

PAPER A – APPENDIX 1

Fermanagh and Omagh District Council

Planning Committee Meeting 17 September 2025

Application No 1

Planning Reference: LA10/2023/1758/F

Proposal: Variation of Condition 41 of K/2014/0246/F (Article 28 application for non-compliance with conditions 25 and 26 of application No K/2013/0072/F (Extension to existing underground exploration tunnel; including temporary buildings, vehicle parking, waste rock storage area, water treatment system and passing bays)) to complete restoration of the site in accordance with Drawing No 14 (K/2013/0072/F) and in accordance with conditions No 39 & 40 (K/2014/0246/F) by the end of October 2025

Location: Lands approximately 165 metres west of no. 45 Camcosy Road, Curraghinalt, Gortin, Co Tyrone, BT79 7SF

Applicant: Dalradian Gold Limited

Agent: Turleys

Recommendation: The recommendation is to **refuse** planning permission for the reasons listed within the report and subject to seven reasons.

1.0 Purpose of report

The purpose of this report is to present for determination an application for planning permission to be decided by the Planning Committee. The application falls within the meaning of a "major" application as defined in the Planning (Development Management) Regulations (Northern Ireland) 2015.

There is a requirement under the Council's Scheme of Delegation for major applications to be determined by the Planning Committee.

1.1 Summary

The application seeks permission to vary Condition 41 of planning permission K/2014/0246/F to allow for an extension to the time period for the completion of decommissioning/restoration works at the site until the end of October 2025. The Applicant notes that the planning application for the gold mine (LA10/2017/1249/F) is currently progressing through the public inquiry and if approved, would retain the infrastructure in association with future mining activity. In the event of an approval of 1249/F, new decommissioning and restoration conditions would be attached to that planning permission.

However, for the reasons listed within the Report, the retention of the development on site for the further period specified is not considered to be sustainable development as it does not fall within any of the range of types of development in the countryside that are supported by the Plan Strategy and there are no other material considerations which justify a decision being taken contrary to the Plan Strategy.

The application is contrary to MIN02 as the date for completion of the restoration and decommissioning works will not result in a timely restoration of the site.

The proposal does not have the capacity to absorb the building on an ongoing basis without adverse impact on visual amenity and its ongoing retention results in an obtrusive feature in the landscape. The retention of the development will also result in a suburban style build-up of development when considered with existing buildings which does not respect the traditional pattern of settlement exhibited in the area. It also creates a ribbon of development. The site is located in the Sperrins AONB and the development is considered to adversely affect or work to erode the distinctive special character of the countryside and the views and setting location of the Sperrin AONB. The AONB is also a tourist asset and given the harm to the visual amenity of the AONB and countryside it will adversely impact on the intrinsic character or quality of this part of the AONB and will diminish its tourism value.

2.0 Application details

Site Details

The site is located at Camcosy Road and is a rectangular shaped plot. There is a green metal palisade fence around the site boundary with a gated access at the road. Onsite there are a number of buildings including security hut, sheds, office/welfare containers, water treatment plant, yard area/hardstanding, berms etc.

Proposed development

This application seeks permission to vary condition 41 of K/2014/0246/F (Article 28 application for non-compliance with conditions 25 and 26 of application No K/2013/0072/F (Extension to existing underground exploration tunnel; including temporary buildings, vehicle parking, waste rock storage area, water treatment system and passing bays)) to complete the restoration of the site in accordance with Drawing No 14 (K/2013/0072/F) and in accordance with conditions No 39 & 40 (K/2014/0246/F) by the end of October 2025

Condition 41 states that:

“Implementation of the restoration of the site in accordance with Drawing Number 14 (approved under K/2013/0072/F) and in accordance with conditions numbered 39 and 40 shall be complete on or before three years from the date of commencement unless otherwise agreed in writing with the Department”.

The Applicant proposes that the varied planning condition would read:

“Implementation of the restoration of the site in accordance with Drawing Number 14 (approved under K/2013/0072/F) and in accordance with conditions numbered 39 and 40 shall be complete by the end of October 2025, unless otherwise agreed in writing with the Council”.

The reason for the condition would not alter and remain “To ensure the effective restoration of the site”.

The Council has reviewed the nature of the proposed application and is content that the application proposal falls within the scope of section 54.

2.1 Drawings

- Drawing 01 – ‘Site Location Plan’ published on the Planning Portal on 24 May 2023.

2.2 Supporting information

- Application form published on Portal on 24 May 2023
- Copy of decision for planning application K/2014/0246/F published on Portal on 24 May 2023
- List of owners served with notice of the application published on Portal on 24 May 2023
- Letter from Agent dated 18 May 2023 published on Portal on 24 May 2023
- Email from Agent 17 November 2023, including a letter dated 17 November 2023, and Appendix 2, Landscape and Visual Impact Assessment for Retention of Surface Infrastructure at Exploratory Mine published on the Portal on 20 Nov 2023

The Applicant has submitted supporting information via their Agent, which is available to view on the public access system. The issues can be summarised as;

“Decommissioning and restoration commenced in April 2018 with work on the waste rock storage area, which is now restored. A planning application, November 2017 seeks planning permission to retain the infrastructure in association with future mining activity without compliance with planning conditions on the basis that if planning permission is granted for that development, new decommissioning and restoration conditions will be attached to that planning permission.

The purpose of this Section 54 application is to extend the period for restoration and decommissioning to align with the planning process for planning application LA10/2017/1249/F. If planning permission for planning application LA10/2017/1249/F is refused, Dalradian will decommission/restore the existing infrastructure in accordance with updated Decommissioning/Restoration Method Statements to ensure compliance with conditions 39 and 40 of planning permission K/2014/0246/F”.

Although the LVIA that has been submitted relates to the gold mine application, it includes information relating to this application. It is summarised as stating that:

“The study area was identified as an area of approximately 2km radius surrounding the existing exploratory (surface infrastructure) site. This area is characterised by gently undulating slopes and a pastoral landscape with a

well-defined field pattern on the lower valley sides. This valley landform restricts longer distance views seen out of the valley to the north and south. Although there has been a permanent change to the topography and some loss of limited areas of open grassland, there will be no loss of hedgerows or mature woodland and trees, which are an important feature. The location of the site on the lower northern flanks of Mullydoo Hill also helps to limit impacts on the rounded summits and valley horizons of the South Sperrin LLCA. The existing exploratory (surface infrastructure) site has been sited and designed to fit within the field patterns, and the overall scale of the development is small within the context of the LLCA. The buildings within the site are all located in close proximity to Camcosy Road, and are in keeping with the existing development pattern, with scattered farmsteads and agricultural buildings located to the west and east along this road. Whilst the retention of aspects of the exploratory (surface infrastructure) site means the changes will be in place for longer than previously anticipated, no significant effects on landscape character are predicted.

