

**PE1465/E**

**Directorate for Local Government and Communities**

Planning and Architecture Division

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Andrew Howlett  
Assistant Clerk to the Public Petitions Committee  
T3.40  
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Edinburgh  
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Your ref:  
Our ref:  
27 August 2013

Dear Mr Howlett

Thank you for your letter of 3 May 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'*.

I apologise for the delay in responding.

The Committee requests that the Scottish Government considers amending the Town and Country Planning (Scotland) Act 1997 to give local authorities enforcement and prosecution powers in relation to Amenity Notices issued under Section 179 of the Act.

The Scottish Government considers that enforcement powers for Section 179 notices already exist. Where a person fails to comply with an Amenity Notice that has been served upon them, the planning authority has the power to enter the land and to undertake any required work themselves, with the costs recoverable from that person. This means that planning authorities have the same enforcement power as

they would have with an enforcement notice issued under section 127 of the 1997 Act.

It is correct that there is no provision in the 1997 Act to allow for prosecution where a person fails to comply with an Amenity Notice. We do not believe that amending the 1997 Act to allow planning authorities to seek a prosecution (the decision to prosecute is taken by the Procurator Fiscal) is necessary for the following reasons;

- A power to prosecute exists for planning enforcement notices. It is very rarely used; we understand that less than 1% of enforcement notices result in prosecution.
- We are not aware of any evidence that Amenity Notices are routinely ignored or not complied with.
- The purpose of planning enforcement is not primarily to punish the person responsible for the breach of planning control, but to ensure that the breach is resolved.
- The important issue is that any work required by the Amenity Notice is carried out. As noted above, planning authorities have the same enforcement powers to ensure the work is carried out as they have with planning enforcement notices.

The Scottish Government has no plans to amend Section 179 at the present time.

I hope this information is useful to the Committee.

David Reekie  
Policy Manager  
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Scottish Government