Dear Kevin

**High Hedges (Scotland) Act 2013: revised guidance 2019**

The Local Government and Communities Committee considered its work programme at its meeting on 20 March 2019. During this discussion, the Committee considered whether it wished to follow up on its post-legislative scrutiny of the High Hedges (Scotland) Act 2013, particularly in view of the revised guidance, referred to in your letter of 31 January 2019, recently issued to local authorities.

The Committee agreed to write to you to request further written detail on the approach, set out in the new guidance, and in particular on why it appears not to take forward some of the Committee report’s key recommendations.

For example, whilst the Scottish Government accepted that the guidance be updated to provide a clearer definition of a hedge, you considered that the guidance could not be revised to clarify that applications should be considered in terms of the impact of the vegetation, rather than whether or not the barrier was originally planted as a hedge (recommendation in paragraph 71). It would be helpful if you could explain why you considered you could not take this recommendation forward. In particular, the Committee would welcome further clarification on your view that only primary legislation could be used to implement this change and, if this is the case, whether further legislative amendment to address this was considered.

The Committee is aware of views that the new guidance has actually narrowed the scope of the legislation and could potentially reduce the number of cases being taken forward. In your letter, you state that you are “unconvinced” by such assertions as “local authorities have intimated that the guidance now better reflects how they have been applying the legislation since it was introduced.” However, given serious concerns noted during our post-legislative scrutiny that some local authorities were
applying the legislation narrowly and not in the spirit that the act intended, it would be helpful if your response could clarify whether you are completely satisfied that local authorities are applying the Act fully and in the manner intended by Parliament and, if not, how you propose this should be remedied.

The Committee would be grateful for a response to this letter by 2 May 2019. After receiving the response, the Committee will consider what further action to undertake on this matter.

Yours sincerely

James Dornan MSP
Convener of the Local Government and Communities Committee