



Northern Ireland  
Assembly

Committee for Agriculture, Environment and  
Rural Affairs

# OFFICIAL REPORT (Hansard)

Dilapidated and Dangerous Buildings and Neglected Sites:  
Department of Agriculture, Environment and Rural Affairs

12 January 2017

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Mr Sydney Anderson  
Mr Maurice Bradley  
Mr David Ford  
Mr William Irwin  
Mr Patsy McGlone  
Mr Harold McKee  
Mr Edwin Poots

**Witnesses:**

Mr Karl Beattie	Department of Agriculture, Environment and Rural Affairs
Mr Dave Foster	Department of Agriculture, Environment and Rural Affairs
Mr Simon Webb	Department of Agriculture, Environment and Rural Affairs

**The Acting Chairperson (Mr Irwin):** I welcome to our Committee Simon Webb, Karl Beattie and David Foster from the environmental reform branch. I ask you to take up to 10 minutes for your presentation. There will then be some questions. OK? Thank you very much.

**Mr Dave Foster (Department of Agriculture, Environment and Rural Affairs):** Chair, thank you for your welcome and for the opportunity to brief members about progress on the policy development on dilapidated and dangerous buildings and neglected sites. With your permission, I would like to give members a little background on this area of work and highlight some of the areas and issues that have arisen in discussion with stakeholders, and then Simon will outline the options proposed and responses given in the consultation document that issued last year on the subject. We will then be happy to take questions.

It is probably worth clarifying what we mean by "dilapidated/dangerous buildings" and "neglected sites". There are four broad categories of problem site that we have identified: those causing a public health nuisance; property in a visually dilapidated or ruinous state; dangerously dilapidated buildings; and neglected or entirely abandoned sites. The problems associated with such sites are many and varied and include disease and other health effects on individuals, including physical and mental health issues; the potential for increased antisocial behaviour; the loss of amenity, including visual amenity or outlook; effects on property value; danger to the public; and impact on tourism and inward investment.

There is a raft of legislation pertaining to dilapidation, most of which dates back to the 19th century and is often confined to specific areas. For example, we have what we refer to as the local Acts, which include the Belfast Improvement Act 1878 and the Belfast Corporation Act 1911, which are obviously only available to Belfast City Council. We also have the Londonderry Corporation Act 1918, which is only available to Derry City and Strabane District Council and the Towns Improvement Clauses Act 1847 and the Towns Improvement (Ireland) Act 1854, which are available to all councils except the Belfast and Derry and Strabane councils. Those Acts all differ in their specific enforcement provisions and in the cost recovery provisions associated with them. Sometimes the differences are subtle, while, in other cases, they can be significant. There is also dilapidation legislation that can be applied across Northern Ireland. That includes, among others, the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, the Pollution Control and Local Government (Northern Ireland) Order 1978 and the Public Health Acts Amendment Act 1907. Relevant powers are also now available to councils under the Planning Act (Northern Ireland) 2011 in respect of, in particular, completion orders and urgent works on listed buildings.

As a result of having all of that disparate and often very old legislation, there is quite a degree of inconsistency of approach across the council areas. Added to that legislative difference there has been seen to be a difference in interpretation, particularly of article 66 of the Pollution Control and Local Government Order, which has made some councils more reluctant than others to use it. However, probably the major area of concern for district councils is the difficulty in recovering costs incurred in carrying out remedial work when property owners fail to comply with notices under the various legislative provisions. A range of cost recovery provisions is in the legislation, from conventional civil debt procedures to enforced sale of property, but there is little consistency, and councils are often reluctant to commit potentially considerable resources unless there is a significant likelihood that they will be able to recover that expenditure.

Despite the raft of legislation that I have just outlined, there is still a significant legislative deficit when compared with other jurisdictions such as England and Wales or the Republic of Ireland. In particular, those jurisdictions have much more developed legislation to deal with lower-level dilapidation, which allows them, perhaps, to step in more easily to nip dilapidation in the bud before it gets out of hand on a site. They also have more effective legislation to deal with dangerous buildings.

There are, of course, a few interfaces with other policy areas, such as regeneration, housing, community safety, land registration and company law, for which responsibility lies outside DAERA. We are aware that significant care will need to be taken to factor those issues in to any final policy proposals and to engage appropriately with stakeholders in those areas.

