



Northern Ireland
Assembly

Committee for Regional Development

**OFFICIAL REPORT
(Hansard)**

**Inquiry into Unadopted Roads: Law
Society**

2 May 2012

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Pat Doherty (Deputy Chairperson)
Mr John Dallat
Mr Stewart Dickson
Mr Ross Hussey
Mrs Dolores Kelly
Mr Seán Lynch
Mr Ian McCrea
Mr David McNarry
Mr Stephen Moutray
Mr Cathal Ó hOisín

Witnesses:

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| Ms Anne Brown | Law Society of Northern Ireland |
| Ms Imelda McMillan | Law Society of Northern Ireland |
| Mr Brian Speers | Law Society of Northern Ireland |

The Deputy Chairperson: Imelda, Anne and Colin —

Mr Brian Speers (Law Society of Northern Ireland): I am afraid not. You have got Brian Speers.

The Deputy Chairperson: Our speaking notes have not been updated. You are very welcome. I ask that you make your presentation, and then there will be various questions from Committee members.

Ms Imelda McMillan (Law Society of Northern Ireland): I will just formally introduce Anne Brown, the chair of the conveyancing and property committee; Brian Speers, the senior vice-president of the Law Society; and myself, Imelda McMillan, president of the Law Society. We would like to thank the Committee for inviting the society to provide oral evidence today. We commend the Committee for undertaking this inquiry into unadopted roads, which have a wide range of implications for many homeowners. It is an issue that the Law Society is live to. It is of relevance to practitioners who act for purchasers and those who act for vendors. In my opening statement, I will describe the process that a solicitor goes through in advising a purchaser on the issue of roads.

When acting for a purchaser, a solicitor will identify the position with regard to the roads on the entrance leading to the property from the nearest highway maintainable at the public expense. This is

of particular relevance when the house forms part of a development. If the roads have not been adopted, the purchaser's solicitor will ascertain whether a road bond has been obtained under the provisions of the Private Streets (Northern Ireland) Order 1980. If the roads have not been adopted, it is usually the case that a bond is in place. I understand that the Committee's inquiry is focusing on roads where a bond is in place. Therefore, I will just briefly mention that there are certain developments where the roads are and will be maintained and remain private. In such circumstances, those living on the road will maintain the road either individually or through a management company. If a road has recently been constructed, there is usually a covenant and indemnity by the developer to make up the road to a required standard.

Returning to circumstances where a road is determined for adoption, it is the developer's contractual obligation to bring the road up to adoption standard and to support that obligation by procuring and providing the purchasers with a road bond. In certain circumstances, previous to the economic downturn, a purchaser may have completed on a house where a road bond was not available at the time of completion. In those circumstances, the purchaser's solicitor would generally have retained a certain amount of the purchase moneys until the road bond was produced and obtained an undertaking from the developer's solicitor to produce the road bond once it would become available. Such arrangements were entered into when the housing market was buoyant and purchasers were keen to complete on deals, as house prices were increasing on a daily basis. In the current market, a client should proceed with extreme caution if a road bond is not available at the time of purchase. The society is currently reviewing the matter, and will be providing further guidance to its members in the near future.

Where a road bond is in place, a purchaser can rely on this as a safeguard that, should the developer fail to construct and complete the road or street, the Department for Regional Development can call in the bond and use the funds to complete the road works to an adoption standard. It is important to note that home purchasers and their solicitors do not look behind a road bond.

The research commissioned by the Committee highlights that there are a significant number of unadopted roads, many of which were constructed some time ago. In light of this, the society considers that the Committee's inquiry into current bonding arrangements is timely. It is vital that purchasers can have confidence in the system of road bonding to ensure that they can purchase and sell their homes in the knowledge that there is proper access to and from their home.

There are clearly a number of developments throughout Northern Ireland where a road bond has been in place for a significant period and yet the road remains unadopted. That could have implications when a homeowner seeks to resell their home, as the new purchaser may be concerned that the moneys held in the bond will not be sufficient to meet the cost of developing the road to the appropriate standard. The society suggests that the Committee continues to carry out further research into the problems that homeowners face in developments where the roads are unadopted. The fact that a road has not been adopted will almost certainly mean that the sewerage system will not be adopted. The society is aware of a number of developments where this has created significant problems for homeowners.

