

EXPLANATORY MEMORANDUM TO

The Groganstown Road, Belfast (Abandonment) Order (Northern Ireland) 2016

S.R. 2016 No. 392

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the 392Department for Infrastructure 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 a length of 193 metres of Groganstown Road, Belfast on completion of such works as the Department considers necessary for the provision of alternative facilities for road traffic (a new turning head).
- 2.2. The abandonment will come into operation on completion of works to provide a turning head at this location. The Department is of the opinion that this will provide alternative facilities for road traffic.
- 2.3. The Department is also of the opinion that the length of road does not operate as a public road and would serve no useful purpose for traffic.
- 2.4. On the coming into operation of the abandonment the area of road in question shall cease to be maintainable by the Department and the public right of way over it shall be extinguished.

3. Background

- 3.1. The length of road proposed to be abandoned extends from no. 39 Groganstown Road to the entrance of an abandoned quarry (Sinclair's Quarry) which has subsequently been used as a council landfill and is now part of a Material Recovery Facility (MRF) which also includes all the land on either side of the road.
- 3.2. The abandonment was originally requested by the then owner of the bed and soil of the area of road involved in order to redevelop the existing site. The current owners have confirmed that they wish the abandonment to proceed. Following abandonment the land will be incorporated into the adjacent MRF site.
- 3.3. Although the Department has no record of the road being maintained or inspected as part of the public road network, either by itself, or by the Council when local councils had responsibility for roads, following legal advice it has been decided to treat the road as if it was a public road. In order to remove the length of road from the public road network an Abandonment Order is required.

- 3.4. The proposed Abandonment Order was advertised in 2007 but, following receipt of objections, was placed on hold to allow the applicant to address the issue of a private right-of-way.
- 3.5. In 2011 the ownership of the MRF site changed hands and the new owners confirmed in 2012 that they wished the abandonment process to continue. The Department therefore reviewed all the documentation including the objections and decided that the road is not necessary for road traffic, as it does not operate as a public road and would serve no useful purpose for traffic, and so the appropriate course is to continue with the abandonment process.
- 3.6. The Department's investigations concluded that this length of road does not provide a link to any other road / public right-of-way and does in fact end on private property. While there does appear to be a private right-of-way which leads to a private lane leading to Colinglen Road this would be a private arrangement between the adjacent landowners rather than the public.

4. Consultation

- 4.1. The PSNI expressed an objection which has now been withdrawn.
- 4.2. The former Lisburn Council advised that it would support the abandonment subject to an alternative and safe footway being provided. However, following further correspondence from the Department, the Council, at its meeting on 14th May 2007, confirmed that it would accept the abandonment without the need for a footpath.
- 4.3. Following informal consultations the Department received thirteen objections, mainly from hill walkers and dog walkers but including one from a neighbour of the MRF site ("Neighbour 'A'"). As the Department was of the opinion that the road was not necessary it decided to proceed with the formal consultation process (see below).
- 4.4. A notice in respect of the proposed abandonment was published in the local press for two successive weeks, a notice was posted on site and the statutory undertakers were notified of the proposal. Thirteen objections were received.
- 4.5. Following completion of the formal consultation process the original thirteen objections remained outstanding and some concerns raised by the PSNI about traffic in the general area had been addressed by the applicant.
- 4.6. A further objection was received after the end of the period set down in paragraph 1(b) of Schedule 8 to the Roads (Northern Ireland) Order 1993 for the receipt of objections. Although this objection was received well outside the statutory objection period it was accepted as a formal objection as it was from a neighbour ("Neighbour B") who had a private right-of-way from his land over the MRF site to join the Groganstown Road.
- 4.7. The Department requested that the applicant address the matter of the private right-of-way, which he did by constructing a private laneway along the side of the MRF site. Before it considered taking the abandonment process further the Department also requested that the applicant obtain

Neighbour 'B's written agreement to the new right-of-way. As this was not immediately forthcoming the abandonment was placed on hold.

- 4.8. The Department has carefully considered all the objections and would confirm that it is the Department's view that the area of road is not necessary for road traffic and that the abandonment should proceed. The Department is also satisfied that the issues the objectors have raised have all been addressed.

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.