



Northern Ireland
Assembly

**COMMITTEE FOR THE
ENVIRONMENT**

**OFFICIAL REPORT
(Hansard)**

**Clean Neighbourhoods and Environment
Bill**

11 November 2010

NORTHERN IRELAND ASSEMBLY

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ENVIRONMENT**

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Members present for all or part of the proceedings:

Mr Cathal Boylan (Chairperson)
Mr Patsy McGlone (Deputy Chairperson)
Mr Thomas Buchanan
Mr Trevor Clarke
Mr Willie Clarke
Mr John Dallat
Mr Alastair Ross
Mr George Savage
Mr Peter Weir
Mr Brian Wilson

Witnesses:

Mrs Ashley Graham) Countryside Alliance
Mr Lyall Plant)

Ms Emily Jeffrey) Kennel Club
Mr Steve Jenkinson)

Mr Tom Ekin

The Chairperson (Mr Boylan):

We will receive briefings from the Countryside Alliance and the Kennel Club on the Clean

Neighbourhoods and Environment Bill. I know that the witnesses from the Countryside Alliance have not yet arrived, but I will invite the witnesses from the Kennel Club to start the presentation. I welcome Emily Jeffrey, senior public affairs officer of the Kennel Club, and Steve Jenkinson, access adviser.

Ms Emily Jeffrey (Kennel Club):

The Kennel Club is the UK's largest organisation dedicated to the health and welfare of dogs. Within its broad remit, the Kennel Club aims to protect and promote in every way the general improvement of dogs. Since the introduction of the Clean Neighbourhoods and Environment Act 2005 to England and Wales, on which this Bill is modelled, the Kennel Club has monitored the growth in restrictions on access for dog walkers and campaigned to improve the management of public space in order to balance the needs of those with and without dogs.

Although the Kennel Club generally favours approaches that place greater emphasis on informal management of land, it views a national framework of dog control orders as a means of ensuring consistency and fairness in managing access, provided that accompanying guidance is followed.

Mr Steve Jenkinson (Kennel Club):

Irrespective of any changes in the law, the Kennel Club believes that the key to successful management of land with public access, while recognising and respecting all interests, is based on sound practical implementation on the ground. That mirrors, in essence, the Sandford principle, in that formal restrictions on access should only be implemented where any conflicts cannot be resolved by good management.

Unfortunately, the experience of KC Dog in recent years has been that, certainly in England and Wales, there is still a culture in some parts of local and central government that instinctively

seeks to make knee-jerk, disproportionate and excessive restrictions on walkers with dogs, with little or no evidence to support them and without paying attention to the many positive aspects of dog ownership. We feel that the same attitude is also prevalent among a significant number of land managers.

Indeed, a lack of compliance with any access restrictions has often been attributed to alleged widespread irresponsibility of walkers with dogs. So, in 2006 the Kennel Club jointly published with Hampshire County Council and the then Countryside Agency the report 'Understanding the Psychology of Walkers with Dogs', a study conducted by the University of Portsmouth. Based on the findings of that study, the Kennel Club believes that, in fact, in the majority of cases access authorities' adherence to well-established principles of good visitor management plays a far more important and influential role on compliance, hence our stance in favour of that approach. More recent research, which was part-funded by Natural England, has also shown that land and access managers have themselves inadvertently added to the conflict by providing information to dog owners that is unclear, inconsistent and misleading.

In particular, without good management, dog control orders can simply displace problems, pushing dog owners onto farmland and other areas where they have not been before, potentially leading to increased conflict with livestock, farmers and wildlife. The Kennel Club acknowledges that a case can be made for restrictions in certain instances, but to ensure that that makes things better for dog owners and landowners alike, we simply ask that an objective, proportionate and evidence-based approach is adopted in each case.

Ms Jeffrey:

One of the issues highlighted in our briefing on the Bill, which has been circulated, is the need for central data collection and monitoring of the restrictions, as we feel that without a strategic overview of access provision for dog walkers it is impossible to gauge whether the use of the restrictions is effective, fair and offers good value for money.

The Kennel Club recently issued a wide-ranging freedom of information request to all authorities with the power to make dog control orders in England and Wales. That constitutes the first comprehensive set of data on access provision and the use of dog control orders in England and Wales to date. We believe that the Committee would benefit from knowing the findings of that research and the experience of implementing orders in England and Wales.

From the data collated so far, the Kennel Club has found that over 50% of respondents do not have any intelligence relating to the cost of creating those orders, such as costs relating to consultation expenses or signage. Of the respondents able to provide details of their expenditure, the mean average spend per local authority was £10,894.56. However, the detail of those costings varied significantly between councils in that a large number indicated that there were extra costs in addition to those given in the data but not included in the figure; for instance, officer time or the cost of the consultation process. A significant number also indicated that the figure given was only an estimate.

