STATUTORY RULES OF NORTHERN IRELAND

2010 No. 39

ROADS

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

Made - - - -	*19th February 2010*
Coming into operation -	*14th April 2010*

The Department for Regional Development(**a**) makes the following Order in exercise of the powers conferred by Article 68(1) and (5) of the Roads (Northern Ireland) Order 1993(**b**) and now vested in it(**c**).

The Department in accordance with Article 68(4) of that Order is of the opinion that the area of road described in the Schedule is not necessary for road traffic.

Notice has been published, served and displayed in compliance with paragraphs 1, 2 and 3 of Schedule 8 to that Order.

One objection was received and duly considered.

Citation and commencement

1. This Order may be cited as The Footpath to rear of Ballyronan Park, Rathcoole, Newtownabbey (Abandonment) Order (Northern Ireland) 2010 and shall come into operation on 14th April 2010.

Application

2. The area of road described in the Schedule is abandoned.

3.—(1) All existing cables, wires, mains, pipes or other apparatus placed along, across, over or under the abandoned area of road shall be removed.

(2) All existing rights as to the use or maintenance of such cables, wires, mains, pipes or other apparatus shall be extinguished.

Sealed with the Official Seal of the Department for Regional Development on 19th February 2010

(L.S.)

D J Millar
A senior officer of the Department for Regional Development

(**a**) S.I. 1999/283 (N.I. 1) Article 3(1)
(**b**) S.I. 1993/3160 (N.I. 15)
(**c**) S.R. 1999 No. 481 Article 6(*d*) and Schedule 4 Part IV

