

## **EIR Request (received 08 February 2021) - Reference: DFI/2021-0051**

I write as the owner of a property (on the Groomsport Road, Bangor BT20 5NF) following correspondence received from DfI Roads.

There are several points:

1. The property is vacant and has been for 3 years, so please utilise my contact details as per the below, rather than sending letters to a vacant property;
2. No correspondence dated 11/11/2020 was received at this property;
3. The DFI seem to write if this hedge grows a fraction at this property, which seems to indicate there is a serial compliant;
4. There are other hedges in Ballyholme which extend out further than this hedge, likewise I'm fed up of people parking cars inhibiting my access and blocking the pavement at this location, which is a greater issue than the hedge as witnessed

I will take steps to remedy the hedge now that I have actually received your correspondence, but in the interim I would please request under FOI 2000/EIR 2004 a copy of all correspondence in the DFI file relating to this property including redacted letters from complainants and all internal notes, emails, photographs and correspondence.

Furthermore, I would like to ascertain how many other properties have been written to in the Ballyholme area under Article 50 of the Roads (NI) Order 1993 from the Southern Division and would request the property addresses, so that I can inspect and ascertain if DFI are applying their powers consistently.

## **Response (issued 08 March 2021)**

Thank you for your FOI / EIR request dated 08 February 2021 in which you requested (i) a copy of all correspondence in the DFI file relating to this property (78 Groomsport Road) including redacted letters from complainants and all internal notes, emails, photographs and correspondence and (ii) how many other properties have been written to in the Ballyholme area under Article 50 of the Roads (NI) Order 1993 from the Southern Division and would request the property addresses, so that I can inspect and ascertain if DFI are applying their powers consistently.

In considering your request on behalf of the department I have determined that the information requested falls under the aegis of the Environmental Information Regulations 2004, as opposed to the FOI Act 2000.

A guide explaining the Environmental Information Regulations can be found at:

<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/what-are-the-eir/>.

Records have been updated to ensure that any future correspondence relating to this property will be sent to the contact details which you provided within your email.

Before dealing with the information requested I should explain that most roadside trees / hedges are on lands adjacent to public roads and it is the responsibility of property owners or occupiers of those lands to ensure that such trees and hedges don't endanger or obstruct road users. As a first step, owners / occupiers are identified and are requested to co-operate in removing or cutting trees or hedges to address any concerns in relation to public safety. If the landowner does not respond positively the Department has powers, under Article 50 of the Roads (Northern Ireland) Order 1993, to serve a Notice on the owner/occupier requiring him or her to remove or cut back the tree or hedge so as to remove the danger or obstruction.

In the majority of cases, landowners undertake the necessary work following initial contact by the Department. This initial contact usually takes the form of either a verbal or 'informal' written request as opposed to a formal Notice. A Notice is the first stage in the formal process which may be followed by legal proceedings. It is rarely the case that an official Notice has to be issued.

In response to your request in relation to correspondence associated with 78 Groomsport Road Bangor, I attach all information held by this office. Please note that the attached letters are considered as 'informal' requests for action to be taken as opposed to 'Notices'.

In response to the second part of your question regarding the number of properties written to and the associated addresses, I can confirm that the Department for Infrastructure does hold information related to your request. As EIR relates to public rights of access to information, I must consider whether information is suitable for release to the world at large, and not solely to the applicant. I have examined the information you requested and carried out a public interest test to determine whether this information is suitable for release to the public. I regret to inform you that, following consideration of the public interest in this case, I have determined that some of the information requested is not suitable for release.

While we can provide the numbers of properties contacted, the requested address information constitutes third party personal data within the meaning of the Data Protection Act 2018 (DPA). A public authority may only release third party personal data if to do so would be fair, lawful and would meet the conditions in Schedule 2, 3 or 4 of the DPA. The Department may not disclose personal information to the public in contravention of any of the data protection principles (Article 5(1) General Data Protection Regulation or sections 34(1) and 85(1) DPA) and must consider all consequences of disclosure in each case.

The requested address information is therefore withheld under the exception provided under EIR by Regulations 12(3) & 13: personal information. I am satisfied that the public interest is best served by withholding this information.

The table below provides the number of properties in the North Down area that received informal written requests in relation to overgrown hedges / trees. The numbers also include the number of formal Notices issued of which there was one in each year.

Year	Number
2019 - 2020	130
2020 - 2021 (to date)	74

I appreciate that you will be disappointed with this response, but I hope that you will understand the reasons behind the Department's decision.

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