The development would affect a very small part of the Sperrin AONB (approximately 1.97ha). Direct and indirect effects associated with the site are geographically limited to a small area and in most views the exploratory site is contained well below the horizon. The retention of some components of the site for an extended duration of c.25 years will not significantly alter these changes, given the restoration of the Waste Rock Storage Area (WRSA), and the fact that vegetation across and around the site will progressively mature over time, helping with its integration into the landscape.

The site results in no significant effects on landscape character within the LLCA. The landscape effects are not judged to 'unduly compromise the integrity of the area as a whole or threaten to undermine the rationale for the designation'. No significant visual effects have been identified from any of the three representative viewpoints or sequential routes within the LVIA. In closer proximity views from Camcosy Road, hedgerows and trees retained along the site boundaries help to screen the site. In longer distance views several factors combine so that visual effects fall below the significance threshold. These include the increased viewing distance; changes being contained below the horizon; screening provided by retained boundary vegetation; and the nature of the site, as seen in the context of existing development along Camcosy Road.

In terms of lighting, there is some perceptibility of lighting associated with some on site componentry and infrastructure located within the existing surface infrastructure site, experienced during hours of darkness. This is typically experienced in a context where views of subdued lighting associated with housing and farms along Camcosy Road are already apparent.

In conclusion, the retention of the surface infrastructure at the exploratory mine site is not judged to result in any significant landscape or visual effects...other than the permanent changes to topography for the WRSF, the effects would be largely reversible at the end of the operational phase. Furthermore, once the site has been restored with structures and areas of

hardstanding removed; land cover returned to grassland; new woodland planting introduced around the passive water treatment works, the permanent and lasting effects on landscape character and views are likely to be negligible”.

Consideration of the issues raised in support of the application are included within the report.

3.0 Consultations and issues raised

The Council has consulted Shared Environmental Services (SES) seeking advice on the potential impact of the development upon nearby designated sites. SES has not responded with comments. The Council has endeavoured to obtain a response from SES but a response has not been forthcoming. In the judgment of the Council, in light of the issues raised, a decision can in this instance be taken without a response from SES given the concerns set out below and the recommendation to refuse this application. SES has been advised of this.

DfI Roads advise that they ‘do not offer an objection’.

DAERA NIEA Water Management Unit advises that it ‘notes this application relates to a proposed time extension to comply with Condition 41 of K/2014/0246/F and has no objection’.

DAERA NIEA Natural Environment Division advises it ‘did not recommend Conditions 25 & 26 of K/2013/0072/F in our final response of 20-Aug-14, and had no comments to make in our response to K/2014/0246/F of 26-Aug-14. NED therefore have no comments to make in relation to this consultation’.

FODC Environmental Health Service has advised that it has ‘considered the application and are content with no conditions’.

4.0 Representations

A significant number of objections have been received. These can be viewed on the Public Access System. The issues raised are summarised as:

- Supposed to be a temporary three year project deemed not to need an EIA because the planning permission was for a strictly limited 3-year term and because the conditions would be robustly enforced.
- Where is the new EIA screening for such an environmentally sensitive site?
- Long running saga has seen delay of closure and restoration the site for years
- To allow an additional seven years or perhaps even longer for restoration and removal of site infrastructure without taking effective enforcement action this would be a total abuse of discretionary powers in relation to enforcement.
- A Mine Waste Management Plan was not included with the initial planning Application K/2013/0072/F – This should have resulted in a rejection.
- Planning permission cannot be granted to extend the life of a project that was not carried out in accordance with the original permission. In other words,

Dalradian is applying to extend planning permission for something that did not benefit from planning approval from the outset in 2014.

- What about: the hydrological impacts of not just the blasting and the underground workings, the infilling and the waste rock dump and the discharges from the site, the impact of the blasting on the surrounding peatlands, the hydrological impact on the Owenkillew River and on the SAC of the scores of deep bore holes on the side of the valley.
- Comparison of enforcement approach to [REDACTED] dwelling at [REDACTED], Rouskey.
- Risks to the environment, to water, to protected species, to aquatic life, to air quality and to the health & well-being of people from this exploratory mining operation
- Under section 6(1) of the Human Rights Act 1998, it is unlawful for a public authority to act incompatibly with convention rights - makes it unlawful for a public authority to act in a way that is incompatible with a person's rights under the European Convention on Human Rights.
- The character and quality of the Sperrins area is designated an AONB. The policies should offer some protection.
- Since approval examples have come to light demonstrating the damage that can be done, to the environment and to humans, when substances harmful to health are involved. Once damage is done, by release of harmful substances into our soil, water or air, it cannot be undone. Nor can remedial action easily be taken. Financial cost comes with the human and environmental cost.

Consideration.

The Council has screened the application as required by the EIA Regulations and issued a negative determination. The conclusions of the screening assessment undertaken by the Council are considered to remain valid.

On 29 August 2025, the Council served an enforcement notice under section 138 of the Planning Act (Northern Ireland) 2011, on Dalradian Gold Limited, and various other landowners in respect of breaches of planning control under section 131(1)(b) of the Planning Act (Northern Ireland) 2011.

Challenges to the original application cannot be revisited under this application and the application must be considered on its merits against planning policy.

Impacts upon the environment are considered within the report.

Complaints regarding enforcement on other sites are not material to this planning application.

Any decision made by the Council will not be incompatible with the Human Rights Act.

5.0 Planning History

1. K/1986/0363/F – Gold exploration approved on 26 March 1987.
2. K/2013/0072/F - Extension to existing underground exploration tunnel; including temporary buildings, vehicle parking, waste rock storage area, water treatment system and passing bays.
Permission granted Wed 22 Jan 2014.

2a. Section 54 application to K/2013/0072/F:

K/2014/0246/F -Application under Article 28 of the Planning (NI) Order 1991 for non-compliance with conditions 25 and 26 of approved planning application no. K/2013/0072/F. Conditions 25 and 26 relate to water discharge parameters.

Permission Granted Tue 31 Mar 2015.

