

EXPLANATORY MEMORANDUM TO

The Donaghadee Road, Groomsport (Abandonment) Order (Northern Ireland) 2011

S.R. 2011 No. 314

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Regional Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 68(1) and (5) of the Roads (Northern Ireland) Order 1993 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Rule is to abandon an area of 109.06 square metres of road fronting No. 115 Donaghadee Road, Groomsport.

3. Background

- 3.1. The abandonment has been requested by the adjacent frontager who wishes to incorporate the bed and soil of this road into his property.
- 3.2. The bed and soil of the area of road to be abandoned is registered to the estate of John Aird Lowry (Deceased). It is part of a bequest to the National Trust of a larger area of land that has been the subject of ongoing legal proceedings for the last 8 years to have this land registered in the name of the Trust. The applicant is aware of the land ownership situation.

4. Consultation

- 4.1. The PSNI has been consulted and no objection has been received. North Down Borough Council has also been notified and no objection has been received.
- 4.2. The statutory undertakers were notified of the proposed abandonment and no objection has been received.
- 4.3. A notice in respect of the proposed abandonment was published in the local press for 2 successive weeks and posted on the site of the proposed abandonment.
- 4.4. Following the publication of the notice one objection was received. The objector's main concerns were that there is a right of way across the area of road to be abandoned leading to a set of steps up to the main road which would be of value to his property; a storm water drain passes under the area and if it is no longer public road the problem of potential flooding will only get worse and he is afraid that as a frontager he would be liable; and following abandonment there could be disputes over boundaries. The objector also enquired about any financial saving to the public purse as a result of the proposed abandonment.
- 4.5. The Department has considered the objection in detail.

- 4.6. The area of the road to be abandoned is so overgrown that if the steps referred to by the objector still exist officials from Roads Service Eastern Division were unable to find them during a site visit in March 2011. The objector himself has pointed out that the applicant (the adjacent frontager) has been parking large vehicles on the area of road to be abandoned for the last 25 years. Access to both properties at this location is by an alternative route and this has been the case for some time.
- 4.7. Neither the Department's Roads Service nor Water (NI) has any record of equipment in the area to be abandoned. In addition, as stated by the objector, the site was visited by officials from the local Roads Service section office in 2009. They have confirmed that they saw no evidence of drainage lines through this land and have stated that the main road drainage should not be affected by the proposed abandonment.
- 4.8. The Department has confirmed that the bed and soil of the area to be abandoned is owned by the Lowry estate. As such the objector does not control or hold any liability for it.
- 4.9. The bed and soil of the length of the road which is not being abandoned is owned partly by the Lowry estate and partly by the Department. As it remains a public road responsibility for, and control over it, remains with the Department.
- 4.10. As the bed and soil of the road is owned partly by the Lowry estate and partly by the Department the issue of a boundary between the abandoned area of road and that which is being retained as public road is unlikely to apply. Nevertheless, the Department has undertaken to mark the boundary of the abandonment on the ground.
- 4.11. On the coming into operation of an abandonment the area of road in question ceases to be maintainable by the Department and the public right of way over is extinguished. As the area in question is no longer part of the public road network the public liability and the cost of future maintenance are reduced accordingly. In this instance it is the Department's view that there would be a potential saving to the public purse as a result of the proposed abandonment.
- 4.12. The Department has decided to proceed with the abandonment as it is satisfied that the area in question is no longer required as part of the public road network.

5. Equality Impact

- 5.1. Consideration has been given to compliance with Section 75 of the Northern Ireland Act 1998. No equality issues have been identified by the Department and no issues were raised following the publication of the notice in the press.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment was not considered necessary as the proposal does not result in any costs or savings to business, charities or the voluntary bodies.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. Consideration has been given to compliance with section 24 of the Northern Ireland Act 1998. No human rights issues have been identified by the Department and no issues were raised following the publication of the notice in the press.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.