



**Office of the Ombudsman**

**Investigation Report**

on a complaint made

**against**

**Meath County Council**

**July 2010**

### **The Complaint**

Over a period of five years from August 2000 to November 2005, a married couple and their neighbours made a number of complaints to Meath County Council about unauthorised development beside their home, in particular a shed built in early 1998 which, they claimed, was used for commercial purposes. They have alleged that during that time the Council failed to take appropriate enforcement action in relation to the shed. Eventually, in December 2005, the Council claimed that it was precluded in law from taking enforcement action under the Planning and Development Act 2000 (the 2000 Act) as it was over seven years since the shed was erected.

The complainants and their neighbours wrote numerous letters and had other contacts with the Council relating to the matter but no action seemed to have been taken against the developer. On 14 July 2006, the complainants complained to my Office about the failure of the Council to take enforcement action.

### **Preliminary examination**

My Office obtained a report from the Council and the Council's files were also examined in detail. In its report of 24 October 2006, the Council provided a detailed account of its actions on the case.

The Council indicated that in early 1998 a shed was built next door to the complainants. At first they made no complaint about the shed but when, in August 2000, they observed that a new business was being carried on creating noise and traffic, they complained to the Council. They alleged the shed had been let to a plant hire company which was engaged in commercial activity. The Council had already received a complaint relating to this matter in early August 2000 from another local resident. An inspection was carried out on 9 August 2000 and the report noted that the shed was built as an agricultural shed, was in excess of 300 square metres and would be unauthorised development. The shed was leased to the plant hire company as a storage yard and machine repair shed. A letter was issued to the developer (the owner of the site) and to the occupiers of the site on 16

August 2000 requesting them to cease the unauthorised use and to submit proposals for regularising the matter.

When no action appeared to have been taken, the complainants wrote to the Council again on 8 May 2001 and on 14 June 2001. They were advised by the Council on 6 July 2001 that a Warning Notice had been served in respect of the development. In their response of 12 July 2001 the complainants reminded the Council that the shed, which had no planning permission, was 45 feet long and 20 feet high at the apex and that they had fears that a small industrial estate could develop beside their house. A planning application by the plant hire company to retain the development was refused by the Council in September 2001.

On 10 February 2002, the complainants asked the Council what proceedings were being taken to demolish "this large building". On 25 February 2002, the Council explained that enforcement proceedings were being taken in relation to the unauthorised use of the land but that the existing shed may be considered exempt from planning permission if used for agricultural purposes only and that the Council had not taken any proceedings to have the shed demolished. In reply, the complainant disputed the use of the shed for agricultural purposes and alleged it was constructed too close to his property to qualify for exempted development status. The plant hire company vacated the premises in late February 2002. Later, in a letter of 13 March 2003, the complainants alleged that the shed was being used by the developer as a workshop and store for his building company, without planning permission.

Another application for planning permission was lodged with the Council in August 2003 by the developer for, among other things, a change of use of an existing agricultural shed to a builder's warehouse/store. Following refusal of permission by the Council in October 2003, the complainant asked the Council to set a date for the removal of the shed. A report dated 16 August 2004 recommended that legal proceedings be instituted as a matter of urgency. In November 2004, the Council sought details from the complainant concerning the use of the shed in 1998. He provided this information on 2 December

2004. The complainants phoned the Planning Office on 3 November 2005 and were informed that the Council may not be able to proceed with enforcement action because the development appeared to be in operation for more than seven years and, therefore, the Council was statute barred from taking enforcement action.

On 8 February 2007, my office wrote to the Council and asked:

- a) how the Council allowed the seven year period to expire without initiating legal action against the developer, bearing in mind that the Council received numerous complaints about the matter, that it was never in doubt that the development was unauthorised and that it was informed in good time (i.e. within the seven year period) of the date the development commenced;
- b) what redress the Council can now offer to the complainants;
- c) what steps the Council had taken, or will take, to ensure that such a situation does not recur.

