

EIR Request (received 28 July 2021) - Reference: DFI/2021-0275

Please find attached map showing 108A Annacloy Road, Downpatrick. You will note this is fronted by an area outlined blue which forms part of folio 16436 County Down registered to Edgewater Limited. Beyond that, one can see the county road, but I am interested in identifying what, if any of the lands outlined in red, are adopted road surface/verge. I would be grateful if you would provide me with an appropriate map.

Response (issued 03 August 2021)

Thank you for your email dated 28 July 2021 requesting a map showing the extent of the area that has been adopted by the Department adjacent to 108A Annacloy Road, Downpatrick. Your request has been treated as an information request which falls under the aegis of the Environmental Information Regulations 2004.

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/>.

In response to your request, I can confirm that the Department does not hold any adoption records/maps for the area in question.

For your information, I would explain that in regard to the 'ownership' of grass verges unfortunately there is no definitive answer which will cover all situations. The vast majority of the public road network, which includes grass verges, is on land where the bed and soil is formally owned and registered in the name of adjacent landowners and the boundaries shown for such land folios in Land Registry usually follow the centre line of the road. However the distinction between "ownership" and "control" needs to be understood. All public adopted road surfaces are under the control of this Department by virtue of The Roads (Northern Ireland) Order 1993 and although title to the bed and soil below the road may be held by an individual, that person has no control over it.

As a general rule of thumb it is generally understood that the public road extends between, but does not include, the boundaries. Under the 1993 Order the term "road" includes all public adopted footways, islands, verges etc. Any member of the public has a right to passage over any public adopted surface regardless of the title to the bed and soil.

Many country and minor roads do not have formal adoption plans to define their boundaries. If the boundaries of a public road are in dispute the courts often apply the well-established "

hedge to hedge” presumption but that can be open to rebuttal in court should documentary evidence be available, for example, to prove that a boundary was moved without subsequent adoption or public dedication of a new area. A typical example would be where the roadside boundaries are removed to provide sight lines at new houses/developments and a new boundary erected / planted behind the new sight line. The area between the original boundary location and the new “roadside boundary” does not automatically become part of the publically maintained road network.

The situation can be further complicated in some areas where the courts have held adoption was “deemed” to have occurred as the Department had maintained an area for many years, or a utility had been allowed to lay services within an area in question without objection.

In this particular case it would appear that the area in question (without having undertaken any detailed survey) was once part of the original ‘road’ which was realigned to its current position many years ago. The Department is unaware of the original road ever having been abandoned and continues to maintain the area as part of the public road network.

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