The highest spend by a single authority was £313,174, spent by East Lindsey District Council, though that was not a particularly outstanding amount. There was often a huge differential between expenditure on and income from dog control orders. For instance, Middlesbrough Council spent £109,461 on dog control orders and has only brought in £1,547 from fixed penalty notices. That represents a recuperation of just 1.4% of the total expenditure.

Redcar and Cleveland Borough Council implemented an exclusion dog control order in one cemetery and raised £37,666 in two years, which equates to around £392 a week. That begs the question of whether the dog wardens there are doing anything other than enforcing that one exclusion order. Of the respondents that had implemented orders, just over 66% carried out only the minimum statutory consultation, such as placing an advert in a local newspaper, and just under 7% claimed to have either carried out no consultation or to not know what consultation they had carried out.

Our position on specific types of orders is that the Kennel Club supports the use of dog fouling orders and dogs on leads by direction orders, and appreciates that there will at times be justification for the use of dogs on leads and dog exclusion orders, though we want those to be used as frugally as possible. We do not support the use of maximum number of dogs orders, as we consider them to be arbitrary. The Kennel Club understands that there may sometimes be issues regarding an owner's ability to control a large number of dogs in public; however, that can be equally true of people with one or two dogs, rendering that particular order useless.

The Kennel Club believes that the other orders introduced in the Bill — the dogs on leads by direction orders and the dog fouling orders — would be adequate to deal with the potential negative consequences of anyone struggling to control a large number of dogs. However, that would not preclude establishing a permit scheme to regulate walkers of large numbers of dogs if it were thought necessary.

The Kennel Club is seeking the introduction of a right of appeal against the types and extent of orders implemented or an obligation to review orders after a certain period; for instance, two years. Although we envisage appeal being an absolutely last resort, we feel that it is necessary to ensure that a fair process is followed, which takes into account the needs of all access users. Under the current Bill, once orders are implemented there is no mechanism to challenge the fairness of them, even if they are clearly disproportionate to the problem that they seek to address.

Our concern about the proposed regime is borne out by examples of excessive uses of powers in England. For instance, Southend-on-Sea Borough Council took a decision to ban dogs from every beach in its jurisdiction during the summer, despite calls to make a proportion of those beaches available to dog walkers. Although there is no evidence of a balance being struck between the needs of those with dogs and those without in this case, there is clearly no means to challenge the fairness of the decision other than judicial review.

We are also seeking a requirement on local authorities to consult those directly affected, including dog owners who regularly use the affected areas. That could be done simply by providing an officer presence in parks, beaches or gardens included in the proposals, and/or by writing to or attending meetings of local dog-training clubs to publicise the orders. Again, our research shows that only 13.7% of the authorities in England and Wales that carried out consultations actively approached dog owners or training clubs and over 86% of them failed to do so.

The Kennel Club also wants local authorities to be required to specify the land to which any proposed orders will apply. We view that information as absolutely integral to ensuring that meaningful public consultation can take place, because without it consultees would find it impossible to give an informed response. Sadly, though, that has not occurred in at least two cases that we know of. Torridge District Council and Adur District Council, both in England, published and implemented dog exclusion orders for facilities signed at the entrance as a dog exclusion area, which is not very specific, or duly foresigned areas, which is also not very specific.

We believe that there should be a requirement for authorised officers tasked with enforcing legislation to hold or undergo training in dog behaviour, to enable them to adequately determine when to use the dogs on leads by direction order. We suggest using wording similar to that in the Control of Dogs (Scotland) Act 2010:

“the person is skilled in the control of dogs and has the capacity to instruct and advise others in matters relating to the control of dogs.”

That would ensure that the orders are enforced to a fair and consistent agreed standard.

I thank the Committee for giving us this opportunity to make our presentation.

The Chairperson:

Thank you very much. I am mindful that some members have to leave within the next 15 minutes, so I will give Lyall an opportunity to say a few words about some of the issues that the Countryside Alliance has with the legislation and I will then briefly open up the session up for questions.

Mr Lyall Plant (Countryside Alliance):

Thank you, Chairman. I apologise for the timing; we were informed that we were required for 11.00 am.

We fully support the Kennel Club's position. However, we have a few further problems with clause 38. We welcome most parts of the Bill and believe that it will be beneficial to the people of Northern Ireland.

Our main issues are with the order relating to the fouling of land by dogs and the removal of dog faeces. Our organisation fully supports the order. We believe that it will serve to maintain the standards of responsible dog ownership and encourage those who have not upheld those basic principles before. However, as evidenced in the paper by the Assembly Research and Library Services and highlighted by the Kennel Club, problems have arisen in England. Therefore, we believe that for the order to be implemented successfully there needs to be proper disposal facilities and education on dog fouling.