By letter dated 27 April 2007, the Council replied summarising the actions it took in relation to this complaint and stated that it did not intend to suggest any financial redress in this case. The Council also stated that it would endeavour to ensure that such a situation does not occur again by ensuring that such cases are monitored closely and reminders are included on officers' personal computers to check such files to ensure that action is taken within the required timescales.

My office obtained all the Council's files on this case and carried out a detailed examination of them.

An analysis of the files showed, among other things, the following:

- a) the number of inspections carried out (planning and environment) was approximately 17;

- b) letters of complaint received, replies issued, letters received from other 3rd parties, replies issued, numbered about 82;
- c) actions generated internally (memos, e-mails, other contacts with third parties) amounted to at least 68;
- d) the number of times that a member of management (County Secretary, Senior Executive Officer, Senior Executive Engineer, Director of Services, County Manager) was informed of the case by letter, e-mail or phone call, or had the file otherwise referred to him, within the seven year period, was at least 19;
- e) there were periods of inactivity when no action took place, other than receiving correspondence from complainants:

21/08/00 to 04/01/01 = 20 weeks

05/01/01 to 04/07/01 = 26 weeks

20/06/02 to 03/06/03 = 49 weeks

17/12/03 to 16/08/04 = 34 weeks

02/12/04 to 06/12/05 = 52 weeks

**TOTAL = 181 weeks**

## **Investigation**

In view of the seriousness of the complaint and the issues raised in the case, mainly, how the Council had failed, over a seven year period, to initiate legal proceedings in this case of unauthorised development, I considered that the matter should be investigated under section 4 of the Ombudsman Act 1980 because of (i) the public interest issues arising, and (ii) the need to establish all the facts and circumstances giving rise to the Council's failure to take enforcement action in time.

Accordingly, my Office wrote to the County Manager on 24 April 2008 to advise him that I intended to carry out an investigation of the complaint.

On 23 May 2008, the Council replied stating that it was statute barred from taking any further proceedings and that it regretted its omission in this matter.

It was decided to interview (i) the complainants to get their personal perspective on the matter, and (ii) the relevant Council staff in order to establish, among other things, why the Council had failed to initiate legal action before the expiry of the statutory seven year period.

## **Analysis**

The following is based on the evidence of Council officials interviewed during this investigation, reports to my Office from the Council, examination of the Council's files by the Ombudsman and references to relevant legislation.

The evidence suggests that the shed was built in early 1998. The developer consulted with the complainants before he built the shed and the complainants had no problem with the shed being built as they understood it was to be used for the developer's own business needs. It was only when the developer rented the shed to the plant hire company in 2000 that the complainants became concerned due to the noise from the machinery, etc. Later, when the complainants feared that this might be the first step in the setting up of an

industrial estate beside their house, they complained to the Council about the existence of the shed and wanted it removed.

The Council's inspection of 10 August 2000 identified the shed as a workshop, built as an agricultural shed, and concluded that the shed itself was an unauthorised development. In addition, an experienced planner reported in June 2002 that the shed was unauthorised. This was a straight-forward case of unauthorised development in that the shed was built without planning permission and the Council had identified it as such.

The Local Government (Planning and Development) Act 1976, as amended, was in operation at that time and provided the mechanism for dealing with the complaint. The Council used its discretion to pursue the complaint by writing to the owner and occupier of the site on 16 August 2000 and subsequently issued a Warning Notice on 4 July 2001. New planning legislation, (Part VIII of the Planning and Development Act 2000) came into operation on 11 March 2002 and included specific procedural provisions in relation to complaints about unauthorised development. From 11 March 2003, it would have been mandatory to issue a Warning Letter when a complaint was made about this development - unless the Council decided to go for an injunction under section 160 of the Planning and Development Act 2000.