The society is also concerned that there is limited redress open to a homeowner in a development where, despite bonds being in place, the roads and sewerage system remain unadopted for a significant length of time and problems arise. In such circumstances, an individual can seek the assistance of the solicitor who advised them when they purchased or seek the assistance of their local MLA, who can make enquiries on their behalf and raise the matter with Roads Service and NI Water. However, there is no formal procedure in place for homeowners to raise such matters with the Department or NI Water. The society considers that the development of such a procedure would be helpful and should be given consideration. The society suggests that when a certain number of residents in a development raise concerns with the Department or NI Water, that should lead to an investigation of the situation by the Department and NI Water to determine whether the developer is progressing with the construction of the roads and the sewers in an appropriate manner. If they are failing to do so, calling in the bond should be given consideration.

The society also suggests that the Committee may wish to consider whether it would be appropriate to encourage the Department and NI Water to carry out periodic inspections of works more frequently to

ensure that they are being carried out in a satisfactory fashion and to an appropriate timetable. The reports of such inspections could be made available to homeowners. Where problems arise, they could be addressed either by calling in the bond or requiring the developer to carry out remedial work. If no problems arise, homeowners can rely on the report provided by the Department and NI Water and refer to it if they seek to sell their home. That will provide any prospective purchaser with an assurance that the roads and sewerage systems are being developed appropriately.

It should be noted that the developer's pack produced by Roads Service refers to regular inspections payable by the developer. The Committee may wish to identify when the last inspection was carried out on each of the 2,732 unadopted roads in Northern Ireland.

The society considers that there is a general need to educate members of the public on their rights and responsibilities when purchasing a home. Committee members may be familiar with our leaflets on buying and living in an apartment and buying and living in a development with common spaces, which seek to augment the advice provided by solicitors at the time of purchase. The society suggests that the Department and NI Water produce information leaflets for homeowners living in developments with unadopted roads and sewers.

When homeowners move into their property, particularly when it is in a partially completed development, it is important that they ensure that their developer complies with his or her obligations with regard to their home and the development generally. If there appears to be a delay on the part of the developer, it would be cost-effective and prudent for the residents to address the matter collectively. To assist them, the Department and NI Water could establish reference points or an advice line on what to do when an unadopted road or sewerage problem arises. In respect of roads and sewerage systems that are bonded, homeowners must be able to raise concerns with the Department and NI Water. Where progress is not being made by the developer, appropriate enforcement action by the statutory authorities must be taken. The Department's and NI Water's apparent reluctance to do so may have led to circumstances where the funds provided by the bond no longer cover the cost of the required works to the roads. The homeowner should not be responsible for that. They have relied on the presence of the bonds when purchasing their home and on the due diligence of the Department and NI Water in overseeing the construction of the works. Any shortfall must be met by the Department and NI Water. To conclude, we recommend that there be regular, obligatory inspections prior to the adoption of roads and that adequate resources be put in place to ensure the timely adoption of new roads in developments. We also recommend that formal procedures be put in place to enable residents to complain about the unadopted sewers and roads. Road bonds should include an inflationary rate to reflect the fact that bonds may not be enforced for years after they were originally introduced. Article 11 enforcement action should be taken in a more timely fashion. Finally, a more joined-up approach is needed between the local authority, Roads Service and the water service, with clear, predetermined protocols between each agency for the adoption process, their role in that process and their shared role in it.

That concludes our opening statement. We are more than happy to take questions from you and your colleagues.

The Deputy Chairperson: Thank you for your presentation. What changes to legislation would you like to see being introduced to deal with unadopted roads and services?

Mr Brian Speers (Law Society of Northern Ireland): I will deal with that. I endorse our president's opening comments and agree that this is a very timely and worthwhile inquiry by the Committee. On preparing to speak today, it seemed to us that the legislation is actually not bad. There is an obligation to procure a bond before the commencement of development. The bond documentation has a requirement for the developer to pay an amount to ensure that inspections take place. The Department's own guidance suggests that there will be regular inspections, and it occurs to us that, if the current regime were applied, there would not be the present situation. Where legislative change is concerned, we think that proper compliance with the existing regime would serve to eliminate most of, if not all, the types of problems that your constituents and our clients are experiencing.

