EXPLANATORY MEMORANDUM TO

The Common, Markethill Road, Newtownhamilton (Abandonment) Order (Northern Ireland) 2021

S. R. 2021 No. 125

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department 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 an area of 414 square metres of road comprising of a lay-by in front of the old Newtownhamiltown Livestock Sales yard, No. 8 The Common, Markethill Road, Newtownhamilton. On the coming into operation of the rule, 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. The area of road and footway in question will be abandoned as the Department is of the opinion that the road is no longer necessary.

3. Background

3.1. The applicant has proposals and planning permission for a filling station/convenience store on the site and wish to take the lay-by into the curtilage of the development. The area to be abandoned is unregistered and following a search it appears that the Department does not have title to this land. If the applicant is unable to produce title they have been informed that they will have to accept the risk of a third party claiming title and will have to deal with subsequent legal implications.

3.2. Following the abandonment, the area of land in question will form part of the frontage and forecourt of the proposed filling station/convenience store.

4. Consultation

4.1. The PSNI has been consulted and has no objection. Newry, Mourne and Down District Council has also been advised of the proposed abandonment and initially objected but has subsequently withdrawn the objection.

4.2. The Department carried out an initial consultation exercise in 2016 and received six objections.

4.3. In accordance with the statutory consultation process a notice in respect of the proposed abandonment was published in the local press for two successive weeks in early 2019. In addition, a notice was posted on site and the statutory undertakers were notified of the proposal. Following publication of the notice, no further objections were received.

4.4. Two of the objections were withdrawn in January 2017 and, as part of the legislative process, the Department wrote at that time to the remaining objectors asking them to withdraw their objections. No responses were received.

4.5. In November 2020, the Department wrote again to the objectors informing them of the decision to proceed and inviting them to provide any new information failing which the matter will proceed. No replies were received from the objectors

4.6. The Department is satisfied that the appropriate processes have been followed in relation to the proposed abandonment and that the issues raised by the objectors have been fully 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. The applicant has signed an undertaking to reimburse the Department's costs and expenses and to pay any compensation due as a result of making the Rule.

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.