2b. Section 54 application to K/2014/0246/F:

LA10/2020/1235/F - Section 54 application seeking permission to retain mining related surface infrastructure development without compliance with condition 41 of planning approval K/2014/0246/F. The application seeks permission to vary condition 41, to allow a period of 5 years for the completion of decommissioning/restoration (presently 3 years) from the date of its commencement.

Non-determination appeal received and subsequently withdrawn prior to a decision by the Commission.

3. SPD/2017/1249/F - Underground valuable minerals mining and exploration, surface level development including processing plant and other associated development and ancillary works, Greencastle, County Tyrone. Please see application form P1, sheet 1 for full project description. (Revised description and amendments to the planning application, receipt of Further Environmental Information (FEI), other information and updates to the Waste Management Plan (WMP), supporting documents and provision of new and amended drawings).

Under consideration

4. LA10/2019/1386/F - 33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F). 33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling. c 15.1 km of the powerline is within the Fermanagh & Omagh District Council area comprising of c 8.2 km of overhead line supported by single and double wooden pole sets and c 6.9 km of underground cabling.

Under consideration.

5.1 Planning Enforcement

On 29 August 2025, the Council served an enforcement notice under section 138 of the Planning Act (Northern Ireland) 2011, on Dalradian Gold Limited, and various other landowners in respect of breaches of planning control under section 131(1)(b) of the Planning Act (Northern Ireland) 2011.

6.0 Planning (Environmental Impact Assessment) Regulations (NI) 2017

The application has been screened against the Regulations and a negative determination issued that the application does not need to be accompanied by an

environmental statement. That determination has been considered as part of this recommendation and it remains the case that the determination is valid.

7.0 Preliminary Issues:

The application was made to the Council in accordance with section 54 of the Planning Act (Northern Ireland) 2011 to develop land without compliance with conditions previously attached.

Section 25 of the 2011 Act provides the basis for the hierarchy of developments and states that a proposed development belongs to either the category of major developments or local developments. Regulations 2 and 3 and the Schedule of Major Development Thresholds to the Planning (Development Management) Regulations (Northern Ireland) 2015 (DM Regulations) as amended, describes and assigns classes of development to the major or local developments category of the hierarchy.

Although it was submitted prior to the commencement of the DM Regulations, the original application (K/2014/0246/F) exceeds the thresholds in the Regulations and would fall within the schedule of development categorised as “major developments”. This section 54 application would also fall within the meaning of a ‘major development’ within the meaning of the DM Regulations.

Before submitting an application for planning permission for a major development section 27 of the Planning Act (Northern Ireland) 2011 requires that the prospective applicant must give notice (a proposal of application notice (PAN)) to the appropriate Council that an application for development is to be submitted. Part of this notice would include details of the form that consultation is to take. In this instance the Council was not notified 12 weeks in advance of the submission of the application (PAN), and it is not accompanied by a PACC.

In respect of the matter of a pre-application community consultation (PACC) the application is made in accordance with section 54 of the 2011 Act. Development Management Practice Note 24 (DMPN), published by the Department for Infrastructure (DFI), provides advice on section 54 applications. Paragraph 4.12 states that in terms of the hierarchy of development, each section 54 application should be considered on a case by case basis and categorised and classified on its own merits by the relevant planning authority.

The legislation is silent in respect of a section 54 application that relates to an already approved major development. Paragraph 4.12 of DMPN 24 states though that if a section 54 application already relates to an approved major development where a PACC has already been undertaken, then, it is not the legislative intention that it would be subject to PACC.

However no PACC was submitted with the original application (K/2014/0246/F).

Nonetheless the purpose of a section 54 application is not to revisit the principle of development on a given application site rather a section 54 application must consider only the question of the conditions attached to an extant planning

permission. The PACC is a means to engage the communities in the planning system. Paragraph 4.14 of the DMPN 24 advises that section 54 applications will be subject to statutory publicity and neighbour notification through which the community may engage in the planning process and interested parties may submit representations.

Given the intent of the PACC to engage with the public will be satisfied then, even though this application relates to a “major development” there is no requirement in this instance to undertake a PACC prior to the submission of the application. This appears to be in accordance with the published guidance in DMPN 24.

The statutory provisions which set out the requirements for a Design and Access Statement (DAS) are found in the 2011 Act and the Planning (General Development Procedure) Order (Northern Ireland) 2015. The legislation states that an application which is a major development must be accompanied by a DAS. However, there are a number of exceptions including section 54 applications to develop land without compliance with conditions previously attached (unless those conditions specifically relate to a design and access issue). As this is a section 54 application the relevant conditions in question which do not specifically relate to design and access issues and instead relate to restoration matters, then there is no statutory requirement to accompany the application with a DAS.

7.1 Assessment against Development Plan and other material considerations

In considering an application made under Section 54, the Council must consider only the “question of the conditions” subject to which planning permission should be granted (section 54(3)) although it is also entitled to consider the circumstances that led to the previous (original) conditional grant of planning permission.

As required by section 45(1) where an application is made for planning permission, the Council, in dealing with the application, must have regard to the Local Development Plan, so far as material to the application, and to any other material considerations, and may grant planning permission, either unconditionally or subject to such conditions as it thinks fit; or refuse planning permission.

On 16 March 2023, the Council adopted the Fermanagh and Omagh District Council Local Development Plan 2030 - Plan Strategy. In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations 2015 (as amended) the Local Development Plan now becomes a combination of the Departmental Development Plan (DDP) and the Plan Strategy (PS) read together. In this application the Omagh Area Plan is the relevant DDP. In accordance with the legislation any conflict between a policy contained in the DDP and those of the Plan Strategy must be resolved in favour of the Plan Strategy.

In the DDP, the site is located in the countryside. The specific policies in the DDP and within Departmental Planning Policy Statements, for development outside settlement limits, would have been in regional policy. In accordance with paragraph 1.9 of the Strategic Planning Policy Statement (SPPS), as the Council has adopted

its Plan Strategy, existing policy retained under the transitional arrangements have ceased to have effect in the Council District and shall not be material from that date (16 March 2023), whether the planning application has been received before or after that date.

The Plan Strategy provides a plan-led policy framework for making day-to-day decisions to help the Council deliver sustainable development including future housing, employment, retail and infrastructure provision across the district. In determining planning applications, in accordance with the legislation, SPPS and PS, sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

In practice this means that development that accords with the development plan should be approved and development that conflicts with the development plan should be refused, unless other material considerations indicate otherwise.

