on applications for high hedge notices from all 32 local authorities across Scotland in a uniform way and I stated my concerns.

I said then, and reiterate now, that this could involve an additional cost for local authorities. This additional cost could then be passed on to applicants resulting in a situation where the cost of making an application is prohibitively high for many individuals and not allow those on lower or fixed incomes to seek redress.

Making an application to a local authority for a high hedge notice is intended as a last resort. As you are aware, the Act requires potential applicants to take “all reasonable steps” prior to an application being lodged. As such, information on applications will only provide us with a partial view of the situation across local authorities. Therefore any new uniform data collection system would be disproportionate to the information gathered and the costs attached to the collection of data could make the application process disproportionately expensive.

For these reasons, I remain of the view that there is no benefit to be gained from collecting data uniformly from all 32 local authorities.

Statistics on high hedges

I have now received your request for me to write to all local authorities seeking statistics on high hedges, where collected, and to send this information on to you by 17 July 2017. There is no statutory obligation on local authorities to either collect or supply such information so there is no guarantee that the information requested will be provided but I have today instructed my officials to formally request this information from Scotland’s local authorities and will supply the information to the Committee when received.

As I have already noted, I am keen to receive constructive suggestions for improvement of the Act and look forward to the final recommendations and report.

Kind regards

KEVIN STEWART