I will pass over to Simon, who will outline the consultation document and the responses to it before we answer questions.

**Mr Simon Webb (Department of Agriculture, Environment and Rural Affairs):** The consultation document put forward four options and invited comments through 12 specific questions. The four options included a do nothing option, the issuing of non-statutory guidance by the Department, a Bill to amend and consolidate the existing legislation, and a fourth option — the Department's preferred option — which was to introduce a new broader regime to deal with dilapidated and dangerous structures, neglected sites and a range of visual amenity issues.

We got 24 substantive responses from a range of organisations, including all 11 councils, the Northern Ireland Local Government Association (NILGA), professional bodies, including Building Control NI, NGOs, advisory bodies and one private individual. The Department would like to place on record its thanks to all the respondents for their considered and detailed responses. Twenty-three of the 24 respondents indicated their agreement that option 4 should be the preferred option, and significant support was expressed for giving enforcing authorities new powers and a statutory duty to use them. However, that view was qualified by the need to provide appropriate central government funding.

A number of responses highlighted the need to consider carefully interfaces with other relevant legislation. The inclusion of effective cost recovery provisions in any new legislation was seen as key to success. While there was strong support for the repeal of location-specific legislation and the provision of a new suite of modern, effective powers, that was on the basis that there would be no net loss of enforcement powers. Several respondents stated that, while giving councils the power to require the removal of rubbish from sites was welcome, there should be no attempt to transfer responsibility for fly-tipping matters from the Department to the councils. Stronger penalties were generally favoured, and the issue of councils being liable to pay compensation was raised in several responses.

The replication of powers similar to those in the Town and Country Planning Act 1990 was widely supported. Their effectiveness in England and Wales was acknowledged, and Dave referred to how they can nip issues in the bud early on before serious dilapidation sets in. There was support for powers to vest land in specific circumstances and for bona vacantia property to revert to councils rather than the Crown in certain circumstances.

Many of the responses highlighted the need to ensure that any changes to the legislation took proper account of the need to protect heritage buildings. As a minimum, it was seen as necessary to close the loophole that has created the potential for heritage buildings to be demolished on foot of a Pollution Control and Local Government Order article 66 notice. There was also consensus that any guidance produced by the Department should be statutory and that it was necessary to develop such guidance in conjunction with council officers.

Overall, there clearly is strong support for the creation of a modern, fit-for-purpose enforcement regime and a willingness to engage with the Department to refine policy proposals. A number of issues require further consideration and discussion with key stakeholders and legal counsel and will require significant specialist technical and legal input. Our most pressing task is the preparation of a robust economic appraisal to identify the scale of the problem here and estimate the potential cost of implementing a new regime.

Finally, further engagement with the Committee and our key stakeholders across a range of sectors should enable officials to prepare final policy recommendations for the Minister's consideration around the summertime before seeking the Executive's approval to proceed towards the introduction to the Assembly of a new Bill.

**The Acting Chairperson (Mr Irwin):** OK. Thank you very much for your presentation. I have a couple of questions. Have you any idea of the number of such buildings in Northern Ireland? Is it a large number?

**Mr Webb:** A tender exercise is currently being prepared — we expect to issue it early next week — to try to identify a specific number. We think that the number of buildings that would be considered to be dilapidated runs into the thousands. Belfast City Council estimates that it has —

**Mr Karl Beattie (Department of Agriculture, Environment and Rural Affairs):** It has 1,600, under the existing legislation.

**Mr Webb:** Obviously, new legislation would potentially capture a larger number of buildings. As I have said, once we are able to carry out that exercise, we should be able to get a more reliable estimate of the figure across Northern Ireland.

**The Acting Chairperson (Mr Irwin):** One would have thought that the rating of empty properties would help to deal with such issues.

**Mr Webb:** The key issue, though, is the broader economic environment, and there has been a serious downturn in the property market over the last 10 years. The general state of the economy has led to a large number of properties falling into disrepair. That broader economic background has the biggest impact on the number of dilapidated properties. Certainly, there are intervention measures that can help to tackle that, but a general economic upturn, combined with a more comprehensive and modern suite of legislation on dilapidation, would help.