The following Policies within the LPD are material:

Policy DE01 - General Amenity Requirements

The use as an exploratory mine was a temporary approval which has now ceased. There are no activities at the site which would unacceptably affect the amenities of the area or the residential amenity of nearby properties or sensitive receptors.

The existing development on site does not harm the amenity of the occupants of any properties nearby or along the surrounding roads. There is no extraction or exploration happening on site.

Policy DE02 - Design Quality

Whilst this is a section 54 application, policy DE02 is engaged.

The planning approval for the exploratory tunnel and the accompanying surface works and infrastructure, the Planning Officer Report states that the Department was “cognisant of the sensitivity of the landscape but also the limited duration of the proposed development”.

All of the development on site can be seen from various vantage points along the road network. The buildings are a demonstrable commitment in this AONB landscape and the siting, layout, height, scale, size, form, massing and proportion are not considered to be high quality, on an ongoing basis, within this sensitive landscape.

No details have been submitted in respect of the developments energy and resource efficiency in the context of the additional time period requested.

The remaining elements of DE02 are not engaged given the nature of the application. However for the reasons outlined above the proposal is contrary to DE02.

Policy DE03 – Sustaining Rural Communities

Outside Special Countryside Areas (SCAs), the Council will support a range of types of development in the countryside which sustain rural communities while protecting and improving the environment. Details of these are set out within the Policy. Under the heading 'Non-Residential Development' planning permission will be granted for non-residential development in the countryside in a number of cases. One of these is in accordance with the minerals policies.

As the proposal fails to meet Policy the minerals policy relating to restoration of the site, then it is contrary to this part of the Policy DE03.

All proposals for development in the countryside must comply with the following Development and Design policies: - • DE04 – Integration and Design of Buildings in the Countryside; • DE05 – Rural Character; • DE06 – The Setting of Settlements.

For the reasons listed the proposal fails to meet Policy DE04 and DE05 and is therefore also contrary to this part of the Policy.

All development proposals for buildings in the countryside must cluster, consolidate and group new development with existing established buildings.

The development is adjacent to a farm group and clusters and consolidates with this to meet this part of the Policy tests.

However, for the reasons listed the proposal fails to meet DE03.

Policy DE04 - Integration and Design of Development in the Countryside

On reviewing the planning approval for the exploratory tunnel and the accompanying surface works and infrastructure, the Planning Officer Report states that the Department was "cognisant of the sensitivity of the landscape but also the limited duration of the proposed development". Whilst stating that 'it is apparent that there will be visual impacts from the proposal. Both temporary and permanent; it is judged that given the depth of the storage (3metres) and with appropriate restoration, these impacts can be limited in the long term". The report demonstrates that in reaching a decision to approve the development a balance was made between the economic benefits and the visual impacts "in the long term". In weighing these up the limited duration of the proposed development and the effective reinstatement of the site was an important material consideration and the temporary nature was given weight in reaching the decision to approve. This is demonstrated with conditions attached to the approvals that the permission was a temporary planning permission and the site would be restored.

From the Glencullion Road the landscape slopes down to the valley before rising up steeply, with the slope continuing over the Camcosy Road and on up to the top of the ridgeline. All of the development on site can be seen from these views from the Glencullion Road. Whilst the buildings are green in colour and are similar in size and scale to nearby agricultural buildings, they (and the additional work) are a demonstrable commitment in the landscape which have an impact upon the character and appearance of the area. The surrounding area has a scattered, dispersed settlement pattern common to the locality and this part of the AONB. The continued

retention of the development on site removes a green space between the two farm groups of buildings and results in a build-up of development along the north side of the Camcosy Road. The cumulative effects of this will cause a detrimental change to the overall character of the rural area and AONB. This has an adverse impact on visual amenity (contrary to criteria (a)) and is an obtrusive feature in the landscape (contrary to criteria (d)).

The removal of the buildings, treatment works, hardstanding and fencing would return the field to a grassed area between the farm buildings and ensure that the visual amenity of the surrounding area is restored.

The comments of the Applicant in support of the application are noted but are not sustained or agreed with.

For these reasons the development is contrary to DE04, criteria (a) and (d).

Policy DE05 - Rural Character

As stated previously, the site is between two existing farm groups and results in the loss of this important green space and visual break in the countryside.

When travelling along the road there is a build-up of development with the site and the two farms either side reading together when travelling along the road. The building, fencing etc. on the site were only meant to be temporary and their continued retention causes a detrimental change to the rural character of an area through the loss of this important visual break, contrary to DE05.

Whilst visible in the landscape the site is not unduly prominent.

As stated previously there are clear views from the Glencullion Road where the continued retention of the buildings etc. creates a build-up of development and changes the rural character of the area, contrary to DE05 criteria (b).

The traditional settlement pattern of the area is one of individual farm groups surrounded by fields with a dispersed rural character. The development results in two farm groups coalescing and creates a line of buildings along the road edge. This does not respect the traditional pattern of settlement exhibited in that area, contrary to DE05 criteria (c).

As a result the buildings and development would create a ribbon of development through the loss of this gap and linking the existing development together in a ribbon, contrary to DE05 criteria (d).

The comments of the Applicant in support of the application are noted but are not sustained or agreed with.

For these reasons the development is contrary to DE05 and criteria (b) (c) and (d).

Policy DE06 - The Setting of Settlements

The site is far enough away from any nearby settlement to ensure that it does not mar the distinction between a settlement and the surrounding countryside or result in urban sprawl.

Policy TOU01 - Protection of Tourism Assets and Tourism Development

A tourism asset is any feature associated with the built or natural environment which is of intrinsic interest to tourists. The Sperrin AONB is considered as a tourism asset.

For the reasons listed within Policy L01 the proposal will harm the special quality and character of the AONB. Whilst the AONB includes a large area of land the harm to the visual amenity of the area means that the development adversely impacts on the intrinsic character or quality of this part of the AONB and will diminish its tourism value, contrary to TOU01.

Policy MIN01 - Minerals Development

The application is not seeking to extract any minerals and as a result MIN01 is not triggered.

Policy MIN02 - Restoration and Aftercare

The original application includes details of the final restoration scheme and proposed future land use and timescales for completion of restoration including details of completion of individual phases of restoration where a progressive scheme is proposed. The Statements agree to remove all the buildings and other works and cover the site with top soil and reseed it. This will result in the site returning to a green field.

The restoration scheme is not being reconsidered within this application; only the timing.