Mr McNarry: Thank you. You are very welcome. I have usually found your advice very useful in the past. Few are escaping on this as far as the person who is in the mire on it is concerned. Some

constituents of mine will point to their solicitors who took them through the pictures of the property in question. When there is a problem, they then go back to the solicitor, who does not want to know, wants to walk away or tells them to go and get advice elsewhere. I think that you should take that on board, because that is what the public are telling me. The after-sales service is not good in some instances. Of course, we only hear of the bad cases; we never hear about cases where a solicitor was very good to a person.

My question is similar to and follows on from the Deputy Chairman's. When their clients who are caught up in this situation go back to them, what advice do you think solicitors should be giving to them? On this particular issue, are you aware of any current court cases pending or under consideration? Is that the type of advice that you would give to clients? Finally, do you have a record of the number of your members who have clients with the problems that we are talking about?

Ms McMillan: I will deal with the second and third elements of the question. We do not have specific records from our members about the number of problems that their clients face if the clients have approached them about those issues.

Mr McNarry: Will you write to them and ask them and then pass that information back to us?

Ms McMillan: Yes, we have a very good communication system with our solicitors. We send out information to our members on a daily basis. That is feedback that we could ask them for, so we will take that on board.

So far as court cases are concerned, I am aware of one situation. I was made aware just this morning that there is a court case pending. The court case pending is due to the fact that a road bond has been revoked by Roads Service.

Mr McNarry: That is very interesting, without —

Ms McMillan: I cannot go into any further detail on it, but that is the indication.

Mr McNarry: Could you not talk to somebody out in the corridor and give us a nod about what it might be? It might be helpful if we had a nod to follow it, just to see how long those court cases take. However, our inquiry might be well done by the time they get it over.

Ms McMillan: We checked with our client complaints committee, which deals with complaints from the public about the services that they received from their solicitors. The committee's report said that it had no complaints regarding failure of advice on road bonds or article 161 agreements.

Mr Speers: I will respond to the first question, which was, I think, about the advice that solicitors give. A fairly standard form of developer's sale agreement has evolved. A purchaser in a new housing scheme would enter into a building agreement and an agreement for the transfer of the land. There is a very clear contractual obligation in the building agreement for the developer to build in accordance with planning approval and building control approval and to ensure that all statutory obligations are complied with. Those statutory obligations include entering into a road bond. Contractually, really all that a solicitor can do between a purchaser and a developer is to make sure that rights and obligations are created and to make sure that, if necessary, they can be enforced. Therefore, the society feels that the contractual framework holds a developer to account in delivering this essential infrastructure. I have asked to see my own developer clients' copies of their bonds for NI Water and Roads Service. The language in that documentation states very clearly the obligations that are imposed on developers to build in accordance with approved plans, to comply with the private streets legislation, to pay for an inspection regime and, on top of that, to stand liable to forfeit a substantial amount of money, which is assessed by the Department as what it must deem presumably appropriate to finish the road if the developer does not adhere to his or her obligations.

Mr McNarry: I understand all that, and I am grateful to you. However, that makes it all the more surprising to me that there are not more and more court cases pending when such advice is given and is obviously not adhered to by anybody on the other side. It would appear to me that that would be the

natural direction for those poor people who are caught. That may, perhaps, be the only route open to them, instead of their sitting there with nobody really trying to help them, as they are all caught up in bureaucracy and passing the parcel.

Mr Speers: A lot of the problem is that the target for the court case is no longer the developer but the developer's administrator or the developer's trust —

Mr McNarry: It does not matter who it is, surely, as far as the public is concerned. You may give us a legal definition of it, but Joe Public just does not care.

Mr Speers: It does matter, with the enforceability of the right. If you have a developer, and an administrator has been appointed by their bank, there are no resources available behind that developer. Therefore, your target is not directly to the party with whom you have contracted but the system in which you are caught up. That is why our president suggested that article 11 in the private streets legislation enforcement machinery really ought to be used more frequently. It would also be helpful if there were some mechanism for a purchaser to trigger such action.

