

PE1461/B

Scottish Government Letter of 14 January 2013

PUBLIC PETITION PE1461

Petition by William Campbell calling on the Scottish Parliament to urge the Scottish Government to demonstrate how the current planning process ensures planning applicants are unable to interfere with the rights of third parties to object to planning applications and to ensure that appropriate sanctions are in place when it has been shown that the planning applicant has attempted to interfere with these rights by any means.

Thank you for your letter of 17 December 2012 to my colleague Jamie Combe seeking a response from the Scottish Government to the above petition.

The petitioner seeks “appropriate sanctions” to be put in place where the rights to make objections to a planning application have been interfered with. The background information accompanying the petition would suggest that the petitioner is seeking that such matters be considered as detrimental to the planning application.

May I first note that any threat of physical harm or disadvantage to an individual should be reported to the police who would consider any allegations on their individual merit. Any police investigation into any allegations of threats etc. would be considered separate to the planning process, as part of the Judicial system.

The Scottish Government would find unwarranted interference of the sort described unacceptable. Work previously undertaken has shown that the average number of representations made for each application submitted to planning authorities is around 1.5. This means that over 60,000 representations will be submitted in Scotland every year. Therefore whilst unacceptable, we are not aware that this is a widespread problem. This should be seen in the context of ensuring that the planning system facilitates open and transparent decision making for all, including the vast majority of perfectly reasonable applicants

May I also draw the committee’s attention to the purpose of the land use planning system. As stated in *Scottish Planning Policy*, planning guides the future development and use of land and is about where development should happen, where it should not and how it interacts with its surroundings. This involves promoting and facilitating development while protecting and enhancing the natural and built environment in which we live, work and spend our leisure time.

The Government believes that one of the broad principles which should underpin the planning system is that it operates to engage all interests as early and as fully as possible to inform decisions and allow issues of contention and controversy to be identified and tackled quickly and smoothly. Since the introduction of the Planning etc. (Scotland) Act 2006 and accompanying secondary legislation, there have therefore been enhanced opportunities for people to be engaged in the planning system.

The Committee may be interested to note that legislation requires decisions on planning applications to be made in accordance with the development plan unless material considerations indicate otherwise.

Annex A of Circular 4/2009: *Development Management Procedures* sets out that there are two main tests in deciding whether a consideration is material and relevant:

- It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
- It should fairly and reasonably relate to the particular application.

It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Ultimately it is for the courts to decide on whether a matter is material and what weight it should be given.

Where a representation is made to a planning authority by a third party, this may be published either online and in the planning authority's planning register.

The Scottish Government is working with authorities on draft guidance on the online publication of representations. This will confirm that if representations are published online, signatures, personal e-mail addresses/phone numbers must be redacted before publication to ensure compliance with data protection legislation.

It is common for names and addresses to be published since the address is likely to be considered relevant to the decision making process. However, the authority should make those wishing to make representations aware of how comments, including names and addresses, will be publicised so they are aware of this before commenting. If someone does not wish these details to be revealed they should speak to the planning authority directly to see if there are local arrangements in place for dealing with the particular circumstances of individual cases.

There is no legal requirement for planning authorities to make available representations in the non-electronic planning register. It will, again, be for the planning authority to consider.

The Scottish Government has no plans to change these arrangements.