While the legislation gives local authorities discretion to take enforcement action, this discretion must be used reasonably. It is clear that the Council was intent on dealing with the use of the shed, issued an Enforcement Notice to this effect and was successful in getting its use by the plant hire company ceased, but it ignored the matter of the unauthorised shed despite incontrovertible evidence that it was unauthorised.

The Enforcement Section of the Council differentiated between the use that was being made of the shed and the existence of the shed which had been erected without planning permission. The fact that planning permission might have been secured to retain the shed if it was used for agricultural purposes (which it was not) was presented as the reason for not pursuing enforcement action in relation to the shed. While a letter from the

complainant to the Council did include a reference to an intention to use the shed for agricultural purposes, this never materialised and having carried out 17 inspections the evidence to the Council was to the contrary - after the plant hire company left it was used by its owner/developer to store building materials. Therefore, the suggestion by the Council that the shed was for agricultural use was irrelevant and misleading.

While pursuing only the use of the shed, the Council took almost one year to issue a Warning Notice. It also put a "stay" on further action because a planning application was made, delaying the matter for another seven months. When this process was completed, it then failed to take any further action on foot of the August 2000 report, despite ongoing complaints to it that the shed itself was also an important issue.

Further reports by professional/technical staff were also not acted on. For instance:

- following the report by the Executive Planner dated 18 June 2002, a Warning Letter requesting the removal of the shed was issued on 20 June 2002 but there was no follow up;
- the Executive Technician, in a report dated 8 July 2003, recommended holding off on issuing an Enforcement Notice until mid-August. There was no follow up in August;
- regarding the planning application dated 22 August 2003 for change of use to a builders warehouse/store, another Executive Planner, in his report dated 13 October 2003, drew attention to the unauthorised nature of the development and sent his report to the Enforcement Section for enforcement action "... before they become established on site in terms of it being used as a builders depot/yard....". This indicated strongly that the building was already being used for an unauthorised purpose and that such use should be dealt with before it was too late. No action was taken by the Enforcement Section on foot of this Executive Planner's report;
- in his report of 10 December 2003, the Executive Technician recommended initiation of enforcement procedures "... to cease all unauthorised development immediately ...". The Enforcement Notice issued on foot of this recommendation

referred only to the use of the shed and site. There was no follow up on this Enforcement Notice;

- the former Senior Executive Engineer, following a review of the file and inspection of the site on 16 August and 26 August 2004, respectively, recommended that the file be referred to the Council's solicitor with instructions "to initiate legal proceedings urgently". The file was referred to the solicitor but there was no follow up after some routine queries were raised by the solicitor.

The Senior Staff Officer (SSO) said that he did not think the Council was looking for the shed to be demolished; that this was not done by the Council at that time; and that other Councils operated in the same way. He said that it was not set out in a formal Council policy but it was the practice at the time not to seek to demolish a building and no buildings were demolished by Meath County Council around this time. He said that while there was no directive from management on the matter nor was he aware of such a policy at a more senior level in the Council, the Council just did not seek the removal of buildings that were unauthorised. His focus, therefore, was on the use of the shed and the Council succeeded in having the use by the plant hire company stopped. However, after the plant hire company left, the owners of the shed continued to use it for storage purposes, without planning permission.

When asked about the existence of an unwritten and unspoken policy not to seek the removal of a building, the Senior Executive Officer, the Director of Services and the County Manager denied any knowledge of such a policy and were adamant that no such policy existed. While it is clear that no such written policy existed, it seems that the SSO, based on his experience of custom and practice, had seen no evidence of efforts by the Council to remove buildings and, therefore, concluded that it was not done and would not be done in this case. The shed was intended for agricultural purposes and, in his view, if the developer applied for planning permission to retain it as an agricultural shed, permission would be granted. Therefore, the prospect of it being removed seemed to him to be remote.