Mr McNarry: Maybe we need to legislate on that here.

Ms McMillan: We would be happy to work with you if you were to legislate.

The Deputy Chairperson: We may move in that direction.

Mr McNarry: We will negotiate a fee, then.

Mr Dallat: It will all happen in due course, I am sure. I even still believe in Santa.

It seems that you are suggesting that article 11 is something that, perhaps, your members should know a bit more about. Do they know about it?

Ms McMillan: Yes, our members would be aware of the enforceability rights under article 11.

Mr Dallat: You said that you communicate with them on a daily basis. I suggest that, in the interest of the many people I know who are caught up in this, you make your members aware of that immediately. I come across too many of them who simply walk away from the problem. That is compounded by the fact that — I am not sure whether you approve of this — your members charge up front fees of maybe a couple of thousand pounds before starting the work. They then find that the developer has gone into liquidation, and they go away from it. It then comes back to the MLAs to do their best to try to sort out the mess. Sometimes it is possible to do that, but we do not have the enormous legal clout that you have. I know that it is our inquiry, but you have an enormous role to play in this. If I sound a little angry, it is because I have images of people in individual houses in small housing estates who have been left in the lurch by your members who have totally let them down.

Mr Speers: I think that it might be more accurate, Mr Dallat, to say that they have been left in the lurch by the builder, who has failed —

Mr Dallat: Sorry; I am being deadly accurate, I assure you.

Mr Speers: — to deliver their contractual obligation to build and comply in accordance with their statutory obligations. I think it quite a stretch to say that members of the solicitor profession have something to do with incomplete housing developments, which have been caused as a result of the recessionary times, lack of available capital and a loss of confidence in the housing market.

Mr Dallat: You are making the case for me. There is a level of arrogance to that response, which will not help this inquiry. Your members can do a lot in this, but they walk away from it. They get the loot and head off when there is a problem. I am sorry, but that is the truth. I have the evidence. If you want it, you will get it.

Ms McMillan: We would like to see the evidence of that, Mr Dallat. It would be very much appreciated if you could send that —

Mr Dallat: Are you telling me that you are not in control of your own organisation and that you do not know what your members are doing?

Ms McMillan: We do —

Mr Dallat: No, you do not.

Ms McMillan: — but we are not aware of the instances that you are explaining. What we would say is that, generally, in conveyancing transactions, fees are charged not at the start of the transaction but usually on completion of the transaction.

Mr Dallat: Chairperson, I do not have to go any further than my own family on that one. End of story.

Ms McMillan: That is perhaps your personal experience, Mr Dallat. However, generally, we are not aware that the profession operates along those lines.

The Deputy Chairperson: John, if you have that type of evidence —

Mr Dallat: I will go back and talk to the residents who were left in the lurch.

Ms McMillan: Yes, we would be very glad if you wanted to direct any specific cases to us. We will investigate those for you, Mr Dallat.

Mr McNarry: I agree entirely with much of what John said, but these people have very kindly come to give evidence to us. In many cases, if you sit there, you give as good as you take. However, it is important to our inquiry that the evidence that they give is very much usable and that they work with us. We do not want to be distracted by what are, if you like, alleged failures, which we all deal with. What I am saying is that you should take note of what we are saying. It is not just him and me who are hearing about that. There are 108 MLAs in this place, and it has been picked up that the problem is quite widespread. However, that is a separate issue that might help the thing at the end of the day. If it helps my constituents get good advice, we would all be happy.

Mr Dickson: Thank you for your presentation. You indicated in your opening remarks that, from your perspective, there is probably not a lot wrong with where we are, but it just needs the Department or appropriate utility authorities to actually do what the legislation says they should. I find that somewhat concerning. Everybody else who has given evidence has been able to point to other areas where they genuinely feel that there is a need to make a much more substantive change than just to say, "It is not broken; we just need to enforce it."

We know that there is a statutory obligation to have the bond in place. Nevertheless, you told us that your members usually check for that. The words you used were "usually" and "may". You gave us an alternative scenario of retention. How on earth could one of your members become involved in retention when there is a statutory obligation to have a bond? You have a duty of care to your client, so why would you step outside that when there is a statutory obligation on your members to do that?