As regards the keeping of dogs on leads, our organisation is concerned with animal welfare; in this case, what is best for dogs. An adequate amount of exercise is vital for a dog's mental and physical health. Without adequate exercise, a dog can become bored, nervous and even aggressive, which can form the beginning of a vicious circle. Exercising a dog off the lead can optimise the time available and ensure that the dog receives a higher amount of exercise.

Interaction between dogs can help to prevent aggression and to teach appropriate boundaries and behaviour.

Countryside Alliance Ireland supports the dogs on leads by direction order. That will ensure that local councils have the power to deal with irresponsible dog owners, while allowing responsible dog owners the previous levels of fundamental freedom. If a dog is deemed to be out of control, it is reasonable for the owner to be directed to restrain the dog on a lead. The main issue here is what level of activity is deemed to be out of control. We believe that authorised officers tasked with enforcing legislation should undergo training in dog behaviour to enable them to adequately determine when to use the dogs on leads by direction order.

We believe that the exclusion of dogs from lands is excessive and will unnecessarily reduce the freedom of movement and the public access allowed for dog owners. If both the dog fouling and dogs on leads by direction orders are enforced adequately and adhered to, there should be no reason to exclude dogs from lands. We are aware that there will be exceptions to that; for example, to ensure compliance with European nature conservation regulations. We are concerned that by not offering guidelines to local councils on that matter, there is a risk that they will take draconian measures.

I will now discuss the order relating to the number of dogs that a person may take on any land. We believe in and understand the need to regulate professional dog walkers, and we support the Kennel Club's thoughts on that. However, we believe that the aforementioned orders are adequate to contend with the potential negative consequences of dog walking. We consider the use of this order to be arbitrary and not pragmatic and, therefore, oppose it. We instead suggest establishing a permit scheme or licensing system to help to regulate professional dog walkers.

The order has the possibility of alienating the countryside and country sports community.

There needs to be a clear exemption for working dogs and packs of hounds or beagles. Without the exemption, there is a possibility of persecuting country sports groups that are carrying out their normal activities. The purpose of the Clean Neighbourhoods and Environment Bill is not to restrict or prohibit country sports and it should, therefore, provide a clear exemption in primary legislation for any such activities. The prerogative of exemptions should not be devolved to local councils. The main issue of concern is public meets, such as on Boxing Day or New Year's Day, where hounds gather in a public place or a main thoroughfare or cross a main road.

Related to the Clean Neighbourhoods and Environment Act 2005 in England and Wales, the majority of councils there have an exemption for working dogs, which is a dog that fulfils a job, and hounds. In addition, there is the issue of infringing on the rights of rural dwellers. The majority of those dwellers will have more than one dog, and a substantial number may have upward of five dogs. This order would restrict their right to pass over a public road or path when travelling between private lands. We are concerned that the devolution of power to local councils could lead to the draconian laws that have been highlighted by the Kennel Club and to a disproportionate response to the irresponsible behaviour of a minority of dog owners.

The Chairperson:

That was a good plug for rural sports and for the Countryside Alliance. Thank you both for your presentations. Have you looked at how much it will cost for training officers in dog behaviour? Will you respond to the issue of the number of dogs and the control of dogs on leads? How has legislation in England and Wales worked? What can we learn from practice there? Is there better practice here?

Ms Jeffrey:

We have not established the costs of that training, but we have worked quite closely with the Welsh Assembly to discuss taking forward a training programme with their officers to regulate the breeding licensing there. We are willing to do that. Obviously, there will be a cost, but the

level of training needed by dog wardens is minimal. It will probably only take one day to get to grips with the key issues. We could do an awful lot more training than that, but we are talking about quite basic standards of enforcement. What was the second question?

The Chairperson:

It is about the number of dogs that can be walked by one person. What is in legislation now and what is proposed?

Ms Jeffrey:

In England and Wales, the Department for Environment, Food and Rural Affairs guidance recommends six dogs. It is up to the local authority implementing the orders as to whether it goes for six. We have seen cases of four, but I have never seen more than six. However, as we said, our concern is that that is quite an arbitrary way to tackle a problem that exists in a minority of cases, and we feel that it would be very difficult to enforce. We could have a permit scheme instead, if it is felt particularly necessary to regulate professional dog walkers. My understanding is that that was the original impetus for that order in the England and Wales Act, and my understanding is that there is not the same issue with professional dog walkers here.

Mr Jenkinson:

We need to remember that, even on the wet days that we have seen recently, dog owners are out there. We are trying to encourage people to feel happy on the outside and to take exercise and do everything that is linked with the health agenda. Our concern is that we do not want to lose those things. The more proactive authorities have recognised that there are places where they need to restrict dogs, either because some people do not like them or it is inappropriate to have them in certain places, but they have offered other places for them to go, where they will be welcome and where dog bins etc are provided. There has been no need for formal enforcement, because they have just made it easy for dog owners to go somewhere where they will feel welcome. They do not want conflict either, and that has worked really well.

