



Briefing for the Public Petitions Committee

Petition Number: [PE1461](#)

Main Petitioner: William Campbell

Subject:

Calls 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.

Background

Public participation is a key aspect of the Scottish planning system and forms an integral part of the development planning and development management systems. The Scottish Government sets out consultation and participation requirements and best practice in [Planning Advice Note 3/2010: Community Engagement](#).

The Scottish planning system works on the assumption that all parties, i.e. the planning authority, applicants and third parties, operate freely and without any malign influence from other parties.

When considering a planning application, planning authorities can only consider issues relating to the development and use of land as set out in the Scottish Government's Scottish Planning Policy, which states:

“25. The Town and Country Planning (Scotland) Act 1997 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Material considerations should be related to the development and use of land.”

Issues such as bullying and harassment of third parties cannot, at present, be considered by a planning authority as part of the decision making process as they do not relate to the development or use of land.

Where someone feels that they have been harassed (verbally, physically or in writing), they should report the conduct to the police who will investigate the matter and decide, on the basis of the evidence which they have gathered,

whether to charge the individual concerned and send a report to the Procurator Fiscal.

Conduct which might be described as harassment can be prosecuted under Scots law as a breach of the peace. This common law offence covers all behaviour (including single incidents) which causes, or is likely to cause, fear, alarm, upset or annoyance. Breach of the peace is a wide-ranging offence and the courts recognise that it can be serious. Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 also provides for an offence of 'threatening and abusive behaviour'. It provides that it is an offence for a person to behave in a threatening or abusive manner towards someone if that behaviour would be such as to be likely to cause a reasonable person to feel fear or alarm.

Scottish Government Action

The Scottish Government has not considered the issue of harassment of third parties involved in the planning system.

Scottish Parliament Action

The Scottish Parliament has not considered the issue of harassment of third parties involved in the planning system.

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November 2012

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