I understand the concept of retention, but if I were involved in the development of three or four properties, or maybe more, and my solicitor said to me that they were going to hold a retention on my behalf, the other solicitor could be Joe Bloggs's solicitor or next door's completely different solicitor and could decide that he does not want to recommend that to his client at all. That does not seem to me to be a very satisfactory way of dealing with the matter. We have a statutory obligation. You have said that it is there but that the statutory authorities are not enforcing it sufficiently. So, I would like you to try to address those areas that you think could be strengthened beyond simply using the current statutory framework.

Secondly, and briefly, the information that you gave us about what might need to be done to enforce the bond was very helpful. What is the trigger point for that? I suggest that you and the Department, together with residents, might want to give consideration at that point to some form of arbitration that could be binding on the parties prior to going to court. It would be substantially cheaper for your clients.

Finally, will you address the area of what I might describe as old developments? In other words, I might be selling my property and buying a house in a development that looks to me to be completely finished but that might have been there for 20 or 30 years. What diligence do you have in checking that out for me? It seems to me that there are quite a lot of old properties and lane ways and so forth that people buy in to, but all of a sudden they discover that they have appalling responsibilities for sewers and things like that. They discover that one of the reasons that the house is being sold is because a big lorry went up the driveway and collapsed the sewers. They will then have to pay their share of quite a few thousand pounds to have that repair work done, not knowing that the other residents in the street have already decided that they are not going to be paying either, so they are all just left with a collapsed sewer. That this is a genuine situation that, as an MLA, I have experienced.

Ms McMillan: Mr Speers will deal with the first and second points, and I will deal with the third. It is really a resale at that stage, because you will have already had a person in occupation of the property, and then it would be sold.

Mr Dickson: It could be 50 years, for all you know.

Ms McMillan: It could be 50 years. At one stage I lived off an unadopted road in the Newtownabbey area, so I know exactly where you are coming from. We had to contribute regularly to the upkeep of that road. It will be evident, because, on a sale, the seller's solicitor is obliged to provide property certificates and searches. I know that the witnesses who gave evidence previously commented that that should be important. However, we actually do that at the moment. So, there is a requirement under our regulation to provide for property certificates and searches at the start of a transaction. They are provided to the purchaser's solicitor.

Mr Dickson: Would that also contain actual, of-the-moment, live information about, for example, a collapsed sewer that others may be aware of but that the vendor may not want to tell anybody about?

Ms McMillan: It may not. We need to look at the property certificates and speak with the property certificate department about that. We are talking to that department generally about the amalgamation of all the property certificates into one. We think that that would be beneficial, because some would go by the wayside and be missed. By and large, the property certificate should show that the roads and the sewers are unadopted. That is an immediate flag. There are also pre-contract enquiries that the vendor responds to. Those should indicate whether there are difficulties with collapsed sewers or problems like that. If they have failed to do so, and there are collapsed sewers that they were aware of but did not disclose, you have a remedy against the vendor.

Mr Speers: As far as legislative change is concerned, I think that we said that it might be worth looking at the opportunity for individual owners to have a direct source of access. At the moment, the legal relationship is between the developer and the statutory agency, whether that is DRD, the Roads Service or NI Water. The Private Streets Order, which is quite an old piece of legislation going back to 1980, says that the Department may, by notice in writing served on the person appearing to be the responsible person, serve the appropriate notice. That, therefore, seems to suggest that there is an initiative required by the Department, whereas, actually, your constituents, our clients and the purchasers are experiencing the problem. That is definitely an area worth exploring.

So far as the resolution is concerned, it is interesting that the NI Water bond has an arbitration clause. Wearing a slightly different hat, it is of great interest to me to see how effective resolution of this type of dispute and these types of complaints could be achieved with minimal court intervention, which can bring about delays and uncertainties and can take you into quite a complex area where the person seeking to enforce the rights is not, in fact, the person who made the contract in the first place.