The authorities in places where it has worked best have not actually used the legislation but have recognised that dog walking is a recreational activity, like sailing, having children or climbing, and asked how they should accommodate it in areas such as public lands and state forest lands. It works in those cases, whereas, as I alluded to in my paper, where authorities have just banned dogs from all their beaches, dog owners will still find somewhere to go, because being able to exercise a dog off-lead is really important, both to the person and the dog, as my colleague was saying. If it is not managed proactively, dog owners will go somewhere where the local authority has no control. Sometimes they will go into areas that are special for wildlife, or into farmers' fields where there are sheep.

We do some "mystery shopper" exercises in which we ring around councils and tourist information centres, explain that we want to be a good dog owner and ask where we can take a dog for a walk at a particular time of the year, perhaps when there is lambing going on. Some of them say that we cannot take them in the park but we should take them for a run on the moors or in the fields. When the public hear those messages from local authorities, you can understand how they end up in conflict. The guidance should say that if councils want the restrictions, they must deal with the reality that those people are going to go somewhere. It is a bit like restricting parking in a town. People are still going to want to park somewhere.

We know that being proactive and managing the situation well actually benefits the people for whom the orders are made, but there is a little bit of denial. Sometimes we have seen that one authority will do an order and it just pushes dog walkers into the next council area. It perpetuates conflict, which is not good for anybody. The general principles are fine, but they need to be used as a management tool, not for people to just use the legislation, because that is kind of naive. People are not going to get rid of their dogs and will still need to exercise them, so councils should look at good management of where they go, rather than just trying to stop them doing it.

Mr Weir:

Thank you for your presentation. The Chairperson covered one issue that I was going to cover. I

would like clarification on the issue of right of appeal for a dog control order. How do you see that working? Who would the appeal be made to, and who would have the right of appeal?

Ms Jeffrey:

Obviously we will wait and see whether that amendment is tabled and passed before we work out the finer details of it. We would want to look at the framework for other appeals processes to decide who the appeal should go to, but the point that we were trying to get across is that it will not be a case of someone being issued with a fixed penalty notice and appealing that. It is about appealing the extent of the order. Someone such as the Local Government Ombudsman would probably be appropriate.

Mr Weir:

So, it is an appeal on the general principle rather than the detail of a control order.

Ms Jeffrey:

Yes, that is what we are seeking to get included in the Bill.

Mr McGlone:

Thank you for coming along to see us here today. I will focus on the points made by the Countryside Alliance; it is good to have you along to advocate the needs of those with hounds and beagles. Chairperson, we need to seek some detail from the Department to clarify that the Bill will not adversely affect rural sports activities, which are a rural way of life for many people, particularly at certain times of the year. Is the Committee happy enough to do that?

The Chairperson:

Certainly, yes.

Mr W Clarke:

Thank you for your presentation. That Chairperson covered most of the points that I wanted to make. I declare an interest as a local councillor. I agree that there should be zoning of areas for dog walking, otherwise there would be difficulty with environments such as picnic areas, children's play parks or recreational beaches. You covered it quite well; there is a need to provide alternatives and get a balance so that dogs can be let off the lead. Responsible dog owners must be entitled to an area in which to do that. It is a natural thing for a dog to do and it is good for its well-being. I agree with that, and I think that most points were covered.

The Chairperson:

If no other members have any questions, I will thank the witnesses for their presentations. I will just say that, Lyall, I have a different point of view: I think that you should be able to jump over the gate and away you go, as long as the dog is well trained and well looked after.

Mr Weir:

But what does the dog do? *[Laughter.]*

The Chairperson:

However, you are correct; you have highlighted an issue that might arise from the Bill, regarding freedom of movement, particularly in the countryside. I know that we talked about that previously, Emily.

Just for reference, the dog generally jumps over the ditch while I get over the gate.

Mr Plant:

Thank you, Chairperson. Just to follow up on Willie Clarke's point, in north Down most of the children's areas are separated-off with railings. For example, Donaghadee commons is a fantastic

spot. It has a beautiful park for children that is separated-off with railings, and outside that responsible dog owners can walk their dogs on or off leads, and there are enough blue bins around for people to use. However, there is a problem with dog fouling because there are people who come out at night or early in the morning and do not pick it up. As a responsible dog owner, when I walk in Donaghadee commons, with my bags in my pocket and my dog on its lead because he would swim to Scotland and back otherwise, I do not like it when irresponsible people leave dog faeces and somebody walks past and looks at me as if my dog did it.

The Chairperson:

You must explain to me what that commons is; we would not see that round Armagh district. Once again, thank you very much. We will take on board your comments about the Bill.

