



Northern Ireland
Assembly

**COMMITTEE FOR
REGIONAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

**Clean Neighbourhoods and
Environment Bill**

15 September 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Fred Cobain (Chairperson)

Miss Michelle McIlveen (Deputy Chairperson)

Mr Cathal Boylan

Mr Allan Bresland

Mr Danny Kinahan

Mr Billy Leonard

Mr Fra McCann

Mr McCrea

Mr Conall McDevitt

Witnesses:

Mr Des McKibbin) Assembly Research and Library Services

Mr Gerry Anketell)

Mr Chris Galbraith) Department of Regional Development

Mr Brian O'Neill)

Mr Robert Grey) Department of the Environment

The Chairperson:

We will move on quickly to briefings on the Clean Neighbourhoods and Environment Bill.

The Committee Clerk:

Members, there will be two briefings on the Bill. The first is from Research Services. Hansard is present to record the meeting. The Committee's views will be relayed to the Committee for the Environment because it is the Department of the Environment's Bill.

Mr Des McKibben (Assembly Research and Library Services):

The presentation is based on research that was requested by the Committee on the alley-gating provision that is included in the Clean Neighbourhoods and Environment Bill and crosses over into the Department for Regional Development's remit.

Alley-gating schemes are community driven. They are used to limit access to alleyways behind houses, usually to residents who hold keys. Although the process has existed for some time, particularly in Belfast, the Bill gives all councils statutory powers to erect alley gates where and when need has been identified. It is of particular interest to the Committee because an alley is a public right of way. Naturally, the erection of an alley gate would require that right of way to be restricted. The Bill gives power directly to councils to issue a gating order that eliminates the need to go through normal channels that are associated with getting a stopping-up order to extinguish the right of way.

As I said, alley-gating has been going on in Belfast for some time. That will give a clear idea of how those schemes work with regard to establishing need, the processes that are involved in getting them going, costs and funding. Alley-gating schemes incur various costs. Belfast City Council states that a gate for an average-sized alleyway costs around £3,000. The council explains that the cost is high due to the specification that is needed for gates to be certified as safe for their purpose. Other technical costs cover engineering, insurance and gate maintenance.

As I said, the process is community driven. It is initiated by residents. Belfast City Council provides an 11-step guide for residents who wish to avail themselves of alley-gating in their area. It includes extensive consultation with all those who will be affected by gates. The process can be laborious for residents. However, schemes have, undoubtedly, shown benefits. In a review of alley-gating schemes that was carried out by Belfast City Council and the Belfast Community Safety Partnership, 73% of residents reported a positive impact on litter reduction and dumping, while 87% believed that gates had a positive impact on crime reduction.

Similar benefits have been experienced elsewhere. In Salford, England, alley-gating has had a dramatic effect and has significantly reduced burglaries by up to 50%. The alley-gating process in Salford is very similar, with the emphasis on consultation with all parties.

It is down to residents to pull together money for alley-gating costs. However, Belfast City Council notes that if communities follow its manual guidelines and install gates to the council's specifications, they can apply to assume the long-term responsibility for maintenance and insurance. In comparison, Salford City Council does not offer that facility but does offer grants in the region of £1,000 towards technical and planning costs at the start. I welcome any questions.

The Chairperson:

Thank you very much.

Mr Gerry Anketell (Department for Regional Development):

I will start by introducing the team. I am accompanied by Robert Gray, who is the Department of the Environment's Bill team leader for the Clean Neighbourhoods and Environment Bill; Chris Galbraith from Roads Service's parking enforcement unit; and Brian O'Neil from Roads Service network services. Brian has some expertise in alley-gating as it currently stands. It might be useful for Robert to give an overview of the Bill and a little background on the consultation and reactions to the Bill.

Mr Robert Gray (Department of the Environment):

The Bill is largely based on legislation that is already in force in England and Wales, namely the Clean Neighbourhoods and Environment Act 2005. Since that Act was introduced, the Department has received ongoing requests from MLAs, MPs, district councils and organisations such as Tidy Northern Ireland for similar legislation to be introduced here. Therefore, last year, Minister Poots decided to start this process.

