

Who is responsible for planning and building new roads in Northern Ireland?

The Department for Regional Development (DRD) is responsible for strategic planning; transportation strategy; ports and public transport; roads and water policy; providing and maintaining roads; and providing and maintaining water and sewage services. Roads Service, an agency within the Department for Regional Development, is responsible for public roads, footways, bridges, car parks and street lighting throughout Northern Ireland.

This note has been prepared to provide an understanding of the planning of new roads in Northern Ireland. The law and procedure relating to road planning is complex. Of necessity the information set out in this leaflet is a simplification and cannot cover every circumstance that may arise. The information contained in this brochure is not intended to be a complete guide to the law and carries no legal force.

How has the current programme of road improvements developed?

The current programme to improve transportation links in Northern Ireland has evolved over the last decade or so. The key documents and strategies guiding this programme are:

- The White Paper — “A New Deal for Transport: Better for Everyone” published in 1998.
- “Moving Forward”: Northern Ireland Transport Policy Statement published in 1998.
- “Regional Development Strategy for Northern Ireland 2025” published in 2001.
- “Regional Transportation Strategy 2003-2012” published in 2002.
- “Regional Strategic Transport Network Transport Plan 2015” published in 2005.
- “DRD Investment Delivery Plan (IDP) for Roads” published in April 2008.

A New Deal for Transport: Better for Everyone - This United Kingdom White Paper set out a new approach to transport policy which has relevance throughout the UK, and embodied new, modern thinking on integrating transport with other aspects of Government policy. It recognised that Scotland, Wales and Northern Ireland had differing transport needs and that the government in each region would develop its own transport policy consistent with the principles of the UK white paper.

Moving Forward: Northern Ireland Transport Policy Statement - This policy statement outlined a strategy for implementing the objectives of the White Paper in a way that reflected the particular circumstances of Northern Ireland. It recognised that cars would remain a significant feature of passenger transport in

Northern Ireland for the foreseeable future, the road network would continue to carry the vast bulk of freight within Northern Ireland and to customers and beyond and substantial further investment would be needed in the strategic road network in the first quarter of the 21st century. The policy statement proposed the development of a more strategic approach to Northern Ireland’s transportation needs through the preparation of a Regional Transport Plan.

Regional Development Strategy for Northern Ireland 2025 (RDS) - This guides the development of Northern Ireland up to 2025 and beyond. The importance of the RDS is underpinned by Article 5 of the Strategic Planning (Northern Ireland) Order 1999 and was recognised in the Northern Ireland Executive’s Programme for Government.

The Regional Transportation Strategy (RTS) - This supports the RDS and makes a significant contribution towards achieving the longer-term transportation vision contained within the RDS. The strategic direction and underlying principles of the RTS were agreed by the Northern Ireland Assembly on the 3rd July 2002.

The Regional Strategic Transport Network Transport Plan 2015 (RSTN TP) - This plan, published in 2005, presents a range of multi-modal transport initiatives to manage, maintain and develop Northern Ireland’s Strategic Transport Network. It proposes Strategic Road Improvements (SRIs) to remove bottlenecks on the key road network where lack of capacity is causing serious congestion, and to improve the environment by providing bypasses of towns, relieving the effects of heavy through traffic.

The DRD Investment Delivery Plan (IDP) for Roads - This plan, published in April 2008, describes the Northern Ireland Executive's Programme for Government and the Investment Strategy proposals which provide opportunities for further improving both the inter-urban and local road networks in the context of RDS and RTS. The IDP for Roads confirms that Roads Service's indicative budget has risen to £3.1 billion over the 10 year period of the Investment Strategy. The total investment in the region's strategic road network between 2008/09 and 2017/18 is envisaged as £2.5 billion, including a proposed £400 million contribution by the Irish Government to the cost of dualling the A5 between Londonderry and Aughnacloy and completion of dualling of the A8 between Belfast and Larne.

How is the Strategic Road Improvement Programme managed?

The Strategic Road Improvement Programme is managed under three programmes:

- The Construction Programme which contains those schemes which have completed the statutory procedures (where applicable) and for which funding is confirmed.
- The Preparation Pool which allows high priority schemes to be taken through the statutory procedures, including acquisition of land, in advance of funding being confirmed. Subsequent progression into the Construction Programme is dependent on the level of funding available at that time.
- The Forward Planning Schedule which contains a number of schemes which, together with those in the Preparation Pool, could be started within the next 10 years or so, subject to satisfactory economic and other appraisals, availability of funding, and satisfactory progression through the statutory procedures.