Mrs D Kelly: Thank you for your presentation. A number of your points were quite clear and easy to follow. However, I have to pick up on Mr Dallat's point. In the case that I raised earlier — that of Loughadian Brae in Poyntzpass — I am given to understand that a case is pending in the High Court in June in which the solicitor is one of the named respondents in the suit by one of the residents. So, I am surprised that you are unaware of that. Certainly in my constituency, I have seen people take to the streets to protest at the failure of the Law Society to routinely regulate its own profession. They find it very much a closed shop. That is the wider perception of many of the people who come into my office. Only three weeks ago, I was stopped in the street by someone who has found that they have an uphill battle in getting anyone to listen to their voice and to the concerns that they have about their representation. Deputy Chair, you will recall that, at the early stage, when we were setting the parameters of the inquiry, a former member of the Committee said that the final arbiter in the defence of people's rights was, indeed, the solicitor. Therefore, I am shocked to hear that there are not more cases before you on the actions — or inaction — of a number of your members.

If I could just correct you. You mentioned that this has happened in a time of recession. However, when times were good, developers and everyone else were trying to get houses out as quickly as they could, so the checks were not made then either. You are able to set out very clearly the responsibility and, in some cases, how the legislation is, in many ways, fit for purpose and about the implementation of the responsibilities of the water service and Roads Service. However, solicitors have still allowed sales to go through without, it would appear, checks having been made. If you come to my constituency — or, I am sure, anybody else's — without having to travel far from my office, I could bring you to a number of estates where an absolute mess has been left. How on earth anybody was advised by their solicitor to go ahead with the sale, given the situation in which they now find themselves, is beyond belief.

Mr Speers: If I could simply try to repeat what Mr McNarry said. We have come to assist the inquiry into unadopted roads. I regret that, in springing to the defence of my colleagues in the solicitor profession, that might be regarded in any way as inappropriate. However, it is a surprise to find that we are currently facing complaints about a matter that is entirely different from the terms of reference of this inquiry, in which the conduct and performance of solicitors is called into question. We are open, Ms Kelly, to providing information. The society has a client complaints procedure. There are delicacies between a complaint about the performance of a solicitor and possible allegations of negligence in the advice of a solicitor, which is a different matter, and I do not think it is appropriate to comment on either the case to which you refer or more generally. The solicitor for a purchaser creates a contract with the developer. Such a contract can be provided to the Committee. The terms of those contracts are very clear in setting out the developer's obligations, and any purchaser would expect to see those obligations in the document. One of the problems with a building contract is the length of time between which the contract is entered into and the provision of the finished article. That is because various events can occur in that period, and you are, therefore, left with a legal right. The fact that one party to a contract does not behave in the way that they should does not mean that the contract was wrong. Similarly, I respectfully suggest that it does not mean that it was wrong for the purchaser to enter into what has been, after all, a standard contract for a long time.

The current situation has not arisen historically. In my view, it is very much a response to developers' leaving developments incomplete, because they have gone out of business and have insufficient funds, with the result that the public purse is exposed to any shortfalls in demand and is then required to follow up on reclaiming bond moneys. To me, that is the only solution if a building company does not exist any more. The bond system must be recalled, and those moneys must be applied to try to put right, in so far as it is possible, the deficiencies in the incomplete scheme.

Mrs D Kelly: In my almost 20 years as a public representative, in good and bad times in the construction industry, I have had to chase developers, Roads Service and the water service to complete developments. I reiterate that, when the terms of reference for the inquiry were being looked at, one member of the Committee, who has now left, said that the solicitor was the final port of call for any resident. That is all that I am saying. That is what someone said. I do not know whether you accept that. One member of the Committee felt that strongly and was suggesting to other members that that is who we should be telling our residents to chase.

Mr Hussey: Imelda, before I go a little bit wider, in your opening remarks, you said something about the fact that any shortfall must be met. I got only part of it down, so can you give me that paragraph again? It was towards the end of the document.

Ms McMillan: I was saying there that, because of the length of time involved and the fact that the enforcement procedure has not commenced, the moneys in the bond are not sufficient. Therefore, the Department should not be looking to the individual to recoup funds, because there is a facility under the legislation to do that. The Department should go back Roads Service.