We completed a consultation exercise on the Bill at the end of April this year. The Bill received its introduction in the Assembly in June, its Second Stage at the end of June and is now with the Environment Committee. Basically, the Bill tries to strengthen the laws to enable district councils to deal more effectively with a wide range of low-level environmental crime issues. Therefore, each isolated issue in the Bill, such as dog control orders, graffiti or litter, may not be

viewed as major issues. However, as a complete package, the Bill is substantial and important legislation and means something to people on the street who recognise that those issues degrade their local neighbourhoods.

The Bill is designed to help district councils to deal with those issues more effectively. It deals with litter, fly-posting and graffiti, dog control issues, noise nuisance issues, statutory nuisance issues, gating orders, nuisance parking and abandoned vehicles, and even abandoned shopping trolleys. It also gives councils a greater remit to issue fixed penalty notices as an alternative to prosecution. Will I say any more about that?

The Chairperson:

The only aspect that this Committee deals with is alley-gating. We need to be careful to not transgress into another Committee's business. However, as you say, the complete package is extremely important.

Mr Anketell:

The alley-gating aspect would result in district councils becoming responsible for making gating orders to facilitate alley-gating. The Department for Regional Development's role in the alley-gating process is largely to make statutory rules to facilitate that process.

The Chairperson:

Mr Boylan is the Chairperson of the Committee for the Environment, so we have to be sensitive.

Mr Boylan:

Nuisance parking is an issue. In the Chamber, I raised the issue of cars parking on the footpath. It is a difficult issue, but it is something that we need to look at when discussing the Bill, if possible. Have you given the matter any consideration? The removal of nuisance vehicles is a matter for councils already, and perhaps we could strengthen those powers.

The Chairperson:

That is a matter for the Department of the Environment (DOE).

Mr Boylan:

I know that it is a matter for the DOE. However, DRD also has responsibility for roads issues. We cannot just shy away and say that it is a matter for the DOE or DRD. If there is an

opportunity for something to be included in the Bill, I would like it to be given some consideration. It is a nuisance issue. There is no point in putting in new footpaths, many of which are nearly 3 metres wide, if we give people license to drive lorries and cars on them.

The Chairperson:

It is not really an issue for us.

Mr Boylan:

It is partly a DOE and partly a DRD matter because of the footpath issue.

Ms McIlveen:

The information provided states that a gating order restricts a public right of way. The research briefing relating to Cardiff states that gating requires a stopping-up order, which permanently extinguishes a right of way. What is the difference here?

Mr Anketell:

The difference here is that the proposal would be to restrict access. The gating of alleys would come into effect at different times or different periods. For example, the Bill provides that, in certain circumstances, gating should not take place if the road in question is the sole means of access to premises or dwellings or is used for business premises or leisure centres and the like, in which case the gating would take place only at times when businesses or leisure facilities would not be affected. The gating orders have the effect of restricting access to the road in question. The road does not become abandoned. If we were to adopt a process of extinguishing the right of way, Roads Service would abandon the road and would no longer be responsible for its maintenance. The gating orders in the Bill would restrict access, rather than extinguish the right of way.

Ms McIlveen:

I can see a proliferation of requests coming through for that, even from a constituency point of view. What restrictions will be put in place or what criteria will have to be met in order for gating orders to come into force?

Mr Anketell:

The working out of the detail will take place through non-statutory guidance. It will be prepared

jointly by DOE and DRD, and it will be issued for consultation to the councils. The criteria already established for alley-gating is likely to form part of the backbone of the future processes.

Ms McIlveen:

So we just work to progress it?

The Chairperson:

A lot of those back entries are unadopted and are not maintained by DRD. DRD says that they are unadopted. People who have tried to have alley-gating carried out have run into that problem.

Mr Anketell:

DRD has no interest or involvement in those unadopted alleys.

The Chairperson:

So this legislation would not apply to those alleys?

Mr Anketell:

No.

Mr McDevitt:

I welcome the alley-gating scheme. The experience of it in Belfast and in urban areas has been positive. I understand that the Belfast scheme is funded by the council and that NIO money — now Department of Justice money — goes into it. Does any DRD money go into it?

Mr Anketell:

No.

Mr McDevitt:

Will the Bill change that? Will it place a duty on DRD to become a contributor to schemes, or will the same cocktail of funding be envisaged?

Mr Anketell:

There is no provision for funding in the Bill.

