



Northern Ireland
Assembly

Committee for Regional Development

**OFFICIAL REPORT
(Hansard)**

**Inquiry into Unadopted Roads:
Construction Employers Federation**

9 May 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Pat Doherty (Deputy Chairperson)
Mr Stewart Dickson
Mr Ross Hussey
Mr Ian McCrea
Mr David McNarry
Mr Stephen Moutray
Mr Cathal Ó hOisín

Witnesses:

Mr Nigel Lucas	Construction Employers Federation
Mr Conor Mulligan	Construction Employers Federation
Mr Archie Rowan	Construction Employers Federation
Mr Bryan Vaughan	Construction Employers Federation

The Deputy Chairperson: I welcome Nigel Lucas, Conor Mulligan, Bryan Vaughan and Archie Rowan. You have been listening to the previous witnesses. I invite you to make your presentation to the Committee, and we will then ask some questions. Hopefully, we will become more informed as the day goes on.

Mr Nigel Lucas (Construction Employers Federation): Thank you for your invitation Chairman; we are very pleased to be part of the inquiry. I am Nigel Lucas, the deputy secretary of the Construction Employers Federation. With me today are Conor Mulligan of Lagan Homes, who is the chairman of our private housing committee, Bryan Vaughan of Vaughan Developments, who is a member of our private housing committee, and Archie Rowan of Micwall Developments, who is also a member of our private housing committee. You have received our detailed submission. We do not intend to make a big presentation today. All I will do is run through a few salient points and then open it up for questions.

The federation's view is that the current legislation on private streets successfully delivers private streets to the public road network in the majority of cases. All responsible builders want to get roads adopted as quickly as possible to release their bonding capacity, as they cannot continue to build without road bonds. Hundreds of miles of private streets built during the past decade have been adopted successfully. Roads Service has advised us that, in the past eight years, 687 kilometres of roads have been adopted successfully. There are over 3,000 road determinations in the system at present. In the past three years, only 71 cases had to proceed to enforcement, which is just 2%. The

purpose of a road bond is to protect house buyers in the event of the financial failure of builders. They show that money is there to finish the road.

There are several reasons why the adoption of a road can be delayed. First, banks are not lending money to builders for working capital to finish roads. Secondly, bonding capacity from the National House-Building Council (NHBC), the primary provider of road bonds, has reduced and is reducing further in the current climate. The third reason also relates to the current climate. Sarah Venning said earlier that Northern Ireland Water has reduced its occupancy requirement before sewers can be adopted from 80% to 51%. That is very welcome, but, in the current climate with sales so slow, it can still take time to achieve those levels of occupancy. Fourthly, in the past there have been issues in some legacy developments with obstructions on service strips, and a lack of co-operation from house buyers to remove those obstructions has caused problems with road adoption. Fifthly, from a practical point of view, active sites cannot be topped out while heavy plant is still using the spine road, as the surface of the road will be destroyed. Finally, market conditions have slowed down the rate of sales so that sites are very often mothballed. That also affects the adoption process.

That is it Chairman. We welcome any questions.

The Deputy Chairperson: Before I bring in other Committee members, I want to ask a question. What changes would you like to see being made to the legislation in an attempt to combat the issue of unadopted roads and sewers? I want to know about the specific legal changes you would like to see.

Mr Lucas: I think we would probably have to give that further consideration. As I said in my statement, we view the legislation as adequate. It allows the majority of roads to be adopted successfully.

The Deputy Chairperson: You could come back to us on it?

Mr Lucas: Yes.

Mr McNarry: You are very welcome. It is good to see you, Archie; I have not seen you for a long time. I am learning today that I am lacking information on the extent of the problem that the inquiry is about. Do you have a figure for the number of sites under your belt and your membership that have unadopted sewers?

Mr Lucas: We do not keep that kind of information, I am afraid.

Mr McNarry: Is that brought to your attention?

Mr Lucas: Generally, no.

Mr McNarry: Like me, you do not want problems. Are there any legal complexities running against consumer protection that are caused by developers instructing estate agents to market properties that lack the bond security? That allegation is levelled at your industry. The purchase of a home is a big step for anybody, and if someone sees a board up on it with the name of an estate agent, they think that everything should be all right. I know that there complexities with solicitors down the line, but that starting point seems to me to be a potential cause of a problem.