The proposal seeks to extend the time period for completing the full restoration and decommissioning of the site to October 2025 with the intention that the mine application would allow the works to be retained for a period of 25 years (if it was approved).

Whilst the application has progressed and the PAC has opened the Inquiry and commenced the hearing this has now been delayed and in the interim the development causes harm to the visual amenity of the area for the reasons listed within the report.

Para 4.85 of the accompanying Policy Clarification assists with the intent of the Policy stating that “Restoration of mineral development sites presents the opportunity to improve the landscape, encourage biodiversity and create recreational opportunities for local communities. This can only be achieved if the application includes high quality and, if appropriate, innovative restoration and aftercare proposals. Where appropriate, the progressive restoration of mineral extraction sites will be required to reduce the effect of the workings and to return the land to productive and beneficial use”.

Given the harm caused, the continued retention of the development is not considered as the progressive restoration of the site in a timely manner and is considered to be contrary to MIN02 criteria (b).

There is no restoration and aftercare bond or other financial provision to ensure full restoration and reinstatement of the site should the developer fail to implement the previously agreed restoration plan. However the original approval did not include this and given the narrow scope of the application it would be unreasonable to request such a provision now.

Historic Environment Policies.

There are no listed buildings or sites of built heritage on the site.

There are no other features of historic interest recorded on the DfC map Viewer on the site or nearby.

Natural Environment

The application is not seeking to explore or extract any minerals and there is no damage to any nature conservation sites or species. There is no demonstrable harm to the environment, including protected species, from the development.

Policy L01 – Development within the Sperrin Area of Outstanding Natural Beauty

Within the Clarification accompanying Policy L01, the Council recognises that there is a need to protect against any development which could be likely to adversely affect the scenic quality of the AONB and to protect against the piecemeal erosion of the distinctive character of the Sperrin AONB. This requires higher standards of design to ensure new development conserves and enhances the natural beauty of the Sperrin AONB while accommodating the needs of its local communities.

Therefore, development proposals within the Sperrin AONB, or those which could affect its setting, should be sensitive to the distinctive landscape character of the area and the quality of the landscape, historic environment and wildlife. Furthermore, they should reflect the traditional settlement and siting patterns within the locality and reflect the design characteristics of local vernacular buildings. Applicants should seek to minimise the visual impact of proposed development on the landscape and provide appropriate mitigation measures including landscape proposals to ensure the landscape and visual integration of the proposed development within the AONB.

For the reasons listed within the Report, the development will adversely impact upon the countryside. Given the higher standards applicable to the AONB the adverse impact is all the more critical. For the reasons listed previously the development would adversely affect or work to erode the distinctive special character including landscape character and visual amenity of the Sperrin AONB, its views or setting, when considered individually or cumulatively alongside existing development. The proposal is contrary to L01.

Flood Risk Management

The DfI Rivers flood maps record that there is an area of fluvial floodplain and pluvial flooding along the eastern boundary where there is an existing watercourse.

However, the proposal is seeking consent to extend the time period for the decommissioning and restoration of the site in accordance with the agreed Statements. The works to restore the waste rock area have been completed and all other works are to remove development and will not therefore affect the flood zones.

Where practical, all development must include proposals for sustainable drainage systems.

However, the original approval did not include these and given the narrow scope of the application, it would be unreasonable to request such a provision now.

Policy TR01 – Land Use and Transport

Traffic from the development will not prejudice the safety and convenience of road users. Whilst there may be some traffic travelling along the roads close to the site during site decommissioning and restoration works, this will not harm the amenity of persons living close to the site along the road.

Adequate parking facilities are provided in the yard area for any vehicles that may arrive.

Policy PU04 –Development Relying on Non-Mains Sewerage

The development relies upon non mains sewage.

However, given the narrow scope of the application, it would be unreasonable to request the Applicant to demonstrate through the submission of sufficient information on the means of sewerage that it will not create or add to a pollution. Consent to Discharge for any discharges to watercourses will be required separately from planning approval.

Policy WM02 – Waste Water Treatment Work

Development proposals for new or the upgrading/extension of existing Waste Water Treatment Works (WWTWs) will be permitted where it has been demonstrated that there is a need for the facility/extension and it meets the criteria in Policy WM01.

Although there is a WwTW on site it is not being upgraded or extended and therefore this Policy is not triggered.

SP01 – Furthering Sustainable Development

This strategic policy permits development proposals which further sustainable development and promote measures to mitigate and adapt to climate change, and which have regard to the Local Development Plan and other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

For the reasons listed the proposal is not considered as sustainable development and is contrary to Policy SP01

The overall judgment of the Council is that, read as a whole, the proposal clearly does not accord with the development plan in light of the breaches of policy identified

above (section 6(4) 2011 Act). Accordingly, planning permission must be refused unless material considerations indicate otherwise (section 6(4) 2011 Act).

Other Material Considerations

In relation to the planning application seeking to retain the infrastructure for use in the regionally significant application, a Public Local Inquiry has commenced but has been deferred/adjourned and in the meantime the development continues to harm the visual amenity of the countryside. No case has been made that the works are essential or there is any other reason for their retention other than it is part of the gold mine application. Whilst removing these would have environmental impacts these are not judged as significant. The Method Statements provide detail on how the site will be decommissioned and restored and these demonstrate that the work will not result in any harm to the environment. Potential risks to the environment are identified along with sensitive environmental receptors and detailed methodologies provided for the removal of the water treatment facility, the sites of former buildings and yard, with mitigation measures incorporated including buffer zones, silt fencing and noise, dust and run off management etc. Whilst there may be impacts upon nearby residents and from residents along the road from the works and traffic these will be controlled and short term, temporary in nature and are not considered to harm their residential amenity.

As a result there will be no unacceptable adverse impacts on the environment from the restoration and decommissioning. Whilst they may have to be rebuilt in the event of planning approval for the gold mine and this will incur an economic cost to the applicant and there will be environmental effects from the decommissioning and restoration works, including carbon emissions, the environmental benefits from their removal, in particular the visual benefits to the countryside and Sperrins AONB, outweigh the weight afforded to their retention. Any rebuilding authorised in due course would be subject to suitable assessment and control to avoid unacceptable adverse impacts.

Planning Balance

For the reasons outlined above the application is recommended for refusal as it would cause demonstrable harm to interests of acknowledged importance and is not sustainable development. It is contrary to the Plan Strategy and there are no other material considerations that would justify a departure from the Plan or a decision contrary to the Plan Strategy Policies. The planning balance falls firmly and decisively in favour of refusal.