Mr Jenkinson:

Thank you for your time.

The Chairperson:

We will now receive a briefing from Mr Tom Ekin on the Clean Neighbourhoods and Environment Bill. A submission has been provided and is included in members' packs. Mr Ekin, you will have between five and 10 minutes to make a presentation, after which I will open up the session to members' questions and comments.

Mr Tom Ekin:

Thank you, Chairman. I do not know what information is included in member's packs or whether the submissions that I made to various people have been provided. However, if members have read my submission, they will have detected a sense of urgency about the need to get on with things.

I am in business in the private sector, and I make decisions fairly quickly, some of which are right and some of which are wrong. However, by and large, I get 55% of them right. My attitude is to simply get on with things. For my sins, I am also a councillor in Belfast City Council. However, I am not speaking as a councillor but as a taxpayer largely. I am speaking as somebody who has seen documents coming through Belfast City Council for the past five or six years. I used to read those documents, but I stopped doing so, because I became totally fed up and bored with them. I am not going to waste my life reading that stuff. We must make decisions and change our attitudes in order to get things done here more rapidly than before.

As an agitated taxpayer, I recently asked the question: will this legislation be in place before next May? If it is not in place by then, I have been told that it will be delayed until the next mandate starts. However, if that were to happen, I would get very annoyed and would condemn it as a waste of taxpayers' money and of the powers that were meant to come with devolution. It would drive most of us insane. I, therefore, urge you to get it completed sooner rather than later. When I ask whether the legislation will be in place by the end of this session, I get statements such as — *[Interruption.]* My apologies; I tried to switch off my phone.

The Chairperson:

Somebody is phoning to let you know that we are going ahead with this.

Mr Ekin:

I am sorry. It is a new phone; I lost the last one. I apologise, because that is unacceptable behaviour.

I was recently told that the Assembly endeavours and hopes to get the legislation in place by the end of this session. That is unacceptable; it must be in place. Somebody must set the date by which that should happen, and perhaps that person is you, Chairperson.

I will now deal with a couple more issues. These are general issues; I do not know the detail, because I got fed up looking at the detail three years ago. We must learn from other councils' experiences of the activities that they have carried out and the problems that they have encountered. Let us not have laws that counter that.

I am thinking of a couple of specific issues. I told city council that ownership of buildings seems to be an issue, and it needs to be redefined. We must have open enough powers that enable us to say that the person who is perceived to be an owner is the owner, because then we can start to act. It must be remembered that the review of public administration (RPA) was meant to give councils a lot of powers. Perhaps we will now get the son or daughter of RPA; I do not know. However, something will be put in place, and we must ensure that that gives councils the powers to address the things for which councillors are being blamed.

The other day, I spoke to somebody in the street who said that a particular problem was the council's fault. However, from my inside knowledge, I knew that it was not the council's fault but somebody else's. We must move on. Some time ago, I was particularly irritated when somebody dumped what looked like derelict vans in the middle of Belfast. However, nobody could get any of the Departments to respond. City council, the police and environmental health could not do anything about it. Eventually, out of a sense of great annoyance and the fact that people were shouting at me in the street and asking me what we were doing about it, I went to the Department for Social Development (DSD) and said: "I am going to go public with this and annoy the hell out of you". The city council could not do anything; the councillors just had to sit and look on. This legislation has to give the powers to the people who are allegedly in control of an area.

Another simple answer is to get the responsibility and penalties where they should be. My neighbours are all retired and, as you guys know, retired people are all blooming well pains in the neck, because they are the most agitating. However, they are dead right in what they say. Belfast

city centre is a mess, and the Streets Ahead project is meant to be going ahead. However, Belfast City Council does not have the rules to penalise the people who are responsible. DSD is responsible for caravans. That is an unclean and unsafe neighbourhood. Everything is against it, but nobody seems to be able to take responsibility.

I have travelled the world and have seen places where there is fly-posting and places where there is no fly-posting. I tried to get the rules on that changed some years ago, but Joe Drew of Roads Service stopped us. That is not a surprise; Roads Service seems to stop a lot of things. Why can we, as the city council that gets blamed for those things, not take instant action? The last bit of legislation that I read suggested that we will go after the person who hangs up the poster. Does anybody ever see those people? I have seen one: he was bigger than me, so I did not say anything. The beneficiary must pay, and the council must not pussyfoot around and impose £10 fines or whatever. Eamonn McCann makes a lot of money out of the projects that he advertises. His posters need to be there for seven days.

The Chairperson:

Be very careful when mentioning names.

Mr Dallat:

He will not mind.

Mr Ekin:

He will not mind because he was willing to help —

The Chairperson:

I certainly mind.