**The Acting Chairperson (Mr Irwin):** I have a final question. What have you done to get the views of the owners of the properties? Have you done anything? Have you consulted them? Have you obtained any views from property owners?

**Mr Webb:** We had the public policy consultation last year. We received a response from one private individual.

**The Acting Chairperson (Mr Irwin):** Just one?

**Mr Webb:** Yes, a response from one private individual. However, our intention is to continue to engage with key stakeholders, including the likes of the Council of Mortgage Lenders, and garner their views around properties.

**Mr K Beattie:** When we were drawing up the list of consultees, we made a point of consulting landlords, private individuals and their representative organisations to get that broad spread of opinion.

**The Acting Chairperson (Mr Irwin):** Did you get it?

**Mr K Beattie:** No. We will continue to engage with representative bodies.

**Mr Ford:** My question follows on from the acting Chairman's. Clearly there is a benefit to addressing the issue of dilapidation at an earlier stage than the legislation currently permits. However, it potentially runs into increasing the work to be done by councils, and costs vary significantly. Will the survey that you are about to tender for to establish numbers also give any estimate of how the costs will work out?

**Mr Webb:** Yes. The survey will seek to put a broad cost on the overall bill if we were to tackle all the dilapidated properties. Obviously, that is not something that can happen overnight, as a large stock of properties has become dilapidated. It would not be looking at the costs directly to the councils in increased staffing costs; that is something that we will have to pick up in consultation with the councils in the coming months, and that will feature in the economic appraisal.

**Mr D Foster:** Currently, our thinking is that we should put additional powers, rather than duties, with councils to enable them to prioritise the most important buildings to tackle in their area. They can work out which ones cause the most impact and where the greatest benefit for the wider economy of tackling those is. We recognise that to try to deal with everything at once would require a significant resource.

**Mr Ford:** Even doing that sort of assessment will be difficult, because there may be buildings in the greatest state of dilapidation that have, in a sense, gone so far that they are not economically worth saving, compared with making assessments amongst a larger number.

**Mr Webb:** Yes. In terms of the cost —

**Mr Ford:** I am sorry. What I am asking is this: where is the professional expertise to do the work?

**Mr Webb:** Yes. The councils now have officers in post who generally have that expertise, but it may be possible —

**Mr Ford:** They are generally fairly busy with existing building control duties.

**Mr Webb:** Indeed. As David said, the powers would be non-statutory. It would be up to councils whether to use them and therefore to prioritise resources. There are the potential costs of the work, if the councils were to step in, pay and then seek to recover costs. We want to make sure that they have those cost recovery provisions to give them the confidence to act if they wish. Certainly, there would be a potential increase in staffing costs, and the Department will have to look at contributions towards costs as one option going forward.

**Mr Ford:** Would cost recovery provisions relate solely to the direct work done on a property, or would it be legal to assess an overhead, for want of a better term, to deal with the wider council administrative and staffing costs?

**Mr Webb:** The current provisions allow, in certain circumstances, a degree of cost recovery for the actual work undertaken to repair the building —

**Mr K Beattie:** The intention is that it would be all reasonable costs, but that would probably fall short of —

**Mr Ford:** May we have a definition of "reasonable", please?

**Mr K Beattie:** Yes, we would have to provide that definition.

**Mr Ford:** If we are to incentivise councils to do the work, there will be an issue of the wider costs that councils incur besides the direct costs of the work on individual properties.

**Mr D Foster:** The cost recovery provisions in current regulatory regimes allow for the inclusion of a reasonable amount of overheads to recognise the cost of having enforcement staff in post. I would imagine that an analogous situation could pertain in relation to cost recovery here, but that would be subject to policy development with the councils.

**Mr Poots:** Clearly, dilapidated buildings are a big issue and one that the Department maybe contributes to. For example, there are areas of townscape character with severely dilapidated buildings. People put in a planning application to do the building up, and you insist on the walls or the front wall or something being kept. The developers often offer to build an identical building from scratch, but, instead, people are propping up walls and carrying out all sorts of engineering solutions, which adds hugely to the cost. Often, the buildings are just left dilapidated because the additional burden makes it no longer viable to release the value from the site. What is the logic of that? Why should one block wall be so important that it cannot be knocked down and replaced by another one built in an identical fashion?