8.0 Recommendation

The application is recommended for refusal for the reasons listed within the report and subject to the following reasons:

- 1) The proposal is contrary to Policy SP01 and is not sustainable development.

2) The proposal is contrary to Policy DE02, in that the siting, layout, height, scale, size, form, massing and proportion are not considered to be high quality, on an ongoing basis, within this sensitive landscape and no details have been submitted in respect of how the development is energy and resource efficient.

3) The proposal is contrary to Policy DE03 and MIN02 as the application is not accompanied by a satisfactory proposal for the timely completion of the restoration of the site.

4) The proposal is contrary to DE03 and DE04, criteria (a) as the proposed site does not have the capacity to absorb the continuing retention of the development without adverse impact on visual amenity and criteria (d) as it results in an obtrusive feature in the landscape.

5) The proposal is contrary to DE03 and DE05 criteria (b) as it would result in a suburban style build-up of development when considered with existing buildings and criteria (c) as it does not respect the traditional pattern of settlement exhibited in the area; and criteria (d) it create a ribbon of development.

6) The proposal is contrary to policy L01 of the Fermanagh and Omagh District Council Local Development Plan – Plan Strategy as it would adversely affect and work to erode the distinctive special character of the Sperrin Area of Outstanding Natural Beauty

7) The proposal is contrary to policy TOU 1(a) of the Fermanagh and Omagh District Council Local Development Plan – Plan Strategy as it would have an adverse impact on the intrinsic character or quality of the Sperrin Area of Outstanding Natural Beauty tourism asset, or part thereof, and diminish its tourism value, or part thereof.

PAPER A - APPENDIX 4

Fermanagh and Omagh District Council

Planning Committee Meeting 16 July 2025

Application No 4

Planning Reference: LA10/2023/1759/F

Proposal: Variation of Condition 6 of K/2014/0387/F (Revised explosives store location and layout; a temporary explosives store building, extension to the existing access track, security fencing and gates, 3 culverts/headwalls; CCTV; screening bund, protective housing, hard standing areas and site restoration) to complete restoration of the site in accordance with conditions 5 & 7 of K/2014/0387/F by the end of October 2025.

Location: Lands approximately 600 metres southwest of No.45 Camcosy Road, Curraghinalt, Gortin, Co. Tyrone, BT79 7SF

Applicant: Dalradian Gold Limited

Agent: Turleys

Recommendation: The recommendation is to **refuse** planning permission for the reasons listed within the report and subject to seven reasons.

1.0 Purpose of report

The purpose of this report is to present for determination an application for planning permission to be decided by the Planning Committee. The application falls within the meaning of a "local" application as defined in the Planning (Development Management) Regulations (Northern Ireland) 2015.

In accordance with the Council's Scheme of Delegation, the Lead Planner considers that the proposal merits consideration by the Committee.

1.1 Summary

The application seeks to vary Condition 6 of planning permission K/2014/0387/F to allow for an extension to the period for the completion of decommissioning/restoration to the end of October 2025. The Applicant's seeks the extension on the basis that the planning application for the gold mine (LA10/2017/1249/F) is currently progressing through the public inquiry and if approved, would retain the infrastructure in association with future mining activity. In the event of an approval of 1249/F, new decommissioning and restoration conditions would be attached to that planning permission.

However, for the reasons listed within the Report, the retention of the development on site for the further period specified is not considered to be sustainable development as it does not fall within any of the range of types of development in the countryside that are supported by the Plan Strategy and there are no other material considerations which justify a decision being taken contrary to the Plan Strategy.

The application is also contrary to the minerals development policies as the date for completion of the restoration and decommissioning works will not result in a timely restoration of the site.

The proposal does not have the capacity to absorb the building on an ongoing basis without adverse impact on visual amenity and its ongoing retention results in an obtrusive feature in the landscape. The retention of the development will also result in a suburban style build-up of development when considered with existing buildings which does not respect the traditional pattern of settlement exhibited in the area. It also creates a ribbon of development. The site is located in the Sperrins AONB and the development is considered to adversely affect or work to erode the distinctive special character of the countryside and the views and setting location of the Sperrin AONB. The AONB is also a tourist asset and given the harm to the visual amenity of the AONB and countryside it will adversely impact on the intrinsic character or quality of this part of the AONB and will diminish its tourism value.

2.0 Application details

Site Details

The site is located at Camcosy Road and is a rectangular shaped plot accessed by a stoned laneway. There is an existing building on site surrounded by a security fence.

Proposed development

This application seeks permission to vary Condition 6 of K/2014/0387/F (Revised explosives store location and layout; a temporary explosives store building, extension to the existing access track, security fencing and gates, 3 culverts/headwalls; CCTV; screening bund, protective housing, hard standing areas and site restoration) to complete restoration of the site in accordance with conditions 5 & 7 of K/2014/0387/F by the end of October 2025.

Condition 6 states that:

“Within two months from the expiry of the time limit for the development hereby permitted, as referenced in condition number 1; implementation of site restoration in accordance with conditions 05 & 07 shall be complete, unless otherwise agreed in writing with the Department”.

The Applicant proposes that the varied planning condition would read:

“Implementation of site restoration in accordance with conditions 05 & 07 shall be complete by the end of October 2025 unless otherwise agreed in writing with the Council.”.

The reason for the condition would not alter and remain “To ensure the timely restoration of the site”.

The Council has reviewed the nature of the proposed application and is content that the application proposal falls within the scope of section 54.

2.1 Drawings

- Drawing 01 – ‘Site Location Plan’ published on the Planning Portal on 24 May 2023.

2.2 Supporting information

- Application form published on Portal on 24 May 2023
- Copy of decision for planning application K/2014/0387/F published on Portal on 24 May 2023
- Letter from Agent dated 18 May 2023 published on Portal on 24 May 2023
- Email from Agent 17 November 2023, including a letter dated 17 November 2023, and Appendix 2, Landscape and Visual Impact Assessment for Retention of Surface Infrastructure at Exploratory Mine published on the Portal on 20 Nov 2023

The applicant has submitted supporting information from the Agent which is available to view on the public access system. The issues raised can be states that:

“A planning application (Reference: LA10/2017/1249/F) made to the Department for Infrastructure (DfI) in November 2017 seeks planning permission to retain the infrastructure in association with future mining activity without compliance with planning conditions on the basis that if planning permission is granted for that development, new decommissioning and restoration conditions will be attached to that planning permission. The application will be subject to a Public Inquiry with the Planning Appeals Commission expected to advise of arrangements shortly.