One of the Council's main defences for failing to take proceedings, before the time limit ran out, is the lack of resources in the Enforcement Section during the relevant period and the increase in the number of enforcement complaints received. In the course of interviews with the SEO and the Director of Services, they highlighted the lack of resources in the Planning Section, generally, as a problem and the pressure of work on themselves meant that they were able to devote little or no time to the Enforcement Section. It is undoubtedly the case that the number of complaints received more than doubled in the period 2000 (when the first complaint was made in this case) to the end of 2004 when the seven year limit was about to expire. In the same period the staff numbers increased by only 50%. It seems, therefore, that the Enforcement Section was understaffed during this period. Therefore, the Council's defence of lack of resources is valid to a certain extent. However, it is also the case that there was a huge effort, in terms of man-hours and actions generated, put in to this case but with little or no result at the end of the day. The analysis of file transactions shows that the number of inspections carried out (planning and environment) was 17. There were 82 items of correspondence (in and out) and another 68 actions generated internally (memos, e-mails, contacts with 3rd parties, etc.). Therefore, given the effort put in, the resources argument does not stand up, as a defence of the Council's failure to take effective measures, in this particular case. Indeed, it seems that there may have been a waste of scarce Council resources, over a period of four and a half years, including solicitors' time and costs, without (a) achieving the objective sought by the complainants of removing the unauthorised shed, or (b) carrying out the obligations of the local authority to ensure that the planning code was complied with.

There were long delays in the processing of the case. At crucial stages when it seemed that appropriate action was about to be initiated, following a flurry of activity including inspections, correspondence, etc., the file then went to ground. For instance:

- after the initial complaint was received on 9 August 2000, the developer and occupier were written to on 16 August. After the developer replied on 21 August 2000, no further action was taken until 4 January 2001 - a delay of 20 weeks;

- after a meeting with the developer and occupier on 5 January 2001, no further action was taken until a Warning Notice was issued on 4 July 2001 - a delay of 26 weeks;
- following the report by the Executive Planner dated 18 June 2002, a Warning Letter requesting the removal of the shed was issued in 20 June 2002. Nothing further happened until 3 June 2003 - a delay of nearly a year;
- after the issue of an Enforcement Notice on 15 December 2003, nothing happened until the file was reviewed by the former Senior Executive Engineer on 16 August 2004 - a delay of 34 weeks;
- after the complainants responded on 2 December 2004, to queries raised by the Council, there was no further action until 6 December 2005 after the complainant contacted the Council by phone and by letter to enquire about progress in the case - a delay of one year - although it is accepted that by the end of 2004 the Council was probably statute barred from taking enforcement action.

Other than the resources argument, which is accepted in general terms only, no explanations were forthcoming regarding the ongoing and recurring inaction in following up on Warning Notices/Letters and an Enforcement Notice.

The evidence of the SSO and all line managers interviewed for this investigation suggests that there was little or no supervision or monitoring of the Enforcement Section by his line manager (SEO), or anyone else, to ensure that there was proper and effective use of the limited resources available, even when this case was brought to the attention of different management grades on at least 19 occasions over a period of three years. This lack of involvement by his line manager or anyone else with responsibility at a more senior level may have led the SSO to make certain assumptions, such as, that the Council would not pursue the demolition of buildings in the prevailing climate of lack of resources in the Section. Council officials interviewed during this investigation acknowledged that the SSO was left to his own devices and effectively ran the Enforcement Section on his own and that he and his staff were under severe pressure in their work. His line manager told my Investigators that he did not have the time to take

an interest in the day to day running of the Enforcement Section. The Director of Services, however, seemed surprised that this was the case.