**Mr Webb:** That strays into the area of planning legislation. What we propose here are discretionary powers; the councils will need to look at each case in the particular circumstances. That would interact, as we said, with existing legislation, but it would not be the case that it would make a call on that. Those issues will still be down to the council in line with the planning legislation.

**Mr K Beattie:** Perhaps now that local planning and dealing with dilapidation sit with councils, it may be a little easier to come up with a coordinated response to these situations. Ultimately, the issue of historic buildings sits with the Department for Communities, so some input from it will probably be required.

**Mr Poots:** I know of a building on a street in Lisburn where it was decided that the front wall had to be kept, which means that a machine will have to be craned over to pile the back of the building. It is just a nightmare. It is adding something like £100,000 to a £500,000 scheme, all to save a single wall, which is a block wall. It is not as if it is a beautiful stone wall that should be retained; there is nothing special about it. Sometimes we get too hung up on some of these things.

**Mr Webb:** It has perhaps got to the stage where the facade is intact but the rest of the building has become badly dilapidated. With this legislation, we are trying to prevent buildings getting to that stage in the first place.

**Mr Poots:** The acting Chairman commented about the empty buildings rating. In another case that I am aware of, the guy just pulled the roof off a building and let the thing go to rack and ruin. He is not paying any rates. The walls are actually falling in now. This is on a main facade in Lisburn about 50 metres from my office. It is absolutely scandalous, but nothing is being done about it. It appears that nothing can be done about it. Someone can just go and pull the roof off a building. It is in an area of townscape character. I pressed the Planning Service, and nothing was done about it. There is a building just going to rack and ruin in an area of townscape character.

**Mr D Foster:** We have to recognise that the work on dilapidation is one element that might improve the situation. It obviously links to planning, as Simon and Karl said. If it is a listed building, that links to other legislation. In developing the policy proposals, we have been keen to work closely with the Department for Infrastructure, which deals with planning policy, and the Department for Communities, which deals with built heritage legislation. We recognise that this will not necessarily be a silver bullet to solve all problems. However, knowing that some owners are less scrupulous than others when it comes to how they try to circumvent that, it will hopefully enable councils, which are closest to the situation, to look across the piece and say, "What is the appropriate strategy for this particular building?".

**Mr Poots:** Your mention of listed buildings brings me to another bee in my bonnet. It relates to Crumlin Road courthouse, although you may tell me that the legislation would deal with that. Barry Gilligan bought Crumlin Road courthouse for £1 and, quite despicably, left that building to individuals to set fire to it. The roof was burnt off, so it has been exposed to the elements. One of the most iconic listed buildings in Belfast was allowed to be destroyed by that combination, having been gifted to the guy by the state at £1 to do things that he never followed through on. In my view, the Department

should have done a number of things. One would have been to go to court and take the building back off him. Another would have been to put a superstructure over the top of it to protect it from the elements. This was one of the best buildings in Belfast in terms of both its historic and architectural value. It should have been saved, but the Department did nothing to save it. Are you telling me that, under the legislation that you propose, that circumstance could be dealt with and you could move in and ensure that someone would not be allowed to let a listed building become dilapidated the way that Crumlin Road courthouse has?

**Mr Webb:** We passed the courthouse on the way here this morning. We are very familiar with the situation, and we have discussed that example in terms of this legislation. If I recall correctly from our discussions, it is unlikely that this legislation would deal with that case.

**Mr K Beattie:** Without getting into that specific case, the legislation will certainly cover that sort of building. To some extent, the existing legislation already covers buildings of that type. The difficulty is in recovering costs for the work that is carried out. It is a matter for the council to deal with under existing legislation, as it would be under the new legislation. The difficulty with the existing legislation is that it is almost impossible for the council to recover its costs in that scenario. The proposed new legislation would enhance the cost recovery powers of the council and may alleviate that situation. Again, I cannot speak about the specific building, but, in that scenario, there are lots of variables. The Department does not have a role in dealing with that. Protected buildings are dealt with by the Department for Communities, and planning is dealt with by the Department for Infrastructure. DAERA does not have a statutory role.

