

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

A) INTRODUCTION

This report clarifies a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to the case set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISION

High hedge appeal reference: HHA-130-1

Location of the hedge: Springburn Villa, Lochgoilhead, PA24 8AJ

Owner of the hedge: Mr and Mrs J and E Bryce

Appellant's address: Birchwood House, Lochgoilhead, PA24 8AJ

Date of decision: 7 November 2014

As reported at the meeting of the Committee on 19 November 2014, this appeal was allowed and the Reporter required the hedge to be reduced by 1 March 2015 to a height of 5.4m and thereafter to be regularly cut back so that its height does not exceed 6.0m.

The Reporter assessed that, using the whole of the available garden space and assessing the windows to the principal rooms only, the calculation based on the BRE guidance would not suggest a reduction in hedge height at all. However, he noted that Birchwood House appears to have been constructed specifically to look over the top of development lower down the hill and to take advantage of the views westwards over Loch Goil to the hills beyond. The hedge blocks the view and thereby reduces the enjoyment of Birchwood House. He concluded that a hedge height of no more than 6.0 metres would be a reasonable balance between the interests of the owners and the appellants.

I reported that the Reporter seemed to have attached considerable weight to the appellant's loss of distant views of Loch Goil. Members requested that I sought clarity as to whether or not the decision reached by the Reporter satisfied the provisions of the High Hedges legislation, given the weight he had attributed to loss of view from the appellant's property in arriving at his conclusions.

The Chief Reporter responded by letter dated 19 December 2014 that guidance issued by the Scottish Government makes clear that relevant effects on the enjoyment of property would include not only loss of light but also broader considerations of amenity affecting the property and its garden. In the Chief Reporter's opinion, "views and the perception of space or openness are clearly part of the enjoyment of a property which....it may be reasonable to expect." The Chief Reporter concluded that "loss or impairment of a view can be a relevant factor in appeals under the High Hedges Act."

D) IMPLICATIONS

Policy: The Chief Reporter's clarification assists in assessing the weight to be given to an occupier's loss of a view in High Hedge applications.

Financial: None.

Personnel: None

Equal Opportunities: None

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