Mr Ekin:

The person who benefits most from the posters needs them to be there for about seven days to maximise the effect. That is fine. The last time that I saw any documentation, we were talking about giving 14 days' notice and then chasing the guy who used the paint. Roads Service stopped us having a process to regularise that. I saw a system in Halifax, Nova Scotia a long time ago. People who want to have commercial events there can organise them, and people who want to have charity event such as a bring-and-buy sale can do that, but it is controlled. We do not that, and, when I last looked at the legislation, it did not give us the powers to regulate that, to override Roads Service objectionables or to chase after the beneficiaries.

I want to raise another appalling example. I do not know how many members know the Lisburn Road, but there are about three derelict sites there where buildings have been half pulled down. It is a total mess. Can I get anybody to take responsibility to fence it off or close it off? No. Can the city council do it? No. Will the Department for Regional Development (DRD) do it? No. Will the owner? No. The owner claims to be in liquidation or administration, and nobody will do it. Who takes responsibility?

My final point is that I could not see a catch-all clause in the Bill. I know that the legal people will say that we cannot have such a clause, but councils get blamed for everything. I, as an elder citizen, get sworn at for not moving things forward and asked whether I can do anything about certain issues. The legislation will never be perfect. People will always find ways round it, but it is better to have an imperfect law now than a perfect one some time. I do not know when that would be. We will never get it right. Therefore, I urge the Committee to take on board those general ideas to get responsibility pushed into council to give them the flexibility to look after the areas for which they are perceived to be responsible.

The Chairperson:

I am glad that you want legislation to be put through. I have listened to some of the issues that

you have mentioned. All public representatives, especially those on councils, have had the same issues in their own areas.

In the work programme for this Committee, we are sitting with four Bills. I think that we are finishing off scrutiny of two at the minute. As Chairperson, I would like the support of the Committee to push that legislation through in this mandate. The Clean Neighbourhoods and Environment Bill is one of those Bills, and we are going through it. I think that it is a good Bill. It will not be perfect, but we have an opportunity in this Committee Stage to try to address some of the concerns that have been raised about it.

You raised the issue of fly-posting, which we have all seen and suffer in our constituencies. Are you suggesting that an official area should be designated for that? I know that you highlighted the fact that it is a cross-departmental issue, involving, for example, DRD. We have to tease all that out and see how we will co-operate and work with the different Departments to deal with that issue. Do you believe that a designated area is way of addressing the issue of fly-posting? Is it a way forward for councils to pick an area outside a town and erect a hoarding with planning permission for people to advertise on it?

Mr Ekin:

It is a way forward but, being pragmatic, designating one site in one town or one area is probably not practical. What I saw in Nova Scotia was several limited areas where notices could be placed and were removed periodically by the council. However, I also saw notices pinned to trees and on walls. So, I would not say that it is enough to have just one specific site.

The Chairperson:

Whether it is one or three or four, I am only asking whether you think that it is a way forward for councils to take responsibility for undertaking such a scheme.

Mr Ekin:

I believe that that is way forward, yes, where it is a controlled site.

The Chairperson:

OK, thank you. You also mentioned derelict buildings, which is an issue that concerns many members. I know that it is raised in this Bill and that it is cross-departmental. It is an issue that the Committee certainly wants to look at.

Mr McGlone:

Mr Ekin, thanks very much, you are a breath of fresh air. I am glad that there is someone outside this room who appreciates the frustration that we feel, as elected representatives who spend day after day doing line-by-line scrutiny of legislation, just for it not to be implemented by a Department for whatever reason. On many occasions all we get are reasons why not to implement legislation. Coming from the private sector, you will know that that is not the way to run a business or an organisation. So thank you for being absolutely frank with us, and I hope that, in return, we will be absolutely frank with you.

We discussed the matter earlier and I — along with other members, I am sure — am deeply concerned about the incapacity of the Department to implement legislation that is enacted but is sitting on shelves gathering dust. We are seeking assurances on that. Earlier today, we discussed how we want a Department that does something and tries to get legislation implemented on the ground. We are picking up from constituents their frustrations about things not happening, just as you are picking that up from the grass roots, which may be a wee bit remote from the Department on occasions. So, we can lick thumbs on that one, and thank you for your breath of fresh air. Perhaps you could get a job over at the Department.

Mr Ekin:

No thanks.

Mr McGlone:

You could get a few things moving on.

The Chairperson:

Mr Savage, do you have a question? You are very welcome to the Committee.

Mr Savage:

Thank you very much, Chairman.

Tom, I am glad that you are trying to get fly-posting dealt with. We have the same problems in the Craigavon Borough Council area. Councils having the power to do something about it is long overdue.