**Mr Poots:** DOE was responsible for the courthouse.

**Mr K Beattie:** Yes, at that time.

**Mr Poots:** Certainly, if the legislation does not cover the likes of that, you will need to talk to the Department for Communities and others and look at producing more comprehensive legislation. It is not good enough that someone can go into an area of townscape character or a listed building and take a few slates off the roof, which is enough to allow it to deteriorate within a very short time — four or five years — to the point at which a building is completely useless and there are no grounds for retaining it.

**Mr Webb:** I can clarify that, as Karl said, leaving the specific example aside, in generic circumstances where there was a similar scenario, the new legislation would potentially allow the council to intervene earlier and prevent that happening. There would be an enhancement of the current situation, but it would be very dependent on the individual circumstances of the building in question.

**Mr Poots:** You say that the council is responsible for cost recovery and that creates the problems.

**Mr Webb:** It will depend on, for example, whether the owner can be located and, potentially, their financial position. We then get into the area of the council making a choice. A building of that size and in that state of disrepair would require a very large outlay for remedial work, and the council would have to recover that cost. Again, it takes us back to the principle of trying to intervene earlier in the process so that the costs do not escalate, either for the private owner up front or for the council.

**Mr McKee:** Thanks for your presentation. My question is on cost recovery, which David mentioned. I am thinking of an example in my town that we — I was a councillor at the time — tried to address, probably four years ago, and nothing has been done. It appears that that is down to cost. The sad thing about all of this is that we still have a dilapidated building that is an absolute eyesore. You can easily make such buildings temporarily safe by putting screens around them, but that does not solve the problem of what is visible. Every day and every year, that gets worse. Who motivates councils to get their act together and do something?

**Mr Webb:** There are two key problems with the current situation. There is the councils' lack of confidence that they have the legislative powers to act. There is uncertainty, and the powers are scattered across very old, disparate pieces of legislation, as Dave said. Then there is the issue of the cost recovery provisions, which vary across the legislation. Our intention is to get the legislation tidied up and bring it into one place to increase the confidence of councils by providing clarity on what discretionary powers are available to them and to enhance their cost recovery powers so that, when they choose to act on cases that involve an outlay on their part, they have a greater chance of

recovering their costs. Those two measures — greater confidence in the legislation and enhanced cost recovery provisions — should assist the councils. Then, as we were saying, we will have to look at the option of assistance with the cost of increasing staff resources to enable councils to intervene.

**Mr D Foster:** In parallel with the legislation, we will look to bring in substantial guidance on the issues. That, too, is about giving councils confidence and would perhaps draw on examples where councils have been successful. Belfast City Council has probably been the most proactive in tackling dilapidation, perhaps for obvious reasons, given the size of the problem and the resources that it has. As Simon intimated, we need a comprehensive suite of legislation that applies across Northern Ireland and takes the best of the plethora of existing legislation and legislation from other jurisdictions, with guidance to show how it can be and has been applied. Hopefully, that will enable all councils to feel confident enough to start to tackle their priority areas. As Simon said, the Department would also have to consider any issues with the resources required to enable them to do that.

**Mr McKee:** Who pays for, say, an emergency situation in which no one knows who the owner is? Who makes the first move to tidy a building up and make it safe?

**Mr Webb:** The council can make that outlay in an emergency situation. There are provisions now that allow councils to put in place metal supports around a building or, as you say, hoarding to restrict access or to demolish certain structures, but the initial cost would be to the council. It can be difficult to locate the owner of a lot of sites. There are databases that can be accessed, but a lot of owners live overseas or are deceased. It can be difficult to find out who should bear the cost. In virtually all those scenarios, it should be the owner of the property because any remediation work potentially enhances the value of their property. There are clear economic benefits of intervention. It is not just about improving the physical appearance — the visual amenity — of the area; there are the long-term socio-economic benefits in increased trade and tourism. There are also potential benefits around reduced crime and antisocial behaviour.

**Mr McKee:** If someone buys that type of property in order to upgrade it, is there any legislation in place that states that they have so long to get their act together and do something about it rather than it lying as it is? Edwin talked about a big property, but there are lots of smaller ones.