When an alleged unauthorised development is brought to the attention of a developer by a local authority, the developer is entitled to apply for planning permission to retain the unauthorised development. Some developers use this tactic to buy time. Some of the delay in taking action, in this case, was caused by the Council "staying" the enforcement proceedings to allow the developer to apply for planning permission. While this may seem a reasonable course of action to take, on some occasions the action was stayed by a promise that an application for planning permission would be lodged with the Council. For instance,

- when the Council first wrote to the developer on 16 August 2000, they received a reply, dated 21 August 2000, saying that he (the developer) had obtained the relevant planning application form and he was in the process of completing it for submission as soon as possible. When no application was received by 4 January 2001, the SSO phoned both the owner and occupier. The occupier stated that he would be lodging a planning application within 14 days. Nothing happened again until after the Council issued a Warning Notice on 4 July 2001. A planning application was then lodged on 1 August 2001 and a decision to refuse permission was made by the Council on 26 September 2001. This decision was appealed to An Bord Pleanála on 22 October 2001 but the appeal was withdrawn on 4 March 2002. Accordingly, over 18 months was allowed to pass while an unauthorised development was in place, to the detriment of the complainants, while the developer took advantage of the Council's lax attitude to the enforcement of the planning legislation;
- the Executive Technician, in his report of 8 July 2003, stated that the developer was in the process of preparing a planning application. The planning application was received by the Council on 22 August 2003. The applicant was refused planning permission on 15 October 2003. Once this new planning process had been exhausted, the Council still took no action until a further inspection was carried out

by the Executive Technician on 10 December 2003 following a complaint on behalf of the complainants. Again, as referred to above, this did not lead to any progress in the case.

Section 162(3) of the Planning and Development Act 2000 provides that "No enforcement action under this Part ... shall be stayed or withdrawn by reason of an application for retention of permission under section 34(12) or the grant of that permission.". It seems to be the case generally that, once a developer applies for planning permission to retain an unauthorised development, enforcement action is stayed. It was represented to the Ombudsman by the Council in this case that, despite the mandatory nature of the provisions of section 162(3), enforcement cases are likely to be stayed by a judge in Court if it is brought to the Court's attention by the developer that a planning application has been lodged. However, the Council had no direct evidence to support this view and accepted that its view may be based on anecdotal accounts only. There may be good grounds for staying enforcement action while a planning application is in progress, particularly if the unauthorised development is having no adverse affect on anybody else. In this case, it seems that the question of taking steps to have the unauthorised development ceased, by means of an injunction under section 160 of the Planning and Development Act 2000, or of revisiting the matter afterwards to pursue the offence that had been committed under section 151 of the Act, regardless of whether planning permission was granted or not, were issues that were never considered. I found no evidence to suggest an intention by the Council to deal with the "staying" of enforcement in this case.

Section 157(4)(a) of the Planning and Development Act 2000 provides that no enforcement action can be taken in respect of unauthorised development after seven years from the date of commencement of the development. The shed in this case was erected in early 1998, therefore the seven year rule would apply in early 2005. Despite the delays and inaction in this case up to August 2004, the seven-year rule could have been prevented from taking effect in early 2005 if appropriate action had been taken even at that late stage. The former Senior Executive Engineer was aware of the urgency of the

case and requested that the file be referred to the solicitor but the instructions to the solicitor, issued on 30 August 2004, fell short of his intentions and did not convey the urgency of the matter to the solicitor. If the solicitor had been instructed properly and had received a copy of the Senior Executive Engineer's report of 16 August 2004, he may not have had cause to raise queries which resulted in delay, and legal proceedings could have been initiated before the expiry of the seven year period. It was not until the complainant made enquiries in November 2005 that the Council addressed the seven-year rule issue and decided that no further action could be taken at that stage.

Section 46 of the Planning and Development Act 2000 provides that if a planning authority decides that, in exceptional circumstances any structure should be demolished or removed, the planning authority may serve a notice on the owner and on the occupier of the structure or land concerned and on any other person who, in its opinion, will be affected by the notice. This section applies to any unauthorised development where seven years has elapsed from the commencement of the unauthorised development. My Office is not aware of any instance where this provision has been used by a local authority.