I am very interested in what you said about how we deal with derelict land, deliberately burned buildings and rubble on the sites of demolished buildings. That is a major problem. A couple of examples come to mind of sites where buildings have been burned down. The people who own them want to do something about it and replace the buildings that were there, yet they cannot get planning permission to do that. Some sort of legislation has to be put into place for people who own such sites and want to tidy them up and bring them back into use. As it stands, such people cannot get planning permission and cannot do anything about it. Something has got to be done about it, and I am glad that you raised it today.

Mr Ekin:

I think that Craigavon Borough Council should be empowered to say to the owner of the land — assuming that it was they who demolished the building — that they must tidy that place up. I do not know why that is not in the legislation. Surely, owners of land have a responsibility to look

after the land and keep it kempt. I recall that we once had to use the health and safety legislation to deal with a derelict site, but we had to find a couple of rats on the land first. That was daft. It was a beautiful country park, and houses were knocked down. There was a lot of rubbish there, and people came and burned the remaining bit that had not been knocked down. There were fires and a lot of junk was dumped there, but we had to wait until we found rats before we could call in the health and safety people. That was a nonsense. As soon as the building was knocked down, the council should have been able to tell the owner that they had to clean the site within a short time and, if not, the council would clean it and bill them for it. Perhaps that is pie in the sky.

Mr Dallat:

Thanks, Tom, for your presentation. I would like to better gauge the depth of your feelings on these matters. Will you give us an indication of what you mean by a fine: is it £50, £500, or £1,000? At what level would you pitch the fine?

Mr Ekin:

I have had difficulty with that, because what I regard as a punitive fine other people regard as something like an execution. I do not believe that £50 fines work. It also depends on the size of the site. There are two sites on the Lisburn Road that have been in a bad condition for a long time. The guy who created the mess probably spent around £5 million buying the site, but he is now in administration. I would have thought that he should be fined a couple of thousand pounds for not blocking off the site, because it is defiling the whole street. The house that I talked about a moment ago in Barnett's Park —

The Chairperson:

There are certain buildings in Belfast that may need work done: put it that way. Be very careful about mentioning names.

Mr Ekin:

I will get into trouble.

The Chairperson:

You are talking about certain buildings. To be honest, it is across each area, it is not just in reference to one thing.

Mr Ekin:

Sorry, Chairman; I get a bit excited. Just keep your thumb on me.

I just do not know what the fine should be, but I know that a slap in the wrist is no use with most people; they will either laugh at it or ignore it. I would have thought that, in this day and age, anything less than £1,000 is not going to get anybody's attention.

Mr Dallat:

Is there a need to redefine what fly-posting is? Like everything else, it has moved on. In the old days someone took a bucket and posters were slapped up everywhere. People still do that, but councils have become quite sophisticated in how they fly-poster; they have expensive attachments on every lamp post. If councils festoon a town from one end to another with things promoting festivals and flower shows, how can you ask other people who may not have the same resources to stop fly-posting of, perhaps, a more menial type?

Mr Ekin:

I do not know. I think of the "Merry Christmas" signs in Belfast at the moment: are they fly-posters or not? If there are designated sites and posters are put on the designated sites, that is it.

Other than that, people have to get planning permission for signs.

Mr T Clarke:

Tom, you said that you are in business: what sort of business are you in?

Mr Ekin:

I have developed the fastest-growing high-tech business park in the world: Weavers Court Business Park. It is a scientifically based, high-tech facility in Sandy Row.

Mr T Clarke:

Do you have tenants in that?

Mr Ekin:

Yes.

Mr T Clarke:

I am sure that those people have to advertise their business. How do you think that they would feel if there were official hoarding signs and others were getting free advertising and hoarding space? What are your thoughts on that?

Mr Ekin:

I know that, in some places, people have to pay for fly-posting. Some years ago I worked with another guy on a scheme that he was to organise and manage, and people would pay for him to put up decent signs.

Mr T Clarke:

Do you think that people will pay for it?

Mr Ekin:

People who fly-post should pay for it. Indeed, if they put posters on official sites, that will fund it.

Mr T Clarke:

You talked about derelict sites: we will not be specific about where they are. You mentioned an example where the owner has gone into administration. However, you are still talking about large fines. How could you fine someone who is in administration?

Mr Ekin:

First, I would like to think that it will not get to the point of having to fine the person. A fine is supposed to be preventative. To answer your question, in cases of administration there will generally be some assets left, so the fine would join the list of creditors and if a penny or 50p in the pound can be recouped, that is what happens.

Mr T Clarke:

The main reason why people are in administration is that they bought property at the height of its value in the market and it has dropped immensely. Surely, in the scheme of things, a £1,000 or £2,000 fine for not putting up a fence is pointless against a £2.5 million debt. I assume that those who are waiting to get money, particularly the banks, will get first call. Therefore, the £1,000 or £2,000 fine will never be paid because it will never feature in relation to the value of the property. It is OK in theory to put out pie-in-the-sky ideas but, sometimes, there is no way to recoup the money. We are listening to ideas that apply in the ideal world, but we are not in the ideal world anymore.