**Mr Webb:** I do not know whether there are provisions at the moment, but one of the options that we are looking at is that, if somebody is acquiring a property that is in a state of disrepair, we may be able to carry forward a charge on the property that requires the new owner to remedy the situation.

**Mr McKee:** Within a particular time?

**Mr Webb:** Indeed.

**Mr Anderson:** Thank you, gentlemen, for your presentation. You said that there were 24 responses to the consultation, the majority from councils, NILGA, public bodies and suchlike. Let us go back to the crux of the matter: the people who cause the problems. They were not really interested, and it disappoints me that you got no responses from private owners. I think that you, Simon, touched on the identification of owners and said that some might even be outside the jurisdiction.

**Mr Webb:** Absolutely.

**Mr Anderson:** We have to get to the crux of the matter and get that sorted. My experience is that you are chasing your tail when you try to find out who is responsible or who can help to put things right. Councils try their best, but they have limited powers. They appear to be able to do a quick fix but nothing outside of that. Surely any new legislation has to be robust, and it has to ensure, as Edwin said, that we do not have people buying property for £1 and then doing what they like. A safeguard has to be built in to ensure that that does not happen.

There are too many fingers in the pie. We need to bring everything into one envelope so that we can say, "Right, this is who controls the property". Should it be with planning? Work should not be allowed to go to a certain stage unless certain conditions have been met. In the past, that is what happened, and we ended up with all these sites. What is your opinion? I am concerned that any new legislation will not be robust enough. One of you mentioned listed buildings, which are another big concern. We need all the legislation tied up to ensure that, going forward, it is watertight.

**Mr D Foster:** We all recognise that it is a complex area. We have a lot of existing legislation and a lot of links to policy areas such as planning and regeneration. The positive thing is that, although there were a small number of responses, as you rightly highlighted, all councils are very supportive of this. It is fair to say that, when the Department proposes something in a consultation, local government sometimes has different views and perspectives, but we are working closely with the councils and getting the benefit of their experience and knowledge of where things do not go well on the ground.

Certainly, I take the point that we need to make the legislation as robust as possible. Given that is not often that you get a chance to consolidate legislation into one clear area. We are determined to do that to the best of our abilities. Councils are being very supportive at both political level and officer level. We have engaged with the Department for Communities and the built heritage people and planning policy people in the Department for Infrastructure. We will continue to do that to try to ensure that the legislation that we bring to the Assembly has no gaps and is comprehensive enough to deal with all eventualities, recognising that it is an area in which there is a lot of complexity.

**Mr Anderson:** Past legislation meant that, if councils tried to make a site safer or to force a developer to put up screens or whatever to make a site safer, they were ignored. They had no real powers, and everyone knew it. The attitude was, "Don't listen to that. Sure they will go away", and things were allowed to get worse and worse. You talked about the legislation in England, Wales and the Republic, where prevention — getting in early to stop this — may be part of the cure. Do you agree?

**Mr Webb:** Very much so. It is clear that the current set-up is not sufficiently robust. There is a legislative deficit here compared with our neighbouring jurisdictions. We want to look at the option of stronger penalties so that, if a notification is issued for an owner to act, the tougher penalties associated with that mean that they are more likely to act. Potentially, the section 215 powers, similar to those in the Town and Country Planning Act in England and Wales, would allow for earlier intervention in low-level cases where a property is starting to slip into disrepair. The council can get in early and get the owner to act quickly before it becomes a serious problem and the costs escalate.

**Mr K Beattie:** It is worth mentioning that the section 215 powers, as we refer to them, have been extremely successful in England and Wales, and there are similar powers in Scotland under different legislation. The compliance rate with notices is in the region of 80%, without the council having to take any additional action. If that could be replicated here for a relatively low cost —

**Mr Anderson:** Does the experience in those jurisdictions show that it has that positive effect and is very beneficial?

**Mr K Beattie:** Very much so.

**Mr Anderson:** Maybe we should focus on that: getting in early to ensure that it does not happen. Overall, there are many things that have to come together, and the legislation has to be very robust, because, if it is not, we will end up back where we are today.