Mr Leonard:

The paper says that district councils, to get through any administrative orders, will be subject to

the approval of the Department for Regional Development. When going through the process at ground level, time is of the essence in a lot of those situations. Is there any way that we can include an optimum recommended time for the process to be completed and approval given?

Mr Anketell:

Certain aspects of the process are likely to involve a time element, such as the publication of notice of intention to make a gating order and to allow responses to be received. However, the fact that gating orders would be made by an administrative order, rather than by statutory rule as is currently the case, will improve the amount of time that elapses in making a gating order.

Mr Leonard:

But you would not envisage putting an exact time in which that process has to be completed?

Mr Anketell:

No; not as things stand.

Mr Leonard:

Is there not some way to get round the issue of unadopted alleys, because it does come up?

The Chairperson:

Financially, the Department will not touch it.

Mr Anketell:

The Department has no responsibility for back alleys that are not roads.

Mr Leonard:

Yes, but it is a matter of responsibility versus dealing with a problem for people in a community. Can we not go over to the people's side and find ways to get round that?

Mr Anketell:

I can only repeat that DRD has no involvement because it has no interest in the premises running along the back alley or the alley itself. It is not responsible for the maintenance of the alley, and, therefore, it would be up to the owner of the premises and the owner of the alley to reach an agreement.

Mr Leonard:

Therefore, there is no way that a council will give an administrative order for such a matter?

Mr Anketell:

No. At present, the Bill relates to only roads.

Mr Boylan:

Obviously, DRD's role in the Bill is very narrowly featured. Ninety per cent of it will apply to Belfast, so the rest of us do not have to worry. *[Laughter.]* I know that the Chairperson said that it is outside our remit, but can you just comment about parking on footpaths? It is a nuisance, and I would like a comment for reference, for the Hansard report at least.

Mr Gray:

The Bill is quite specific in how it deals with nuisance parking. It focuses on businesses that use the street or road to park vehicles for sale or businesses that repair vehicles, thereby causing oil leaks and so on, on the road. Therefore, the Bill is quite specific in dealing with nuisance parking and is restricted to those areas. District council officers will enforce that legislation.

Mr Boylan:

Therefore, it does not apply at all to people who stop people with disabilities using the footpath, and we are not going to look at it. Is that what you are saying to me, Robert? That is an issue, let us be honest.

Mr Gray:

I understand that parking a car on a footpath is in breach of parking legislation, which —

Mr Boylan:

We see them every day of the week.

Mr Chris Galbraith (Department for Regional Development):

May I give a summary of the situation in relation to parking enforcement on footways as it stands, just so that everyone is clear? There is no specific law to prevent vehicles from parking on footways, but there are circumstances in which they may be committing an offence by parking on

a footway. It is an offence under article 30 of the Road Traffic (Northern Ireland) Order 1995 to park a heavy commercial vehicle on the footway. That is an offence that the PSNI can enforce. They can also enforce legislation when a vehicle is parked on a footway and causes an obstruction or a danger to other road users. If a vehicle is parked on a footway in contravention of a waiting restriction, DRD can enforce that.

Mr Boylan:

I dare say that Mr Kinahan and I will have to bring that through the Environment Committee, but thank you.

Mr Kinahan:

At airports, one finds a mix of roads, which start off as a Roads Service matter and then move into being owned by the airport, and there is nuisance parking. Has anyone sat down and discussed with those authorities how we link that up? Do you understand where I am coming from?

Mr Anketell:

Yes, there is a —

The Chairperson:

This is a briefing around alley-gating not nuisance parking.

Mr Anketell:

Chairperson, I can respond to the question if you wish.

The Chairperson:

Go ahead. *[Laughter.]* These people are members of the Environment Committee. *[Laughter.]*

Mr Anketell:

There is a similar theme in terms of DRD responsibility there, because it depends on whether your interest lies in roads that are maintained by DRD or which form part of the airport estate, and would therefore become the responsibility of the airport authority. In certain cases, airport authorities have powers to make by-laws, which may or may not cover the parking of vehicles. If they are public roads, and there are parking restrictions, the parking enforcement unit would

certainly aim to enforce those restrictions. However, on the airport authority's roads, the responsibility lies with the airport constabulary.

The Chairperson:

OK. Thank you very much.