Mr Ekin:

Most of our life is not spent in recession. Most people who fly-post and suchlike work in a vibrant, working economy.

Mr T Clarke:

You gave an example about a person who is in administration. Yes, we will not always be in difficulties, but many buildings are redundant because, due to financial difficulties, the owners cannot move on with projects.

Mr Ekin:

That could be the case.

Mr T Clarke:

More often than not, buildings are redundant because the developer does not have the wherewithal or the money to finish the projects.

Mr Ekin:

I will give an example. If one goes through Shaftesbury Square or has done so in the past five years, one will see a building there that has been derelict and empty that whole time. Even at the height of the boom time it was a total mess.

The Chairperson:

I am a poor old country boy. The next time that I am driving through Belfast I must have a look at all the streets that you mentioned. Mr Clarke is absolutely correct about some of the derelict buildings. At this moment in time, the majority of derelict buildings are not in that state because of a lack of planning or because of the Planning Service; it is because of the financial situation. I

may seek clarification from the Department on this, but I believe that the Waste and Contaminated Land (Amendment) Bill contains some powers to allow people to go on to derelict sites. We welcome that power.

Mr McGlone:

I have seen a number cases of site owners going into administration. As everybody in this room will know, NI Water and Roads Service retain a bond. Is there any prospect that, when an initial application goes in, the council or some agency could retain a site enhancement bond that could kick in if the development does not go ahead? If the development goes ahead, that is fine; the person will get the money back as they do from Roads Service and NI Water. However, if the company goes into administration, Roads Service and NI Water could complete the work using the retained bond. Is there any possibility of having a site enhancement bond that could be retained by the council upon application for the site? Is that an idea?

Mr Ekin:

It is certainly an idea. I do not know how it would work, but I am open to any ideas. It is about getting the site tidied. The target is to ensure that the place is cleaner and tidier and that councils, which seem to get most of the blame for such things, can do something about it.

The Chairperson:

I know that when people in the countryside are looking to build a replacement dwelling or a dwelling, they sometimes use certain terminology about reusing an old building for planning gain. Buildings that sit there after their shelf life has expired are sometimes used to get —

Mr T Clarke:

That is slightly different, Chairman. The problem with most of these developments is that the developers concerned have been fairly speculative and have targeted deprived areas so that they can knock down houses and build big shops and nightclubs. That is slightly different from

replacing a redundant building in the countryside with another house.

The Chairperson:

It is not a planning issue. I was only using that as an example.

Mr B Wilson:

I declare an interest as a councillor. I totally share all of your frustrations, Mr Ekin. We have come across all the different types of cases to which you referred. In a number of cases, owners simply allow their sites to become derelict, which attracts fly-posters and everything else. Environmental health has been trying to find some way of taking action to deal with that but, in many cases, no actions are available to its officers; they have to find rats or something like that first. That is extremely frustrating. You talked about an all-embracing nuisance clause on nuisances that cannot be anticipated. I totally agree with the sentiment but it would be difficult to legislate on that. What are your thoughts on it?

Mr Ekin:

Like you, I do not know how that would work. I do not know how the legislation could be worded to provide the freedom to do that. That is why I talked about a catch-all clause. Legal draftsmen want everything tightened so much that everything is specific, so the legal guys spend a lot of time arguing about the specifics instead of the principle. It is like that old expression: you know what an elephant is but you cannot describe it. I do not know how to get there. However, that is what I, as a taxpayer, want councils to be able to do. I hate seeing my money being squandered on fixing things that should not have been broken in the first place. By that I mean, for example, councils having to paint over fly-posters that should not have been there in the first place. That is such a total waste. I cannot answer your question. Ideally, I want open flexibility.

Mr Weir:

I understand where you are coming from on that specific point, Tom. However, the reason why

legal draftsmen want the wording tied down is because they know that whatever is specifically set out in the Bill will potentially be tested in the courts, whereas the general principles of the policy cannot be. The provisions must be legally workable and be able to survive any challenge mounted in the courts by somebody who has been prosecuted under them. Any catch-all, vague provisions would be meaningless because they would not stand up to scrutiny. Do you, therefore, accept that your proposal presents a real, practical problem?

Mr Ekin:

I do indeed.

The Chairperson:

Thanks for your presentation, Tom. A couple of different issues have been raised relating to the term “derelict”. Obviously, some buildings out there are dilapidated and falling down, and the policies on rats and the Waste and Contaminated Land (Amendment) Bill might deal with that issue. Your point is that those buildings are not being reused, especially in the city. However, that is a financial issue. Perhaps the departmental officials who are present could look at what legislation is in place to address some of the issues that have been raised today about dereliction. Thank you, Tom.

Mr Ekin:

Thank you for your attention.