EXPLANATORY MEMORANDUM TO

The Footpath to rear of Ballyronan Park, Rathcoole, Newtownabbey (Abandonment Order (Northern Ireland) 2010

S.R. 2010 No. 39

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Regional Development 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 425 square metres of footpath to the rear of Nos. 9-51 Ballyronan Park, Rathcoole, Newtownabbey.

3. Background

3.1. The abandonment has been requested by Wilson Developments Limited to facilitate the construction of 40 social housing units for a housing association.The bed and soil of the area involved is owned partly by the Department and partly by Wilson Developments Limited. After abandonment the Northern Ireland Housing Executive is willing to purchase the land through the surplus land disposal system from the Department and pass it on to Wilsons.

4. Consultation

4.1. The PSNI has been consulted and has no objections. Newtownabbey Borough Council was notified about the proposal and has advised that it has no objection. A notice in respect of the proposed abandonment was published in the local press for 2 successive weeks and the statutory undertakers were notified of the proposal.

4.2. One objection was received and considered. The objectors raised a number of issues including Social Inclusion, the "Highway to Health", impact on persons with a disability, Health and Safety, Environmental Health and Human Rights. They also claimed that closure of the footpath would affect their access to “The Ulster Way”.

4.3. The Department has considered the objection and is satisfied that the proposed abandonment will not adversely affect the issues raised by the objectors. In particular, the Department noted that a well lit alternative route is available and that the abandonment will facilitate the provision of social housing in the Rathcoole area and is therefore in the public interest. The Department also consulted the Northern Ireland Environment Agency - Natural Heritage Division, who have responsibility for the management of the "Ulster Way". They have confirmed that the footpath in question is not part of the "Ulster Way"

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 cost or savings to business, charities or the voluntary bodies.

7. Financial Implications

7.1. None.

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. The objectors suggested that the abandonment breached their Human Rights under Article 2, Article 8 and Article 1 of Protocol 1 of the European Convention on Human Rights.

8.2. Article 2 is designed to prevent arbitrary killing by public authorities and it is the Department's view that it is does not apply in this case.

8.3. Article 8 is designed to ensure a fair and effective system of justice and ensure a right to a fair hearing. The Department has given due consideration to the objection in accordance with the Roads (Northern Ireland) Order 1993. Ultimately any individual who is not satisfied with a decision by the Department has the right to seek a judicial review.

8.4. Article 1 of Protocol 1 is the fundamental right to enjoy one's property. In this case local residents have not objected to the abandonment. The objectors themselves are not resident in Ballyronan Park and their property is not affected by the abandonment.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.