The purpose of this Section 54 application is to extend the period for restoration and decommissioning to align with the planning process for planning application LA10/2017/1249/F. If planning permission for planning application LA10/2017/1249/F is refused, Dalradian will decommission/restore the existing infrastructure in accordance with an updated Decommissioning Method Statement to ensure compliance with condition 5 of planning permission K/2014/0387/F.

Although the LVIA relates to the gold mine application it includes information relating to this development. Its summarised as stating that:

“The explosives magazine to the south of Camcosy Road will be located above ground for a temporary period of approximately 2 years before being relocated underground during the life of the mine. This feature, located

adjacent to a shelterbelt of existing trees, will be a temporary feature and is not considered likely to lead to significant landscape or visual effects”.

The LVIA includes information and commentary but it relates to the exploratory (surface infrastructure) site rather than the location of the explosive store.

Nonetheless the LVIA states that:

“The study area was identified as an area of approximately 2km radius surrounding the existing exploratory (surface infrastructure) site. This area is characterised by gently undulating slopes and a pastoral landscape with a well-defined field pattern on the lower valley sides. This valley landform restricts longer distance views seen out of the valley to the north and south. Although there has been a permanent change to the topography and some loss of limited areas of open grassland, there will be no loss of hedgerows or mature woodland and trees, which are an important feature. The location of the site on the lower northern flanks of Mullydoo Hill also helps to limit impacts on the rounded summits and valley horizons of the South Sperrin LLCA..... Whilst the retention of aspects of the exploratory (surface infrastructure) site means the changes will be in place for longer than previously anticipated, no significant effects on landscape character are predicted.

The development would affect a very small part of the Sperrin AONB (approximately 1.97ha). Direct and indirect effects associated with the site are geographically limited to a small area and in most views the exploratory site is contained well below the horizon. The retention of some components...will not significantly alter these changes, given the restoration of the Waste Rock Storage Area (WRSA), and the fact that vegetation across and around the site will progressively mature over time, helping with its integration into the landscape.

The site results in no significant effects on landscape character within the LLCA. The landscape effects are not judged to ‘unduly compromise the integrity of the area as a whole or threaten to undermine the rationale for the designation’. No significant visual effects have been identified from any of the three representative viewpoints or sequential routes within the LVIA. In closer proximity views from Camcosy Road, hedgerows and trees retained along the site boundaries help to screen the site. In longer distance views several factors combine so that visual effects fall below the significance threshold. These include the increased viewing distance; changes being contained below the horizon; screening provided by retained boundary vegetation; and the nature of the site, as seen in the context of existing development along Camcosy Road.

In conclusion, the retention of the surface infrastructure at the exploratory mine site is not judged to result in any significant landscape or visual effects...other than the permanent changes to topography for the WRSF, the effects would be largely reversible at the end of the operational phase. Furthermore, once the site has been restored with structures and areas of hardstanding removed; land cover returned to grassland; new woodland planting introduced around the passive water treatment works, the permanent

and lasting effects on landscape character and views are likely to be negligible”.

Consideration of the issues raised in support of the application are included within the report.

3.0 Consultations and issues raised

The Council has consulted Shared Environmental Services (SES) seeking advice on the potential impact of the development upon nearby designated sites. SES has not responded with comments. The Council has endeavoured to obtain a response from SES but a response has not been forthcoming. In the judgment of the Council, in light of the issues raised, a decision can in this instance be taken without a response from SES given the concerns set out below and the recommendation to refuse this application. SES has been advised of this.

DfI Roads advise that they ‘do not offer an objection’.

DAERA NIEA Water Management Unit advise that it ‘notes this application relates to a proposed time extension to comply with Condition 6 of K/2014/0387/F and has no objection’.

DAERA NIEA Natural Environment Division advise that ‘NED did not recommend Condition 6 in our response of 5 September 2014, and therefore have no comments to make’.

FODC Environmental Health Service has advised that it has ‘considered the application and are content with no conditions’.

4.0 Representations

A significant number of objections have been received. These can be viewed on the Public Access System. The issues raised are summarised as:

- Contrary to the Programme for Government Draft Outcome Framework.
- Contrary to international commitments in respect of Climate change and biodiversity.
- The economic case presented is flawed and insubstantial and is not an adequate basis for granting approval. Supposed to be a temporary three year project deemed not to need an EIA because the planning permission was for a strictly limited 3 year term and because the conditions would be robustly enforced.
- Where is the new EIA screening for such an environmentally sensitive site?
- Long running saga has seen delay of closure and restoration the site for years
- To allow an additional seven years or perhaps even longer for restoration and removal of site infrastructure without taking effective enforcement action this would be a total abuse of discretionary powers in relation to enforcement.
- A Mine Waste Management Plan was not included with the initial planning Application K/2013/0072/F – This should have resulted in a rejection.

- Planning permission cannot be granted to extend the life of a project that was not carried out in accordance with the original permission. In other words, Dalradian is applying to extend planning permission for something that did not benefit from planning approval from the outset in 2014.
- What about: the hydrological impacts of not just the blasting and the underground workings, the infilling and the waste rock dump and the discharges from the site, the impact of the blasting on the surrounding peatlands, the hydrological impact on the Owenkillev River and on the SAC of the scores of deep bore holes on the side of the valley.
- Comparison of enforcement approach to [REDACTED] dwelling at [REDACTED] Rouskey.
- Risks to the environment, to water, to protected species, to aquatic life, to air quality and to the health & well-being of people from this exploratory mining operation
- Under section 6(1) of the Human Rights Act 1998, it is unlawful for a public authority to act incompatibly with convention rights - makes it unlawful for a public authority to act in a way that is incompatible with a person's rights under the European Convention on Human Rights.
- The character and quality of the Sperrins area is designated an AONB. The policies should offer some protection.
- Since approval examples have come to light demonstrating the damage that can be done, to the environment and to humans, when substances harmful to health are involved. Once damage is done, by release of harmful substances into our soil, water or air, it cannot be undone. Nor can remedial action easily be taken. Financial cost comes with the human and environmental cost.

Consideration.

The Council has screened the application as required by the EIA Regulations and issued a negative determination. The conclusions of the screening assessment undertaken by the Council are considered to remain valid.