## **Conclusions**

Arising from the foregoing analysis of the case I drew the following conclusions:

a) Once the status of the shed itself, as an unauthorised development, was brought to the attention of the Council, it was incumbent on the Council to deal with that issue. Its failure to deal with the totality of the unauthorised development arose from a number of issues that had a significant influence in the handling of the case and resulted in the Council devoting significant resources to this case at a time when the Council claimed that lack of resources was the cause of its failure to take enforcement proceedings.

b) The Council did achieve its objective of having the use of the shed and the use of the site by the plant hire company ceased but it took 18 months to achieve this and, during this time, the Council allowed latitude in relation to the unauthorised development on promises made that planning permission would be sought.

c) The success of having the use of the shed and the site by the plant hire company ceased was short-lived as the owner of the site then started to use the site, including the shed, for his own business purposes. However, the Council concentrated exclusively on the use of the site/shed and ignored the existence of the shed which was unauthorised.

d) There appears to have been confusion in the Enforcement Section relating to what the complaint was, i.e. was it about the use of the site/shed or the shed itself. The conclusion that the shed would be granted planning permission, if used for agricultural purposes (which it was not), was irrelevant and confused the matter unnecessarily and inexplicably.

e) The Enforcement Section was run by the SSO, in isolation, without adequate supervision by his line manager (the SEO), or anyone else. The failure of the Council's management structure to have in place procedures to monitor the activities of the Enforcement Section or review its workload, even when the case was brought to the attention of members of the management team on at least 19 occasions, was a major contributing factor to the faulty manner in which the case was dealt with.

f) It was the opinion and understanding of the Senior Staff Officer that the Council did not seek the removal of structures at that time. However, his line manager (SEO), the Director of Services and the County Manager did not share his opinion or understanding in this regard. Whatever the reasons for the views of the Senior Staff Officer, the management of the Council must share the responsibility for the consequences of his mistaken view that the Council would not be seeking the removal of the shed and, therefore, enforcement action in relation to it would only go so far.

g) Lack of resources was given as a reason for the failure to follow up on the case at crucial times. However, while there is some merit in this argument, the argument does not stand up in this particular case having regard to the amount of time and effort expended on the case overall.

h) Lack of urgency was always a factor in dealing with the case, even when the urgency of the matter was highlighted by the former Senior Executive Engineer in his report of 16 August 2004.

i) Having failed to use the normal enforcement provisions of the legislation in a timely manner, the Council still had the power to seek the removal of the unauthorised shed using the provisions of section 46 of the Planning and Development Act 2000.

j) Finally, fundamental shortcomings in the management and direction of the Enforcement Section were key factors in the failure of the Council to process the case in a proper manner and prevent the statute from running out. These failures were so endemic that no matter how many letters of complaint were received in the Council from the complainants, how many inspections were carried out, how many Warning Letters and Enforcement Notices were issued, this case was never going to proceed to court action because of the mistaken views that were brought to bear on the case at the crucial points, e.g. (a) that planning permission would be granted for the building/shed if used for agricultural purposes, which it was not, and (b) the perception in the Enforcement Section

that the building/shed would never be demolished because the Council did not have a policy of seeking the demolition of unauthorised developments.

While it is acknowledged that the Planning Department was under-resourced and disorganised at a time of an unprecedented increase in the level of planning activity and that steps have since been taken to bring about improvements both in terms of staff numbers and better procedures, nevertheless, the processing of this case, as borne out in the evidence contained in this report, suggest that the system, particularly at planning enforcement level, was unsupervised and poorly managed.

## **Findings**

I found that:

1. Meath County Council failed at every opportunity presented to it to deal effectively with the totality of the development complained about, i.e. the use of the shed **and** the existence of the unauthorised shed, and this failing arose from reliance on information and views that were erroneous, misleading and never challenged.

