

Meeting with Scothedge - Tuesday 2 December 2014

When a hedge is not a hedge

- There were two main issues here. The first of those was local authorities interpretation of the guidance, being used to dismiss applications on the grounds it is "not a hedge". Local authorities instead classifying the "hedges" as either shelterbelts or woodland.
- Local authorities named as Angus, Argyll and Bute, City of Edinburgh and Fife. Also, in Perth and Kinross, local authority dismissed an application as "not a high hedge" despite the trees continuing to grow. There appears to be no difference between a "shelterbelt" and a "hedge", however applicants do not have financial resources to conduct a test case against this loophole in court.

Barrier to light

- The second main issue refers to the hedge acting as a barrier to light, where Scottish Government lawyers advised there has to be an effect for it to be an issue.
- Local authorities appear to be using a document published by the UK's Office of the Deputy Prime Minister entitled "hedge height and light loss". This interpretation results in a lot of cases being rejected since the interpretation is taken to mean it applies only in cases where light is blocked out at all times.
- One case in North Ayrshire was judged by a reporter based in Cumbria's view from the second floor of the property where the hedge did not make the property dark but completely obstructed the view, how do you define "reasonable enjoyment" of property.

Other local authority issues

- Concerns over the extent of publication on local authority websites, in some cases initial letters between neighbours under pre-application requirements are even being published.
- Differences in opinion in local authorities about where high hedges actually sits. In most cases designated to planning department but also occasionally to antisocial behaviour teams.
- Local authorities appearing to "choke" High Hedges Act through the setting of high fees, ranging from the cheapest at £192 to most expensive at £500. Some applicants may not have means to pay such high fees.

Scothedge view

- Still positive about the Act and welcomes the fact it makes provision for a review of the legislation.
- Also notes review is not for 5 years and some issues require to be looked at sooner, namely the looser parts of the guidance around the definition of what a hedge actually is. Local authorities not always making site visits in cases where the subject of the application is regarded as not being a hedge.

- The guidance only uses the UK's Office of the Deputy Prime Minister's guidance as an example. It does not specify this document must be used.
- Would like to see other parties having an input into the level of fees set for making an application.

Action

- Scottish Government agreed to look at the guidance in the new year as the Act approaches its first anniversary, especially those areas giving "wiggle room" to local authorities.