Mr Hussey: Therefore, your comment was that any shortfall should be left in the public purse.

I will begin with the issue, again, of the length of time that we have with unadopted roads. Although I am a lot younger than Dolores and have not been here for 20 years, I know that there are apparently 2,732 unadopted roads. From a list that I got for the Omagh and Strabane district council areas in my constituency, I know that some of the unadopted roads go back to 1970. The reason that I know that is because the planning application reference shows the date. Some go back that far. The problem clearly is that the public purse is not a bottomless pit and cannot be expected to fill this hole, for want of a better word. My background is in insurance, and I know that, if every bond were to be enforced, developers would not be able to obtain a bond thereafter, because you would find that the bottom would fall out of that pit as well. However, I found that, when we attempted to enforce a bond, a developer would almost take you up to the courthouse door before they would say, "I will correct that footpath" or, "OK, I will tar that road". The cost of such action is horrendous. I accept that, in certain instances, we must push them to the courthouse door, and I think that we should do so in a lot more cases. That is one of my major concerns. If we were to suddenly enforce all the bonds, there would be no further development, because nobody could afford to purchase a bond, or house prices would rocket.

There are many instances where people have bought a house not knowing that is on a private road. Does a search indicate whether a road is unadopted? Is there something along those lines in place? Many years ago, there was hell to pay on an estate in Omagh — I think it is called Ardmore Crescent — when the residents discovered that it was not on a public road. Everybody and their granny could drive up and down it, but it was not a public road. The residents actually had to pay to maintain it, as you had to do. Again, it was not public knowledge that the road was private until it needed to be repaired.

All unadopted roads will not be adopted overnight. The problem, as I mentioned earlier, is that the council will not go on to such estates to empty bins. In fact, there are insurance requirements for a council to go in and empty bins. So, all those problems will continue.

The Deputy Chairperson: Could you ask a question?

Mr Hussey: My question goes back to the question about the enforceability a bond. Do you believe that it is practical for the Committee to demand that the bonds be enforced? It is a chicken and egg situation.

Ms McMillan: I would not say that it is necessarily practical to demand that all the bonds be enforced. I know that, historically, certain roads have been unadopted and that, in some instances, the people who live on those roads are happy for them to remain unadopted, because the traffic flow is a lot slower, the roads are slightly narrower, etc. So, there are circumstances where it would not be practical to enforce a bond, and I think that you need to look at that. I think that you should focus on the ones with major issues, especially those with problems linked to sewerage. I accept that you would not be able to enforce all the bonds at once, as it would not be practical.

Mr Speers: Mr Hussey asked whether it is possible to find out whether a road is unadopted. The property certificate that is obtained will reveal whether a road is maintained at the public expense. That is normally a flag for the purchaser as to whether a road is unadopted. However, just because a road is not yet in the public maintainable arena does not mean that a purchaser should not buy a property on it. The surface itself might be entirely satisfactory, and the road might be well constructed. If there is a bond in place, surely a purchaser and all others involved can rely on the fact that an

assessment has been made for a sum of money that can forfeited to do the job should the job, contrary to the obligation, not be done.

I do not think that there should be a blanket enforcement of bonds across the board; rather, bonds should be enforced in the areas where there is the most inconvenience, the most public health deficit and the most implications. Such roads are prime targets for calling in the bond and taking that urgent action. I am not terribly sure what alternative there is after a developer has gone bust; the bond is all that one is really left with. I am not sure that we are aware of an alternative, unless you simply require all the infrastructure to be put in place before a homeowner moves in. However, you then get into the impracticalities of financing all the necessary infrastructure up front, and such things tend to evolve during the course of a development.

The Deputy Chairperson: Imelda, Brian and Anne, thank you for your presentation today. A bit of the cut and thrust of politics emerged, but I am sure that you were well able for it. Thank you again.

Mr McNarry: I see that a boxing ring has been erected outside, and Tyson Fury and Paul McCloskey have turned up. So, if there are any wannabes who feel a bit frustrated —

The Deputy Chairperson: I thought you were going to ask me to be in your corner.

Mr McNarry: I was actually going to be in your corner.

The Deputy Chairperson: Thank you.