

County Down, Belfast

This statement of case will set out the reasons why this road abandonment Order relating to this proposal ought to be rejected. Whilst there are many emotive environmental, societal and governance issues related to this proposed project, this statement of cases will deal exclusively with Northern Ireland Planning law, domestic law, European law and International law as applicable. The reasoning for rejecting each element of the proposed project will be laid out below sequentially, in the manner as stipulated by the Planning Appeal Commission ('PAC') in their letter of 9 February 2024. I fundamentally oppose this proposed project for the following reasons set out below and resultingly the Department should exercise their powers under the Planning Act (Northern Ireland) 2011 to reject the road abandonment order related to this proposed project.

- (i) A statement of case for the Proposed Road Abandonment Order relating to the Crockanboy, Greencastle, County Tyrone.

Foremost, Article 68 of the Roads (Northern Ireland) Order 1993 lays out the requirements for a road abandonment Order to be granted by

1 the Department. Article 68(4) of the Roads (Northern Ireland) Order
2 1993 is clear when it stipulates, ‘No order shall be made under
3 paragraph (1) in relation to a road unless the Department is of the
4 opinion that the road is not necessary for road traffic or that another
5 road is available which provides, or is capable, if improved, of
6 providing, alternative facilities for road traffic; or the order provides
7 for the carrying out by the Department or any other person of such
8 works as the Department considers necessary for the provision of
9 alternative facilities for road traffic before the road is stopped-up or
10 abandoned’. The Department has not stipulated what ‘alternative
11 facilities’ will be provided in lieu of the Crockanboy Road. It is not
12 satisfactory that the Crockanboy Road can be labelled as having
13 limited traffic and therefore its value to the local community is
14 limited. Article 68 of the Roads (Northern Ireland) Order 1993 is
15 clear that if alternative facilities are to be provided then these must be
16 ‘before’ the road is stopped up or abandoned. No alternative facilities
17 have been provided by the Department and there has been no
18 communication around any potential alternatives. This lack of care is
19 demonstrated in the poorly filled out Rural Needs Assessment 2020,
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1 which lacks necessary detail and shows disregard for this rural
2 community.
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5 In relation to the Department's obligations under the Roads (Northern
6 Ireland) order 1993. Schedule 8 of the Roads (Northern Ireland) Order
7 1993 is clear that whilst exercising their powers under Article 68(1),
8 the Department must 'Before making an order the Department shall
9 publish in the Belfast Gazette and once at least in each of two
10 successive weeks in one or more newspapers circulating in the area in
11 which the road, bridge, tunnel, foreshore, land or navigable
12 watercourse to which the order relates is, or is to be, situated a
13 notice—
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19 (a) stating the general effect of the proposed order;
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22 (b) specifying a place in that area where a copy of a draft of the order
23 and of any relevant map or plan may be inspected by any person
24 free of charge at all reasonable hours during a period of not less
25 than 30 days from the date of the last publication of the notice; and
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1 (c) stating that, within that period, any person may, by notice to the
2 Department, inform it of the grounds upon which he objects to the
3 making of the order’.
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6 The Planning Appeal Commission on their website has published the
7 Newspapers adverts that were contained in the Ulster Herald and
8 Tyrone Constitutional Newspapers on the 18th March 2021 and the
9 25th March 2021. These adverts were also published in the Belfast
10 Gazette on the 15th March 2021. I have serious doubts that the
11 publishing of these Newspapers adverts if adjudicated upon would be
12 valid for sufficing the legal requirement as set out in Schedule 8 of the
13 Roads (Northern Ireland) Order 1993 for several reasons.
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19 Foremost, the Department is relying on Newspaper advertisements
20 that were published in March 2021, as we all know there was a public
21 health emergency during that time and as such Northern Ireland was in
22 the midst of its third lockdown to prevent the spread of coronavirus,
23 this lockdown ran from 26th December 2020 to 12 April 2021. The
24 adverts were published in March 2021, when most members of the
25 community would not have been able to freely access such
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1 newspapers as ordinary times. Emanating from the powers contained
2 within the Coronavirus Act 2020, this lockdown stated that members
3 of the public were only supposed to go out in specified limited
4 circumstances and were to 'stay at home'. It may indeed be that under
5 those rules at the time in March 2021, that it could have even been
6 contrary to the laws of the land and contrary to public health guidance
7 for a member of the public to leave their ordinary dwelling with the
8 sole intention of purchasing the aforementioned Newspapers in which
9 the advertisements the Department seek to rely on were contained
10 within. The retort could be that the Newspapers could be purchased on
11 an online forum but this I am uncertain of and especially in a rural
12 setting I believe that this argument would not stand up against counter
13 argument on issues of internet accessibility and equality issues which
14 will be further discussed below.

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22 Issues relating to equality. If the Department seeks to rely on the
23 advertisements that were published in the aforementioned
24 Newspapers, then it cannot be said that this decision does not
25 disenfranchise those who are elderly, vulnerable and disabled who all
26 most likely would have been shielding from Coronavirus during that
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1 period, as per public health guidance and would in most cases lack the
2 ability to access such advertisements online. The fact that the Human
3 Rights Act Impact Assessment proforma undertaken in relation to this
4 road abandonment Order does not comment on these facts is a serious
5 inditement on how the disabled, elderly and vulnerable have not been
6 accounted for in this process to date. Section 75 of the Northern
7 Ireland Act 1998 is clear that a ‘public authority shall in carrying out
8 its functions relating to Northern Ireland have due regard to the need
9 to promote equality of opportunity—
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15 (a) between persons of different religious belief, political opinion,
16 racial group, age, marital status or sexual orientation;
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19 (b) between men and women generally;
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22 (c) between persons with a disability and persons without;
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25 It does not follow that the decision of the Department to rely on
26 these adverts shows that it is a public authority which is promoting
27 equality of opportunity between persons with a disability and
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persons without. It is incredulous that the ‘Roads Service Policy and Procedure Guide: RSPPG-S019’ relating to abandonment and stopping up orders states that it is unnecessary to carry out a full equality impact assessment in relation to a road abandonment order or a stopping up order. It would be my assessment that a full equality impact assessment in relation to this road abandonment order would have highlighted that the requirement to advertise the abandonment and its fulfilment during a coronavirus lockdown would have had a disproportionate and negative effect on those who are disabled, elderly and vulnerable being able to lodge an objection against said abandonment. Section 75 of the Northern Ireland Act 1998 was devised to ensure that no single community was left behind or ignored in relation to opportunities in relation to public authorities carrying out their functions. It cannot be said in this instance that a person with disabilities, shielding as per the law at that time and following public health guidance would have had the same equality of opportunity as a person without disabilities to freely view the advertisement and give notice of their objection, and the Department should recognize that.

1 Likewise, in a pandemic when laws prohibited free movement and
2 association, how did the Department expect a disabled or elderly
3 person to view the draft of the order or any connected map to that
4 order as per Schedule 8(b) of the Roads (Northern Ireland) Order
5 1993.
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10 In summation, there are serious issues outstanding in relation to
11 this road abandonment. The pandemic and the resulting laws
12 attached were not properly taken into account. Section 75 of the
13 Northern Ireland Act 1998 was designed so that no one community
14 was disenfranchised from decision-making or from having their
15 thoughts suitable heard. It is my opinion that to date this road
16 abandonment has excluded disabled and elderly residents for the
17 reasons set out above. To not properly apply equality law, would I
18 believe leave the Department open to future legal challenge.
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STATEMENT OF CASE