2. This investigation has shown that there were a series of incremental misjudgements, including lack of clarity with regard to primary objective and lack of timely action from the latter half of 2000 onwards in relation to the enforcement process, as evidenced by failure in mid to late August 2004 when:

- (a) the intentions of the report of 16 August 2004 setting out the urgency of the matter were not properly conveyed to the Council's solicitor, and
- (b) following further delay in dealing with the solicitor's queries
- (c) the statute of limitations with regard to enforcement was allowed to run out, unnoticed, by any senior official of the Council.

I found that, despite the heavy workloads of staff, this failure on the part of the relevant Council officials arose as a consequence of a particular view in relation to the enforcement policy of the Council which was erroneous and systemically contrary to good administration.

3. All levels of management in Meath County Council failed in their responsibilities to have in place effective systems to monitor and review the work of the Enforcement Section. The Section was effectively run by a Senior Staff Officer without appropriate support mechanisms from his line manager, or anyone else, in the Council. This was a significant failure that was contrary to good and sound administration.

4. The failure of the Council to have a procedure in place to follow up on breaches of planning, where enforcement action is "stayed", contrary to the provisions of section 162(3) of the Planning and Development Act 2000, is an undesirable administrative deficit and contrary to good and sound administration.

### **Recommendations**

Based on my findings set out above, I recommended that Meath County Council, as the planning authority, take the following steps:

1. Send the complainants a letter of apology and offer to pay them compensation of €3,000 arising from the adverse effect suffered to date as a result of the Council's failure to take appropriate action in relation to the unauthorised shed beside their home. This figure included an amount (€1,000) for distress, time and trouble in making complaints to the Council over a number of years leading ultimately in a complaint to my Office.

2. Consider serving a notice under Section 46 of the Planning and Development Act 2000 (Section 46). This section provides that if a planning authority decides that, in exceptional circumstances any structure should be demolished or removed, the planning authority may serve a notice on the owner and on the occupier of the structure or land concerned and on any other person who, in its opinion, will be affected by the notice. This section applies to any unauthorised development where seven years have elapsed from the commencement of the unauthorised development. My Office is not aware of any instance where this provision has been used by a local authority.

3. In the event that:

- (a) the Council, as the planning authority, decided not to serve a notice under Section 46, or
  - (b) having served the notice under Section 46, the notice was subsequently found to be faulty or defective because of error or omission by or on behalf of the Council,
- or

(c) the Council, as the planning authority, decides to withdraw the Section 46 notice,

I recommended that the Council pay the complainants compensation of an additional €10,000 for the on-going adverse effect of the shed on them and their home.

Bearing in mind the prospective nature of this recommendation, my Office had no objection to an instalment arrangement whereby the payment would be made over a period of 5 years. This arrangement would entail a payment of €2,000 per annum commencing in January 2010.

4. While the Council had advised me that it had addressed some of the problems that arose in this case, particularly in the areas of resources and better procedures through the implementation of a "change management" programme in the Planning Department with the emphasis on increasing the staffing structures and building consistency, I considered that further improvements were necessary in its administrative procedures in the area of enforcement to ensure that:

- (a) appropriate oversight arrangements are in place to review complaints about unauthorised development where enforcement action involving legal procedures is being considered;
- (b) where legal procedures are initiated, follow up action is taken in a timely way;
- (c) the Council has in place an administrative 'alarm system' which will trigger the attention of the County Manager and the relevant Director of Services to open cases involving unauthorised development where the seven year rule will expire within the following 6 months;
- (d) where enforcement is "stayed", such cases are reviewed systematically and a decision made as to whether further action ought be taken in relation to any breach of planning.

### **Meath County Council response**

Meath County Council agreed to issue a letter of apology to the complainants, accompanied by a cheque in the sum of €3,000 in compliance with recommendation 1 above.

After careful consideration, Meath County Council decided not to issue a Section 46 Notice in this instance. Consequently, and in accordance with recommendation 3 above, the Council agreed to pay five annual instalments of €2,000 each to the complainants, commencing in January 2010.

**Emily O'Reilly**  
**Ombudsman**  
**July 2010**