What are statutory procedures?

New and improved roads are created by statute under the various provisions in The Roads (Northern Ireland) Order 1993. Before construction of a strategic road improvement can proceed, Roads Service must:

- make a Direction Order identifying that part of the proposed road improvement which will become part of the province's trunk road network.
- make a Vesting Order to compulsorily acquire the land required to construct the proposed road

improvement.

- seek approval of an Environmental Impact Statement which predicts the environmental effects the proposed road improvement will have and details the measures proposed to reduce or eliminate those effects.

How does Roads Service decide if a Strategic Road Improvement scheme should be built?

Roads Service carries out a comprehensive appraisal of each SRI proposal. The appraisal procedure requires a clear understanding of the objectives which are to be met, and appropriate criteria to be used, to decide whether a proposal meets them. The Government's five objectives for transport are pivotal to the appraisal process.

- Environmental impact involves reducing the direct and indirect impacts of transport facilities on the environment of both users and non-users. There are 10 sub-objectives including noise, atmospheric pollution of differing kinds, impacts on countryside, wildlife, ancient monuments and historic buildings.
- Safety is concerned with reducing the loss of life, injuries and damage to property resulting from transport incidents and crime. The 2 sub-objectives are to reduce accidents and improve security.
- Economy is concerned with improving the economic efficiency of transport. The 5 sub-objectives are to improve economic efficiency for consumers and for business users and providers of transport, to improve reliability and the wider economic impacts, and to get good value for money in relation to impacts on public accounts.
- Accessibility is concerned with the ability with which people can reach different locations and facilities by different modes.
- Integration aims to ensure that all decisions are taken in the context of the Government's integrated transport policy.

There is tension between these objectives, such that proposals may contribute to the achievement of one objective, but work against the achievement of others. The appraisal procedure must allow determination of an appropriate balance between the five objectives.

Scheme assessment reports act as a summary of the more technical reports generated during the appraisal of road schemes. They are written to be unbiased

and easy to read using a factual style, which describes both the advantages and disadvantages of routes or corridors; their principal audience is the public. Scheme assessment and reporting is a three-stage procedure; the level of detail and the coverage of the assessment and the report is appropriate to the type of decision that can reasonably be taken at each stage.

- **Stage 1** – identify the environmental, engineering, economic and traffic advantages, disadvantages and constraints associated with broadly defined improvement strategies. This concludes in the selection of a number of potential routes or scheme options.
- **Stage 2** – identify the factors to be taken into account in choosing alternative routes or improvement schemes and to identify the environmental, engineering, economic and traffic advantages, disadvantages and constraints associated with those routes or schemes. This concludes in the selection of a preferred route or scheme option.
- **Stage 3** – identify clearly the advantages and disadvantages, environmental, engineering, and economic and traffic terms of the preferred route option. A particular requirement at this stage is an assessment of the significant environmental effects of the project in accordance with the requirements of Article 67A(3) of The Roads (Northern Ireland) Order 1993, implementing EC Directive 85/337 as amended by EC 97/11.

How can I view and comment on evolving road improvement schemes?

Details of evolving road improvement schemes can be viewed on the Roads Service website at www.roadsni.gov.uk. You can comment or ask questions about any of the evolving schemes by emailing Roads Service.

Community information events may be held during the development of each road improvement scheme. These will be held at locations convenient to the proposed road scheme and will be advertised in the local press. An extensive mail drop of a scheme specific brochure may also be used to publicise the information event. Community information events normally include:

- an exhibition showing the road improvement scheme.
- brochures describing the road improvement

scheme and, where appropriate, describing the impact of the scheme and measures to reduce or eliminate those effects.

- a self completion questionnaire, so that the public can make its views known.

The level of detail shown at a community information event and in associated literature will be in proportion to the development of the scheme appraisal.