**Mr K Beattie:** We also want to enhance council powers so that they can, for example, require people to give information about owners and issue notices to a wider range of people, not just the legal owner of the property.

**Mr M Bradley:** Thanks for your presentation. Will there be provision to aid councils to identify these sites and, more importantly, the owners and to compel owners to repair or demolish? Could councils not be given the power to vest those properties to recover costs if, after a certain time, they had not done so? A lot of developers in Northern Ireland bought sites for the specific purpose of future development that are just lying there and going to waste. The thought that they would lose their investment could spur them on to tidy up their sites a bit. Also, where there is a threat to public safety, could councils be given the power to act without the need to apply for a court order? Picking up on a point that Edwin raised about protected buildings, some of the buildings in my area are built with what, locally, we call Bann brick. It is porous, and it is breaking up and crumbling. Would it not be easier to give the councils, through planning legislation, the power to compel developers to replicate features as opposed to trying to protect something that is not worth protecting? That is what I would like to come forward.

**Mr K Beattie:** Vesting is one of the issues that we have looked at and continue to look at. The councils already have some vesting powers, and there are other powers that sit with the Department

for Communities in relation to vesting for regeneration purposes and the like. The expectation had been that at least some of those powers would transfer to councils under the regeneration work that the Department for Communities was dealing with, but a decision has been taken that that will not happen at this time. We will have another look at that and discuss it with colleagues in the Department for Communities. It certainly would be possible, but we need to look at the issue more closely. We had been content that the relevant powers would transfer with regeneration powers in general, but, now that that is not happening, we may need to look at that again.

Land banking is a significant issue, and we think that the legislation will help to deal with that. Certainly, those properties will fall within the remit of the legislation. On public safety, one of the provisions that we are looking to include in any new Bill is the ability to deal more quickly with dangerous buildings without having to get a court order, as is the case currently. As far as planning legislation for replication of existing features is concerned, we no longer have responsibility for planning, so we cannot really comment on that. That is not an issue for this legislation; it is for experts in the planning authorities or the historic environment division in the Department for Communities to decide how that should be achieved.

**Mr M Bradley:** I look forward to seeing some of those things working out.

**Mr McGlone:** Thanks for your presentation. Following through on Maurice's theme, as I referred to before, I remember being on a council when there were a number of issues. The first is when there is an ownerless property or it cannot be established whether an owner exists. Bona vacantia, whereby an ownerless property can be assumed into the ownership of the Crown, was mentioned. I can understand that there could be certain reasons for property moving to, say, Housing Executive ownership for social housing or whatever that may be. However, there could be circumstances in which property would be of use to the local authority — the council. Have you given consideration to that aspect and to how those circumstances could be worked in?

On cost recovery, has thought been given to the acquisition of the property or asset to defray costs when it is a case of trying to get blood from a stone and the current owner puts up their hands and says, "Come and try to take it from me. I haven't a bean about me"? Can you clarify those two circumstances for me, please?

**Mr Webb:** We will look at bona vacantia, but it would apply only in certain circumstances, because, in certain cases, councils will not want a property to default to its ownership. I can confirm that we will explore that further with the councils in the coming weeks. On the issue of cost recovery and the acquisition of a property — I think that you were referring to a forced acquisition where a council takes ownership of a property against the owner's will — that takes us into the whole area of human rights.

**Mr McGlone:** Like, I think, nearly everyone else here, I know from being on a council that the first question will be "We're going to take action against that boy: how much it will cost — the legal costs and all that?". You would not be long clocking up a bill. A building could be very, very dangerous to local residents and you have the moral authority to do something about it, but you could easily clock up a bill of £20,000 or £30,000 very quickly. If an owner said, "I can't pay for that. I haven't a bean about me", it could be useful for the council to have the power to assume ownership of the property, if it wanted it. It might not want it in a million years, but it might be useful for the development of some resource, the extension of a play area or whatever, without there having to be recourse to the courts. It goes back to the issue of whether the council can vest to defray the costs in part or in whole.

**Mr Webb:** Maybe Karl will pick up on this, but the first course of action before we even got to that point would be to look at putting a charge on the property as a means of cost recovery. It would mean that the council, had it incurred the cost up front of doing certain work, would recover that cost only on the sale of the property.

