

## PE1461/C

Petitioner Letter of 5 February 2013

Dear Mr Hynd

Please find attached the relevant replies to the comments made by the Scottish Government and COSLA respectively on Petition PE1461.

Regards

William Campbell

Reply to Scottish Government Letter of 14<sup>th</sup> January 2013

**Paragraph 3** - Not only is the Petitioner and involved members of the public seeking to make such matters detrimental to any planning application but we are also seeking to make such action brought about by deliberate interference, causing people to withdraw from further participation in the due process, to be deemed illegal. It is then from the perpetration of such illegal action (and consequences i.e. fine or other measure) that this would then cause the appropriate local authority to render that planning application null and void.

**Paragraph 4** - This is where the Petitioner and supporters of the petition would strongly disagree. The Police's stance, despite numerous complaints and at different intervals, was to take no action - yet the effect of the applicant's letters and threats left a community shocked, adrift from protection and resulted in ordinary people stating they would never take part in any planning application ever again. It is very clear that whilst it would appear to be everyone's belief that such matters would surely reside with the Police, the reality of the matter resulted in a total negative indifference by that body. The petition so raised strives for this matter, (interference in the right to object), to be part of the legal system relating to the planning process and as such, punishment for such interference against third party rights to object should be quite clearly defined under that legal framework belonging to the planning process. Whilst Politicians would be aghast at the thought of such malevolent interference in their election campaigns or at the ballot box, equally so, local people must not be left devoid of proper protection when they choose to comment on planning issues. If this is to be ignored then the statements in current planning documents about enabling local people to influence the planning of their own communities and government White Papers encouraging public involvement are most certainly in conflict with the ideal that the planning process is satisfactory and welcomes legitimate public involvement. There are those in society and in our communities who are obviously intent on breaching proper codes of conduct and to date they know they can get away with it.

**Paragraph 5.** How widespread does a problem have to be before there is a realisation by the Scottish Government that such a problem does, in reality, exist and may indeed exist to a greater extent than to which they are aware? Just because the Scottish Government do not have statistics to prove the degree of such on-goings that does not mean that this situation fails to exist. This most likely has occurred in the past and in other contexts but may never have been reported or recorded. This belief or assertion in the need for something to be widespread and the apparent stance to ignore, is almost like saying that there was only one murder in Scotland last year and because of that we should not punish anyone!!! The final statement in paragraph 4 concludes that even if this is happening in certain situations it should be refused notice because

it must be read in conjunction with a greater number of perfectly normal planning situations. However this type of interference is occurring, to which the petition can affirm, therefore it is still wrong and still requires to be safeguarded against in a more appropriate and definitive manner without the complacency that is suggested simply because it has not been recorded previously. Why should anyone in Scotland be refused or be prevented from exercising their legitimate third party rights to take part in the due planning process in their own communities and why should any one individual or number of people be subjected to the type of terrible interference described in the petition?

The relevance and point being made in **Paragraph 6** is difficult to ascertain in relation to the actual petition. The petition has been raised in response to actions which have caused people to decline from legitimately taking part in any further participation within the due planning process. There is a particular history which has not been relayed in the petition which can show that many of the objectors so targeted raised their objections based upon a specific criteria laid down within a recognised and adopted Local Plan and that criteria was being blatantly ignored by an applicant who ultimately subjected those raising this issue to a form of written intimidation and resulting interference in the due process.

**Paragraph 7** – Yes and agreed but whilst not mentioned in the actual content of the petition, the planning for the area was made very clear to all including an applicant by the terms so defined in the Development Plan and Local Plan - which the applicant chose to ignore.

**Paragraphs 8, 9 & 10** – Yes and that is why the planning authority turned down the application but this did not happen before local people had been so abused, shocked and intimidated to such an extent that many would never take part in any planning process again. There was no safeguard offered by anyone or any relevant body or local authority to those who were subjected to an applicant's actions. The writer on behalf of the Scottish Government's reply should bear in mind the distress and fear of the situation that occurred and not just once. There is something very seriously wrong with any process or system when by such interference, lies, intimidation, statements of threat, or causes of distress and anxiety, can put an elderly man into such a state of fear that he is left literally shaking requiring the care and attention of two of his neighbours. Such wrong is further portrayed when an elderly lady living on her own refuses to take any further part in the planning process because of being afraid that the person who sent the dreadful letter will come to her home. Others experienced the same feelings of distress and anxiety. The consequence caused by this type of wrongful interference particularly to members of the public with families, elderly and unwell people alike, warranted, I believe, a much more sympathetic and better response from the Scottish Government's representative on this issue.

**Paragraphs 11, 12, 13 & 14**– Offers no comfort to the situations that occurred. Where there is a volume of representation from any small community it is not in any way difficult for any applicant to ascertain the names and addresses of objectors. With the Freedom of Information Act and by visiting planning offices and the online process of identifying objections, the names and addresses and the names of objectors, can respectively, easily be obtained. Paragraph 14 merely shows or indicates the inconsistency in the planning 'modus operandi' where some may not and yet others may make such available. The local authority to which the petition relates did make names and addresses available by the methods mentioned.

**Paragraph 15** – Perhaps the Scottish Government should be more willing to listen to its people whom they are there to represent. Whilst it may not have had any plans to change its current arrangements, situations like those described now being brought to its attention should

instigate progress and change as they are always necessary to meet the needs and dilemmas of any defective part of any government's legislation or inadequate policies in order to protect fully its population.

### **In Summary**

The petition so created seeks to address and prevent, in the future, such behaviour and to make this type of malevolent wrongful interference fall within a definite remit of the planning legislation in Scotland.

W. Campbell

5<sup>th</sup> February 2013

The above statements are in response to the following comments made by a Scottish Government official. Please note that paragraph numbers have been added to the Scottish Governments letter to simplify the areas to which responses have been made.

### **PE1461/B**

Scottish Government Letter of 14 January 2013

### **PUBLIC PETITION PE1461**

1. *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.*
2. 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.
3. 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.
4. 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.
5. 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

6. 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.

7. 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.

8. 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.

9. 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.

10. 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 is should be given.

11. 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.

12. 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.

13. 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.

14. 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.

15. The Scottish Government has no plans to change these arrangements.

Reply to COSLA letter of 20<sup>th</sup> December 2012

**Paragraph 3**

(As per Paragraph 4 of reply to Scottish Government PE1461/B)

This is where the Petitioner and supporters of the petition would strongly disagree. The Police's stance, despite numerous complaints and at different intervals, was to take no action - yet the effect of the applicant's letters and threats left a community shocked, adrift from protection and resulted in ordinary people stating they would never take part in any planning application ever again. It is very clear that whilst it would appear to be everyone's belief that such matters would surely reside with the Police, the reality of the matter resulted in a total negative indifference by that body.

The petition so raised strives for this matter, (interference in the right to object), to be part of the legal system relating to the planning process and as such, punishment for such interference against third party rights to object should be quite clearly defined under that legal framework belonging to the planning process. Whilst Politicians would be aghast at the thought of such malevolent interference in their election campaigns or at the ballot box, equally so, local people must not be left devoid of proper protection when they choose to comment on planning issues. If this is to be ignored then the statements in current planning documents about enabling local people to influence the planning of their own communities and government White Papers encouraging public involvement are most certainly in conflict with the ideal that the planning process is satisfactory and welcomes legitimate public involvement. There are those in society and in our communities who are obviously intent on breaching proper codes of conduct and to date they know they can get away with it.

W. Campbell  
5<sup>th</sup> February 2013