

## MEETING WITH COSLA – 29 JUNE 2012

Verity House, Haymarket Yards 14.30 AM – 15.30 PM

Present: [REDACTED] Chief Officer – Community Resourcing [REDACTED]  
[REDACTED], Legal Manager [REDACTED]  
[REDACTED], Scottish Government [REDACTED]  
[REDACTED], Scottish Government [REDACTED]  
[REDACTED], Scottish Government [REDACTED]

1. [REDACTED] opening the meeting by confirming that CSU have considered and addressed the concerns raised by COSLA in a previous meeting.

### Progress

2. [REDACTED] provided a brief explanation of the progress made since the last meeting with COSLA, informing [REDACTED] and [REDACTED] that the Bill is expected to be introduced in the first week of October.

### Fees

3. [REDACTED] and [REDACTED] enquired into the provisions being included as regards fees charged by local authorities for processing an application for a High Hedge Notice. [REDACTED] explained that, unlike in England & Wales, there is not the intention to include a cap on application fees. However, the Bill will require local authorities to charge a fee that corresponds with their reasonable expectations of the cost of processing an application.
4. [REDACTED] raised concerns over whether or not the fee levels charged could be challenged. Though this is not expected to be the case, [REDACTED] was content for CSU to look into the issue. [REDACTED] cited a precedent in HMO legislation that may be useful in assuring that this issue is avoided.

### Cost recovery

5. COSLA were keen to seek assurance that any potential costs for carrying out remedial work would be recoverable. [REDACTED] explained that the Bill would include provisions for a charge to be placed on the property in question to ensure that local authorities are able to recover any potential costs.
6. [REDACTED] added that exact means of placing a charge on the property is still being considered, with Home Reports, Property Certificates or RoS being options. All the options are viable, but the most efficient and enforceable option is still to be identified. [REDACTED] suggested that CSU contact a member of COSLA who has responsibility over property issues. He suggested [REDACTED], Legal Manager for Property, Glasgow City Council.

### Scope

7. [REDACTED] explained the intention for the Bill to have a narrow scope, covering only evergreen and semi-evergreen trees, as is the case in England & Wales. This is to ensure that the High Hedge test is less subjective, which would be the case should deciduous trees be included.
8. A narrower scope would decrease the chances of a decision being challenged and would create less costs to the local authorities. [REDACTED] added that we would want to avoid having single trees covered by the Bill, as this would create difficulties in assessing its impact as regards blocking light.
9. [REDACTED] explained the experience of the Isle of Man, which has included deciduous trees in the scope of its legislation. A protracted and costly appeals procedure has been ongoing in the IoM, precisely because the issue at stake (i.e. a deciduous tree) was too subjective. [REDACTED] agreed to send COSLA the IoM judgement.
10. [REDACTED] agreed that a narrow scope would be preferable, allowing COSLA to avoid repeated requests for legal advice.

#### **Pre-action requirements and Guidance.**

11. [REDACTED] explained the provisions included in the Bill which require applicants to take all reasonable steps to resolve the issue privately before a High Hedge Notice can be issued. These pre-action requirements will vary between local authorities, depending on the services available in that particular area (e.g. mediation).
12. [REDACTED] added that each local authority will be able to issue its own guidance on pre-action requirements, though the Scottish Government will issue an example of guidance that may be used by the local authorities. [REDACTED] and [REDACTED] were content with the flexibility relating to guidance.
13. [REDACTED] briefly went through the experience of England & Wales, where barely any formal complaints were made after initial enquiries. To our knowledge, there has only been one case of remedial action being taken.

#### **Appeals**

14. While the Bill will include provisions for appeals to be determined by Scottish Ministers, [REDACTED] explained that appeals will realistically go to DPEA. This appeals procedure is intended to be purely paper-based, with no hearings taking place.
15. [REDACTED] envisioned that any appeal would require a visit to the property in question, though he was content that this is necessary.
16. [REDACTED] and [REDACTED] were content that their previous concerns relating to appeals have been addressed.

#### **Scothedge**

17. [REDACTED] and [REDACTED] raised concerns over the impact that may be made by the campaign group, Scothedge, during parliamentary consideration of the Bill. Particularly, they

felt that Stage 3 amendments may be forced through by Scothedge lobbying. [REDACTED] assured COSLA that Scothedge have been heavily involved in the Bill process and have been made fully aware of the policy intentions and the reasons behind them. [REDACTED] also added that Mark McDonald MSP has been proactive in gaining the support of a number of other stakeholders, all of whom support the provisions of the draft Bill, which should ensure that the original policy intentions are followed.

18. [REDACTED] requested that CSU keep him up to date with any arising issues, which JB was happy to provide.

### Environmental issues

19. [REDACTED] enquired into the effect a High Hedges Act might have on other legislation relating to environmental issues (e.g. Wildlife & Countryside Act). [REDACTED] assured him that no such existing legislation would be overruled, but would act in tandem with a High Hedges Act.
20. [REDACTED] went on to explain the issue of TPOs and described how the presence of a TPO would play a part in a Tree Officer's assessment of the hedge. Furthermore, every hedge which is assessed by a Tree Officer will be subjected to a 'TPO-like test' to ensure that no trees with a historical or cultural value will be affected by the Bill.
21. [REDACTED] suggested that it might be useful to engage with RSPB to gain their input on any possible impact on birds that may be created by the Bill. [REDACTED] and [REDACTED] agreed that this would be a sensible course of action and will arrange a meeting if possible.

### General issues

22. [REDACTED] requested that CSU provide him with any relevant information, which [REDACTED] was happy to provide.

### ACTIONS

- CSU to contact [REDACTED], Legal Manager for Property, Glasgow City Council to discuss cost recovery.
- CSU to sent the IoM judgement to [REDACTED].
- CSU to keep [REDACTED] updated on any relevant issues arising.
- CSU to contact RSPB to discuss the Bill's impact on bird-life.

[REDACTED]  
Community Safety Unit  
04/07/12