Mr Conor Mulligan (Construction Employers Federation): That is the crux of it. There are probably two situations: situations where homes are bought without a bond being in place, and situations where everything is done perfectly but the developer, for one reason or another, goes into administration. The bond is there to help in that second situation. The first situation, where purchasers pay for homes without the bonds in place, simply should not happen. Purchasers are encouraged to get legal advice, and solicitors should look at whether there is a bond in place. In the past three or four years, since the crash, solicitors have been looking at those things an awful lot more closely, and it quite simply does not happen now. You will not be able to sell a house without that. So, a lot of this is a horse-has-bolted situation, and I do not think that we will be dealing with it in the future. I know that Brian Speers came to the Committee, and I thought that he answered that question well. That simply should not happen, or, if it does happen in special circumstances, it needs to be absolutely clear to the

solicitor and the purchaser that they need to make a decision about whether to go ahead. We should not have to deal with that process going forward.

However, developers going into administration is a problem that we have and, probably, will continue to have. Just because a road is unadopted does not mean that it is a problem. All roads are unadopted during construction, and they are not adopted maybe for three, four or five years, depending on the size of the development, until the site is well advanced and the roads and everything are topped out. If they then pass all the requirements of Northern Ireland Water and Roads Service, they are adopted. If a developer goes into administration, unfortunately the bond has to be called in and the money has to be spent. It is not done at the public purse's expense, and the road is finished. That has happened on a couple of sites and will continue to happen for the next couple of years. The bonds are there for exactly that purpose.

Mr McNarry: There is a certain onus of reliability on your profession and industry to help take us out of where we are now. Do you have an assessment of what we are left with? I am frightened by the fact that we do not know how many unadopted bits and pieces there are and whether they are 95% complete or 20% complete and so on. We need to know that somewhere along the line. For the benefit of potential consumers, can you give us some assurance, given the onus of responsibility on your organisation, that you are as interested in this as we are and that what is lying out there will be fixed? We do not want it all to be left and a new site down the road to be started. How might that work itself through?

Mr Lucas: First, we cannot quantify that because we do not keep that kind of information. Secondly, in the area of consumer protection, the National House-Building Council recently introduced a new consumer code for homebuyers, and the Construction Employers Federation (CEF) is fully signed up to it and participated in its development. Going forward, we will be more than happy to participate in any further actions that arise out of this inquiry to make sure that we do not make some of the mistakes that have been made in the past.

Mr McNarry: That is helpful, thank you very much.

Mr Ó hOisín: Thanks, Nigel. I just want to go back to the previous presentation, when we were talking about the delivery of groupings, particularly in regard to sewer adoption, which, of course, is developer-led. There are obviously issues as regards road adoption because of continuing development and the use of heavy plant and machinery, but as regards the sewer adoption, which is developer-led, what is your view on batch developments, perhaps in groups of 10 units or 20 units? How would you like to see that —

Mr Mulligan: Do you mean a smaller bond?

Mr Ó hOisín: A smaller bond, but actually having the finished product there. Rather than waiting on the 100 units to be delivered, it could be done in 25s, 20s, 10s or whatever.

Mr Mulligan: Very few developers would enter into a bond for 100 units, because it would take too long for us to complete. We batch them up in phases of 10 or 20. It is expensive. There are expensive fees for taking out bonds, particularly in regard to Northern Ireland Water, so you are trying to find a balance there. You are trying to find a number that you would complete in as short a period of time as possible. From our point of view, we want to get them to preliminary adoption as soon as possible. Maybe there is a bit of confusion about the 80% and the 50%. That means the numbers of houses that are occupied within that bond, so if you have 20 houses, once you have 11 completed you can go and get the infrastructure preliminarily adopted, but all of the infrastructure will be constructed. It is not that only 50% of the infrastructure will be constructed, it will all be constructed and inspected at that time, and then everyone gets satisfaction from that because you are not waiting for the eighteenth house to be completed.

Mr Ó hOisín: On the topping out and finishing of developments, what would you consider to be a reasonable period of occupancy? I have seen developments where you are looking at 10, 12 or 15 years, which is not really acceptable.

Mr Mulligan: That is extreme, but, again, it depends on the size of the development. If you have a development of 500 or 600 houses, in the current climate that is going to take 10 or 12 years. On the spine road, which will be carrying all of the traffic, although you have all of the infrastructure done and the base coat on, you would be very reluctant to put down the wearing course, and I am sure the Department would be reluctant for us to do that, if there is still going to be heavy plant driving over the top of that. You may be able to top out some of the cul-de-sacs that are complete and have people living in them. We have an issue, and I can fully understand Northern Ireland Water's concerns and the Roads Service's concerns about adopting that part — the branches of the tree — without having the trunk of the tree adopted. They will not adopt a section that has a downstream section unadopted, and I can fully understand the reasons for that, but, equally, we are reluctant to top out roads that are not going to be adopted and handed over to the Department. There is possibly a wee bit of work to be done, and we will try to work together with the various Departments to see if there is some way that we can get around that. Ideally, if we have a cul-de-sac of eight or 10 houses and they are all handed over, we as an industry would like to top that road out and *[Inaudible.]* the DOE, while keeping the spine road just at base coat, because it is going to be taking so much construction traffic. When I say base coat, it has to meet all health and safety standards, and if there are any holes, they would have to be repaired.

