

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - 11 APRIL 2000

CONSULTATION PAPER ON PROBLEMS ASSOCIATED WITH HIGH HEDGES

Report by Director of Development Services

1. PURPOSE OF REPORT

- 1.1 To advise Committee of a consultation paper received from COSLA on behalf of the Scottish Executive on problems associated with high hedges.

2. BACKGROUND

- 2.1 The consultation paper seeks views on whether the Scottish Executive needs to introduce any special measures to address the problems caused by high boundary hedges and what such measures should be. Research in England and Wales specifically identifies the problem as relating to coniferous and evergreen hedges, (e.g. Leylandii), along conterminous residential boundaries which do not require planning permission unlike other structures on the boundary e.g. walls and fences. Due to this lack of control such hedges can grow to a huge height and a combination of factors (e.g. reduction of light, blocking views) can lead to a general sense of oppression and of being hemmed in or to a feeling that peoples enjoyment of their homes and gardens has been spoiled. Clearly this is anomaly in the legislation which currently gives control to other boundary enclosures over 2 metres in height.
- 2.2 The Scottish Executive's position is that they do not want to discourage or resist the planting or growth of hedges which have wide ranging benefits for the local environment. At the same time they acknowledge that serious disputes can arise when a request to neighbours to cut back the hedge is rebuffed. They also consider that no existing remedy is ideally suited to this problem.

3. OPTIONS FOR CONSIDERATION

- 3.1 The Scottish Executive has identified the following options:

Option 1 - Promoting existing remedies such as mediation. Resolving conflict through mediation or action in the Civil Courts.

Option 2 - The non-legislative approach. Extending advice to residents about the type of hedges and possible issues relating to the effect on others.

Option 3 - The tailor made approach. This would be the introduction of new laws to enable people with high hedge problems to complain to their local authority. There would have to be specific conditions, there might be a fee, and there would need to be powers of enforcement.

4. CONSIDERATIONS

- 4.1 There are very few cases of reporting this problem to the Authority. However, when a case does arise there are strongly held and opposing views by the respective neighbours. Experience has shown that existing powers are inadequate and it is suggested that a tailor made approach would appear to give the additional powers which are required. Detailed implementation is very important given the amount of hedges which do exist and rather than bring the planting of a hedge within the control of a planning application it is suggested that discretionary powers to take action, in selected cases, would be more appropriate. The Executive is suggesting that the stimulus for action would result from a complaint, which may attract a fee, and this concept is also supported.
- 4.2 In treating the problem in this way the normal enforcement legislation would apply if the Authority is satisfied that a complaint is justified. Accordingly a right of appeal would also exist as well as other legislative remedies to ensure that natural justice is maintained.
- 4.3 A tailor made system would need to be designed so as not to impinge where high hedges were causing no problems and the system outlined above appears to offer the best solution. The other options suggested represent a softer approach without ultimate enforcement which would not tackle the problem of the severity of the conflicts that can arise between neighbours.

5. FINANCIAL AND LEGAL IMPLICATIONS

- 5.1 Any financial and legal implications including those relating to Human Rights Act would require to be addressed in the legislation.

6. RECOMMENDATION

- 6.1 **It is recommended that the Committee supports in principal a tailor made approach to the problem of high hedges with associated powers of enforcement as identified in Section 4.**
- 6.2 **It is also recommended that further consultation should take place on the detailed implementation of the suggested changes.**

Stephen Chorley
Director of Development Services

AN/IMB
4 April 2000

LIST OF BACKGROUND PAPERS

- 1. Consultation paper on problems associated with high hedges from COSLA dated 20 January 2000.**

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AGENDA