**Mr McGlone:** When I was going through this in my mind earlier, I was wondering whether you had had any chats with HMRC. You know how it works: HMRC has first call, followed by the banks, and the council could be way down at the bottom of the list.

**Mr Webb:** Yes, and it is unlikely that we would be in a position to alter fundamentally the order of the charges. If a property is in negative equity with a lot of other charges ahead of it, the council could be waiting a long time to recoup that money.

**Mr K Beattie:** On vesting to defray costs, there are two issues. The potential to vest a property for the purpose of improving the area, by demolishing it and building something else in its place or whatever, goes back to the regeneration powers that I talked about. There is that potential. The other scenario is where the council has incurred considerable costs from carrying out works to the property. One of the options that we are looking at is to give councils cost recovery powers under the Conveyancing and Law of Property Act 1881. Essentially, those are the same powers as a mortgage lender has to repossess a property, but that would involve going through the courts for a possession order.

**Mr McGlone:** That can be tricky.

**Mr K Beattie:** Yes, it can be, but it is probably the best and most effective means. Otherwise, you can, as Simon said, run into problems with human rights issues or the problems that exist under the Belfast Improvement Act 1878 — for example, the powers for the enforced sale of property. It is extremely difficult to apply those powers in anything other than exceptional circumstances — essentially, where the property is unoccupied and ownership cannot be established. It is also a convoluted process, whereby you sell the building, but you can sell the land that it sits on only if the building has not realised sufficient funds.

**Mr McGlone:** Chair, with your permission, I have one final question. As I talk this through, I think of different scenarios that I have been involved in. What collaboration have you had with the Health and Safety Executive on how its powers might, in some way, dovetail with the issues that you are exploring maybe to facilitate an outcome that is a bit quicker than having to go back and forward to the courts?

**Mr K Beattie:** The Health and Safety Executive has relevant powers, and certain areas are very much within its remit. The councils' powers might border on, if not overlap, some of those. We have not had any direct conversations with the Health and Safety Executive, but it is on our list of stakeholders to talk to. However, we have talked to councils to get their perspective on dealing with health and safety issues and with the Health and Safety Executive. It appears that there is a good relationship between the councils and the Health and Safety Executive.

**Mr McGlone:** The only thing I am exploring is that the executive may well have powers that could supersede or be an alternative to having to resort to court when there are buildings that are in a serious condition and are a risk to passers-by or nearby residents.

**Mr K Beattie:** Councils work closely with the Health and Safety Executive and the Housing Executive, which also has relevant powers in relation to dwelling houses. There is a good deal of cooperation between those bodies.

**Mr McGlone:** You will work with those other organisations.

**Mr K Beattie:** Absolutely. Our intention is to ensure that the legislation is complementary to all of the other legislation that is relevant.

**Mr Webb:** I will quickly summarise on that point. Currently, we have a stock of dilapidated properties — a large number of buildings that are in a dilapidated state, in various degrees of dilapidation and disrepair. We have that historical legacy issue to deal with. That will need to be processed over time. They will probably bring up a lot more of the more serious cases that you referred to. The hope is that, in the passage of time, the new legislation will allow us to deal with new cases more effectively, and, hopefully, those will be lower-level cases because we are getting in earlier. The legislation will also make sure that we tackle the more serious cases that have built up over previous decades. Hopefully, they will reduce in number as the years progress.

**The Acting Chairperson (Mr Irwin):** What do you expect the timescale to be for any new legislation? What is the next step?

**Mr Webb:** As I mentioned, we are in the midst of preparing an economic appraisal of the full cost and benefits of the proposal. That will need to be approved through the Department of Finance. We are, of course, due to tender for the consultancy work next week to get a handle on the numbers involved. That is with a view to getting Executive agreement to the broad policy and drafting around the summer and getting Executive agreement to its introduction to the Assembly around the autumn.

**The Acting Chairperson (Mr Irwin):** OK. Given that we have legislation now, any new legislation needs to be wide-ranging to ensure that it makes a difference. You could end up being no further forward if you did not watch it.

**Mr Webb:** Absolutely.

**The Acting Chairperson (Mr Irwin):** Thank you very much.