Mr Ó hOisín: There is an issue there as regards the provision of services, such as street cleaning and local council rubbish collection and stuff.

Mr Mulligan: I have read that in some of the earlier correspondence. In all of the developments I have been involved with, I have never had an issue with bin lorries, for example, coming on to our developments during adoption stage. If the road is in and the turning heads are there, even if they are only at base coat, I cannot see why they would not enter, and I have never had a situation where that happened.

Mr Lucas: We think there could be a practical solution to that problem.

Mr Hussey: In support of that previous comment, I am a councillor in Omagh, and Omagh and Strabane District Councils will not go into an estate that is not adopted by the Roads Service. The tenants must leave their bins on a public road. The council will not go into that housing estate, unless you have an insurance contract in place that indemnifies the council.

Mr Mulligan: I have issues with that, because everyone who moves into a new house, from the minute they take occupancy, is paying their full rates for those services. If the road meets all of the standards, albeit that the top coat may not be on it, which is the last 25 millimetres of tarmac, we do not want to put that on if we are still actively building the development. In Belfast that does not seem to be an issue, but maybe in some of the —

Mr Hussey: I can tell you that it is an issue in Strabane and Omagh District Councils and in Craigavon as well.

Mr Mulligan: That is something that we are all going to have to look at. Some development sites are going to take between two and five years, and larger ones could take 10 years to construct, so we cannot have that situation where people pay rates —

Mr Hussey: I can assure that several in my constituency have not been getting their bins emptied for several years.

Mr Ó hOisín: Chair, perhaps the CEF will go back to some of the local authorities to clarify that. In the experience of elected members, people have to take bins up to the end of the site, where there is an adopted road, before councils will collect them. Issues regarding the Roads Service's provision of salt and stuff also arose during the past couple of winters. There are a number of issues there that you should address.

Mr Dickson: Briefly, street lighting is an issue that I have had to deal with. It is not a case of the local authority refusing to carry out its responsibilities but of Roads Service refusing to maintain light standards, which then go out. It is then difficult for residents to get builders to do repair work in the meantime.

Mr Mulligan: Yes, that can be an issue with some developers. Roads Service is looking to change its policy on street lighting. It will not even pay for electric for the lights until the roads are adopted, which may take several years. Every bond that we take out in the future will have to co-ordinate street lighting pillars and electricity meters. That will cost about an extra £1,500 a bond to accommodate this. As soon as it is adopted, that expensive equipment will be ripped out because Roads Service street lighting does not meter its systems. That is double charging, because every ratepayer pays their full rates from day one, whether or not a road is adopted. They are paying for bin collection and street lighting, and it is a lot of unnecessary cost.

Mr Bryan Vaughan (Construction Employers Federation): The point is that a developer would welcome early adoption of street lighting. If we install street lighting, we would be more than happy that it is adopted as quickly as possible.

Mr Dickson: Would it not also be fair to say that, in the same way as residents pay their full rates from day one, if I purchase a house from you, do I not expect to get all the services from day one as well?

Mr Mulligan: There will be street lighting when you move in; it just will not have been adopted.

Mr Dickson: Yes, but it has to be regularly maintained. After water and sewerage systems are connected, there has to be a reasonable surface left on the road. If I purchase a property from you, I expect that standard to be maintained.

Mr Mulligan: In accept that, but when you buy into a new development you have to accept that that development will be under construction for a number of years.

Mr Dickson: Can I hold back money then, against the purchase of the property?

Mr Mulligan: You would have a bond in lieu of that. That is the whole idea of the bond.

Mr Dickson: That is very interesting.

Mr McNarry: May I just —

The Deputy Chairperson: Quickly, because time is running against us.

Mr McNarry: Are you illustrating that you suffer from the problem that we are accused of, which is that we do not do joined-up thinking?

Mr Mulligan: Yes.

Mr McNarry: If there is that problem, is it not like passing the parcel? You can say, "It is not my fault; it is his", and so on. Stewart's salient point is that when you hand over your money you expect to have the full product. I read your summary with interest, and I do not need you to do this now, but is there any way of including a point that states that you could do this better if you co-ordinated and had that joined-up thinking? Doing that would help us elected representatives, because we get it in the neck.

Mr Mulligan: I appreciate that.

Mr Lucas: We would agree with that. Adoption is a complex procedure that involves a number of different agencies and processes. There is bound to be a way of simplifying it.

Mr Mulligan: Previously, it was all under one bond and was a lot simpler. Now it is separated and more complex.

Mr McNarry: That may be part of the problem.

The Deputy Chairperson: Thanks very much for your evidence, and I thank Hansard.