Information events may be held:

- during the Stage 1 assessment period. This generally displays a route corridor or corridors encompassing potential routes for the road improvement, but where the detailed alignments of the potential routes have not yet been developed.
- during the Stage 2 assessment period. This displays a number of potential routes for the road improvement. Typically one of these potential routes or a combination of discrete elements of some or all of the potential routes will be taken forward as the 'preferred route' for the road improvement.
- to coincide with the 'preferred route' announcement by the Minister for Regional Development. The preferred route is the option on which further design and assessment will take place.

Roads Service and their advisors normally attend community information events to explain the road improvement proposals and to answer questions.

How can I comment and/or object to the 'preferred route' selected for a road improvement proposal?

Once Roads Service has decided to implement a strategic road improvement scheme, it must prepare a draft Direction Order, a draft Vesting Order and an Environmental Impact Statement. Notices must be published in the local press informing the public that the draft orders and an Environmental Impact Statement have been prepared. The notices must specify the time within which objections can be made, the manner in which objections may be made and inform where the draft orders and the Environmental Impact Statement may be inspected.

A community information event may be held to coincide with the publication of the press notices. This will display detailed plans of the road improvement, the draft Direction Order map and the

draft Vesting Order map. Associated literature will include a non technical summary of the Environmental Impact Assessment. Copies of the full Environmental Impact Statement will also be available for inspection.

Will a public inquiry examine the road improvement proposal?

A public inquiry must be held if written objections are received from 'statutory objectors' i.e. local councils, public utilities and affected landowners. However, even in the absence of a legal need, the DRD may decide to order a public inquiry to give the general public the chance to voice their views.

The inquiry procedure is subject to the rules of natural justice. These rules, developed by the Courts, provide that there must be fairness in the conduct of an administrative process and, in particular, each side must have a fair opportunity to be heard and to hear and question the case against them. The inquiry is held before an Inspector appointed by the DRD. The appointment of an Inspector for a specific inquiry will take into account the particular suitability of the Inspector for dealing with the matter in question. The Inspector will determine how the inquiry is to proceed. Generally the Inspector will try to keep the proceedings informal whilst ensuring that all parties are able to have their say in an organised and orderly fashion.

Usually, the Roads Service witnesses will present their case first. The Roads Service witnesses may then be questioned (cross-examined) by the objectors and by the Inspector. The same process is followed by each objector. By this process, the case for and against the road improvement proposal is tested. Statutory objectors are entitled to cross-examine the Roads Service witnesses. However, non-statutory objectors must obtain the Inspector's consent to cross-examine witnesses. In practice, this is almost always given.

Will the Inspector visit the site of the road improvement proposal?

The Inspector will usually visit the site. Before or during the inquiry, he can visit it on his own. During or after the inquiry he can also make an accompanied site visit, i.e. the Inspector will visit the site accompanied by a Roads Service representative and/or any statutory objector(s) who wishes to attend. The Inspector must make an accompanied visit if

requested to do so by Roads Service or any of the statutory objectors. The Inspector will refuse to discuss the merits of the case on an accompanied site visit.

What happens after the inquiry?

After the inquiry, the Inspector will produce a report setting out his or her conclusions and putting forward recommendations. The Inspector does not make a decision, but recommends a course of action to the Department for Regional Development (DRD).

Who makes the decision about how to proceed?

After considering the Inspector's Report, the DRD will decide to confirm, modify or reject the scheme. The DRD may make a decision which is contrary to the Inspector's recommendations, although this is not very common.

When it has reached its decision, the DRD will write to statutory objectors and any other person who appeared at the inquiry or made written representations and asked to be notified. The decision letter will set out the reasons for the decision. As soon as possible after the decision letter is issued, notices will be published in the local press to inform the public of the decision.

Can I challenge the confirmation of the orders?

Objectors who are not satisfied with the confirmation of the orders have the right to seek a judicial review. In general terms, a challenge can be one or more of three grounds:

- the powers granted are "ultra vires". This means that they go beyond the powers permitted by the Order under which they are sought.
- that the procedural rules have not been followed correctly.
- that the Department for Regional Development or the Inspector has not acted properly in reaching a decision - for example that there was no evidence to support the decision, or that irrelevant considerations were taken into account or relevant ones ignored.

If the challenge is successful, the High Court may quash all or part of the orders. There may also be circumstances when a decision (other than confirmation of the orders) reached during the orders process, may be subject to Judicial Review in the basis that it has been incorrectly made.