



Your Ref:
Our Ref: NMCC/JL
Being dealt with by: Mrs Nicola McCall, Tel:- 028 25660 375

Date: 22 July 2010

Mr Sean McCann
Assistant Clerk
Environment Committee
Room 247
Stormont Estate
BELFAST
BT4 3XX

BALLYMENA BOROUGH COUNCIL
Council Offices, "Ardeevin",
80 Galgorm Road, Ballymena, BT42 1AB
Telephone 028 2566 0300
Facsimile 028 2566 0400
Local Rate Telephone 084 5658 1581
www.ballymena.gov.uk

Dear Sir

Re: Consultation Response on Draft High Hedges Bill

Ballymena Borough Council would like to thank you for this opportunity to comment on the document, Public Consultation on a Draft High Hedges Bill.

Ballymena Borough Council is aware that there is currently no legislation in Northern Ireland governing the height or maintenance of a hedge and as a result, disputes between neighbours regarding high hedges can remain unresolved for years. Problems of this type are often referred to the Council but, to date, there was little that could be done if the owner of the hedge was reluctant to address the issue.

It is likely that disputes of this type may have increased due to greater urban density and also due to the availability of low-cost and often very fast-growing hedges which need to be regularly trimmed to prevent them becoming a nuisance. Currently the only legal redress a householder can seek is through civil action, the costs of which can be prohibitive.

Ballymena Borough Council therefore welcomes the introduction of a High Hedges Bill by the Department. The Council does, however, have a number of specific concerns and queries regarding some of the proposals contained within the consultation document and draft Bill.

Issues of concern

- The Department will need to provide guidance to Councils in relation to those circumstances that would constitute a complainant "*taking all reasonable steps to resolve the matter complained of*", including how a complainant would need to demonstrate this.
- Where the property is vacant and there is no traceable owner, the Council is concerned that there is an assumption by the Department that the Council would automatically act in default, without additional resources being made available to it.

- The Department needs to clarify whether or not a mediation service would be available. This is a service that the Council would call for and one which is available in England and Wales. However it would need to be effectively resourced to ensure that it is readily available to those that need this service. This is currently not always the case in England and Wales.
- Resources will be required to educate and advise the public with regard to the new legislation and on how to plant and maintain hedges in order to avoid a problem.
- The Council would welcome a prescribed application form which would clearly indicate to the complainant what information is required and would capture any previous communication and/or mediation. A standard form would also ensure consistency of approach from Councils across Northern Ireland.
- The Council would welcome clarification on liability regarding hedges on land where there is no known owner.
- The Council would be concerned about the potential for hedge owners cutting hedges during the bird nesting season and would appreciate guidance in relation to this matter.
- The Council would be concerned about the liability implications in the situation where it ordered a hedge owner to reduce the height of a hedge and the hedge subsequently died. It would be helpful if the legislation could limit the potential for such claims in some way, provided that the Council has acted in good faith and has taken appropriate professional advice regarding the proposed remedy.
- Those from lower-socio-economic groups may find the cost of employing a specialist tree surgeon prohibitively expensive if a notice is served on them. Financial assistance may be necessary.
- The Department should consider allowing reduced fees for those on means tested benefit or the elderly. However Councils would need to receive financial support to cover costs.
- The Council would welcome clarification in relation to Powers of Entry and the requirement to give the occupier of land 24 hours notice and would suggest that this should also apply to the owner of the land.
- The Council would seek clarification on how to deal with complaints relating to land which is vacant or where there is no identifiable occupier.
- The Council would welcome confirmation that the registered charge placed on a property following works in default will include the cost of registering a charge on the property.
- The Council would be concerned about carrying out works in default on premises with no known owners as there would be little prospect of recovering costs. Therefore some funding may be required.

I would like to thank you the Department for affording the Council this opportunity to respond. If you require any clarification, please do not hesitate to contact us.

Yours faithfully

Sinead Sargent

PP for

Nicola McCall

Deputy Chief Environmental Health Officer