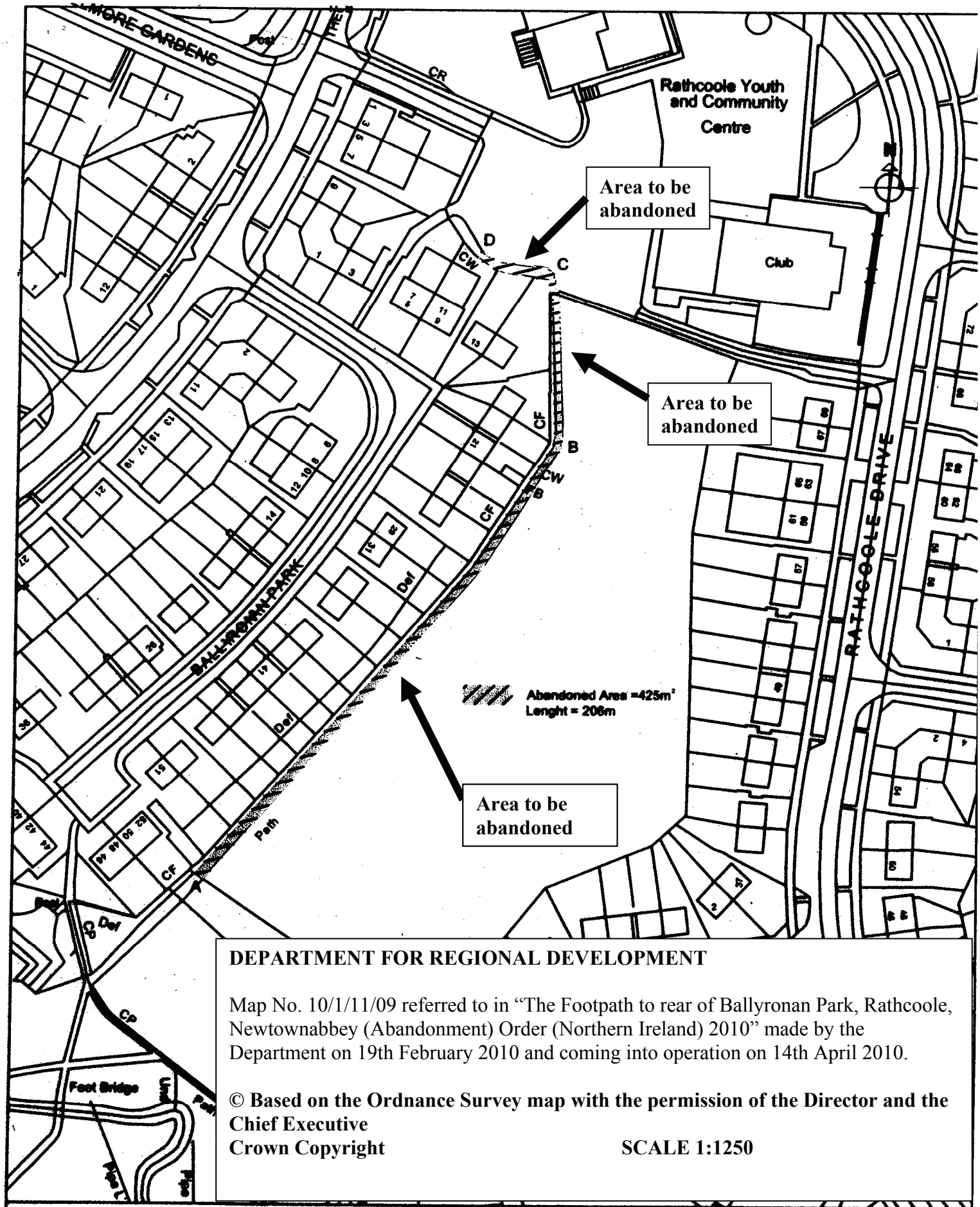
SCHEDULE

Article 2

AREA TO BE ABANDONED

An area of 425 square metres of footpath to the rear of 9-51 Ballyronan Park, Rathcoole, Newtownabbey, more particularly delineated and shown hatched on Map No. 10/1/11/09.

A copy of the map has been deposited at the Department's Roads Service offices, Headquarters, Room 2-13 Clarence Court, 10-18 Adelaide Street, Belfast and Eastern Division, Hydebank, 4 Hospital Road, Belfast.



DEPARTMENT FOR REGIONAL DEVELOPMENT

Map No. 10/1/11/09 referred to in "The Footpath to rear of Ballyronan Park, Rathcoole, Newtownabbey (Abandonment) Order (Northern Ireland) 2010" made by the Department on 19th February 2010 and coming into operation on 14th April 2010.

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March 2009

Dunnaney Avenue, Rathcoole

OS Ref: 114-13NE2 / 114-14NW1

Area to be Abandoned

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

Observations of the Department upon the objection made to the proposed Order and not withdrawn

The Department for Regional Development has made The Footpath to rear of Ballyronan Park, Rathcoole, Newtownabbey (Abandonment) Order (Northern Ireland) 2010.

One objection was made to the proposed order and not subsequently withdrawn. The objectors raised a number of issues, including:

- The footpath forms part of "The Ulster Way" and is a great asset to social inclusion;
- It is a major walkway and is used by persons on mobility scooters, mothers with prams and small children, school children and shoppers to access shops and public services;
- It forms part of the "Highway to Health" and is used by joggers, cyclists and walkers;
- The removal of the footpath would put at risk the safety of young people and residents of Ballyronan Park by abolishing a major escape route in the event of fire, flooding etc.
- The additional houses coupled with a fast flowing river and lack of drainage is likely to increase the risk of flooding;
- Human Rights, in particular - Articles 2 and 8, and Article 1 of Protocol 1, of the European Convention on Human Rights (ECHR).

In accordance with Article 133(4)(a) of the Roads (Northern Ireland) Order 1993, the Department's observations on the objection are as follows:

- The Northern Ireland Environment Agency – Natural Heritage Division, who have responsibility for the management of the Ulster Way, has confirmed that the footpath in question is not part of the Ulster Way;
- The Highway to Health in this area was designated by Newtownabbey Borough Council, in partnership with the Northern Ireland Chest Heart and Stroke Association (NICHSA), the Northern Ireland Housing Executive (NIHE) and the Northern Area Partnership for Physical Activity (NAPPA). Newtownabbey Borough Council has advised that it has no objection to the abandonment and the NIHE wish to acquire the land after the path is abandoned and neither the NICHSA or NAPPA have objected to the abandonment following publication of the notice of intention;
- An alternative route is available;
- The issue concerning the environmental impact of the housing development is a matter for the Department of Environment's Planning Service to consider;
- Article 2 of the ECHR 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;
- Article 8 of the ECHR 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; and
- Article 1 of Protocol 1 of the ECHR 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 proposed abandonment.

In addition it is the Department's view that the abandonment will facilitate the provision of social housing and is therefore in the public interest.

The Department having considered the objection made and not withdrawn decided that the abandonment order should be made.

D J Millar
A Senior Officer of the Department
19th February 2010