

PE1465/B

Directorate for Local Government and Communities

Planning and Architecture Division

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Andrew Howlett
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Edinburgh
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Your ref:
Our ref:
22 March 2013

Dear Mr Howlett

Thank you for your letter of 25 February inviting the Scottish Government to comment on Petition PE1465 by Mr Tony Ivanov calling on the Scottish Parliament *'to urge the Scottish Government to put legislation in place to enable local authorities to force owners of vacant plots of land within towns, including former green belt land and previously developed areas, to maintain and keep these plots of land in a manner befitting the local community'*.

You are seeking responses from the Scottish Government to 2 questions as set out below. I note that the Committee has also sought the views of COSLA and Falkirk Council.

1. What is the Scottish Government's view on the issues raised in the petition and during the discussion on the petition at the meeting on 19 February 2013?

The Scottish Government notes the petition calls for powers for local authorities to require owners of vacant land to maintain their land. The Scottish Government notes that there are already certain powers available under planning legislation that planning authorities may use to achieve this.

The Town and Country Planning (Scotland) Act 1997 (the 1997 Act) provides planning authorities with the power to issue a notice under section 179 (Notice requiring proper maintenance of land, commonly referred to as an amenity notice) of the 1997 Act. Where a planning authority considers that the condition of land in its area has an adverse effect on local amenity, the authority can require the owner of land to take action to remedy this. An amenity notice sets out what steps or actions the planning authority consider necessary to remedy the adverse effect. Where the notice is not complied with, the 1997 Act empowers the planning authority to take direct action to carry out the required steps or actions themselves and to recover the costs of such work from the landowner. Guidance on the use of amenity notices is set out in Planning Circular 10/2009: Planning Enforcement.

While the 1997 Act provides planning authorities with the power to issue amenity notices, it is for the relevant planning authority to determine whether it considers it appropriate to issue an amenity notice in any particular situation.

The Scottish Government acknowledges that there can be difficulties associated with serving and executing such notices where the current landowner cannot be readily identified; however this problem is not specific to such notices and would apply to any other powers intended to apply to landowners.

The Committee discussion referred to other planning matters; specifically, the possibility that planning permission may be sought and granted for a different use of land than the current use. Where a change of use of land was proposed it would be for the relevant planning authority to determine whether a planning application was required and, if an application was made, to determine it in the first instance.

The Scottish Government is undertaking a national review of town centres to scope out potential solutions to the issues faced by Scotland's town centres to enable a measured, long term approach to address these issues. An External Advisory Group (EAG), chaired by leading Scottish architect Malcolm Fraser, is responsible for identifying key priority areas as part of the review.

The review is not actively considering changes to legislation to force owners of vacant land, or any statutory agency, to maintain derelict land in town centres. The EAG are considering a range of options to help address the issue of town centre decline. The EAG are due to make their recommendations in April.

2. How many appeals have been made to the Scottish ministers against the imposition of a waste land notice in Scotland, broken down by local authority, over the last five years, and what was the outcome of each?

An amenity notice issued under section 179 of the 1997 Act can be subject to an appeal to the Scottish Ministers. An appeal can be made on one or more of several grounds, including that;

- there has not been any adverse effect on amenity;
- the steps required to remedy the adverse effect are excessive;
- that the period allowed in the notice for compliance is unreasonably short;
- that the condition of the land is a consequence of a lawful use; or,
- that the notice was incorrectly served.

The following table lists valid appeals received by the Directorate for Planning and Environmental Appeals between 1 January 2008 and 17 March 2013.

Planning Authority	Rec'd	Live	Withdrawn	Dismissed	Allowed
Argyll and Bute	1			1	
City of Edinburgh	2		1	1	
Dumfries and Galloway	1				1
Dundee City	1			1	
East Dunbartonshire	1			1	
East Lothian	1				1
Glasgow City	2		1	1	
Highland	3		2	1	
Loch Lomond and the Trossachs	2			2	
Moray	2	1		1	
North Ayrshire	3		1	2	
North Lanarkshire	1	1			
Perth and Kinross	3				3
Scottish Borders	2		2		
Stirling	2			1	1
West Lothian	5		2	2	1

The table shows that a total of 32 valid appeals were received in this period against notice issued by 16 separate Planning Authorities. Of these 7 appeals were allowed, 14 appeals were unsuccessful and a further 9 were withdrawn. The remaining 2 appeals have yet to be determined.

The Scottish Government notes that the Committee has asked COSLA for similar figures on the number of amenity notices served by planning authorities over the same period.

I hope this information is useful to the Committee.

David Reekie
 Policy Manager
 PAD: Planning Modernisation
 Scottish Government