The decision whether to take enforcement action is discretionary. Any decision is outside of the consideration of this planning application.

Challenges to the original application cannot be revisited under this application and the application must be considered on its merits against planning policy.

Impacts upon the environment are considered within the report.

Complaints regarding enforcement on other sites are not material to this planning application.

Any decision made by the Council will not be incompatible with the Human Rights Act.

5.0 Planning History

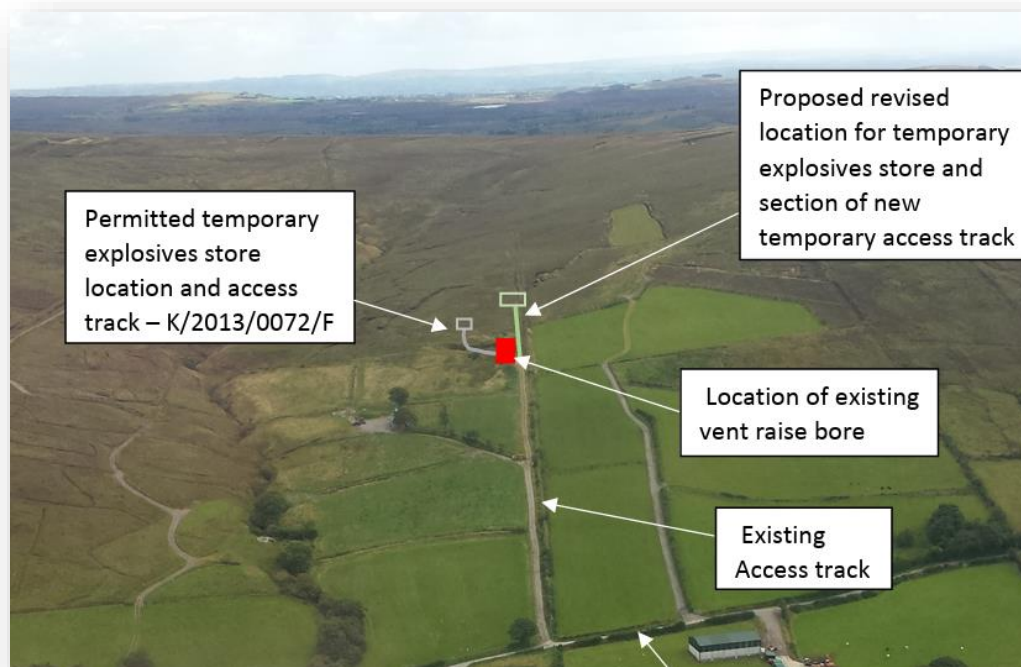
1. K/1986/0363/F – Gold exploration approved on 26 March 1987.
2. K/2013/0072/F - Extension to existing underground exploration tunnel; including temporary buildings, vehicle parking, waste rock storage area, water treatment system and passing bays.
Permission granted Wed 22 Jan 2014.

2a. Section 54 application to K/2013/0072/F:

K/2014/0246/F -Application under Article 28 of the Planning (NI) Order 1991 for non-compliance with conditions 25 and 26 of approved planning application no. K/2013/0072/F. Conditions 25 and 26 relate to water discharge parameters. Permission Granted Tue 31 Mar 2015.

3. K/2014/0387/F – A revised explosives store location and layout; a temporary explosives store building; a temporary 160m long extension (3.5m wide) to the existing access track; temporary security fencing (up to 3.75 metres high) and security gates, 3 culverts/headwalls; CCTV; a temporary screening bund (3.0 metres high); a temporary protective housing (3.75 metres high) around the existing ventilation raise; hard standing areas; and site restoration within an application area of 0.25 hectares.

Approved 22 October 2014



4. SPD/2017/1249/F - Underground valuable minerals mining and exploration, surface level development including processing plant and other associated development and ancillary works, Greencastle, County Tyrone. Please see application form P1, sheet 1 for full project description. (Revised description and amendments to the planning application, receipt of Further Environmental Information (FEI), other information and updates to the Waste Management Plan (WMP), supporting documents and provision of new and amended drawings).

Under consideration

5. LA10/2019/1386/F - 33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F). 33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling. c 15.1 km of the powerline is within the Fermanagh & Omagh District Council area comprising of c 8.2 km of overhead line supported by single and double wooden pole sets and c 6.9 km of underground cabling.
Under consideration.

Discharge of Condition applications (DCs):

- LA10/2019/1026/DC - Discharge of conditions 5 (Decommission Report) and 6 (Time Period) on previous planning approval K/2014/0387/F. This was submitted on 19 June 2019 and includes a table titled 'Table 1: Timescales' which states that the explosive store building, access track extension and hardstanding would be removed by September 2020.

This was agreed by the Council on 29 August 2019.

Table 1: Timescales

Action	Phase	Timescale (By end)
Appoint contractor for waste rock storage area restoration	1	February 2018
Restoration of waste rock storage area within agreed levels	1	May 2018
Removal of office/welfare containers	2	September 2019
Removal of warehouse buildings	2	October 2019
Removal of building foundations	2	October 2019
Removal of water treatment plant	3	September 2020
Removal of yard area hardstanding	3	September 2020
Removal of berms	3	September 2020
Removal of explosives store building, access track extension & hardstanding	3	September 2020
Removal of security hut	3	October 2020
Secure adit entrance	3	October 2020
Removal of temporary protective housing around existing ventilation raise	3	October 2020
Removal of perimeter/security fence, gates & CCTV	3	October 2020
Removal of culverts and headwall	3	October 2020

Note: the mine application includes retention of this site. The timescales set out above have been set based on a view of how long that planning process will take. If the application is taking longer than anticipated to determine, DGL will provide new timescales for Phase 2. As noted above, all work will be completed within the three year period

The Council has also received applications seeking to discharge planning conditions from application K/2014/0246/F (exploratory mine site). Within the information accompanying these applications, the table of proposed works includes an action described as 'the removal of the explosive store building, access track extension and hardstanding'.

- LA10/2019/1061/DC was submitted on 09 September 2019 and sought to change the timings for the works to be carried out from September 2020 to October 2020.

The Council agreed to the revised Statement on 10 December 2019. This agreement extended the date for the removal of the explosive store building, access track extension and hardstanding to October 2020.

Table 1: Timescales

Action	Phase	Timescale (By end)
Appoint contractor for waste rock storage area restoration	1	February 2018
Restoration of waste rock storage area within agreed levels	1	May 2018
Removal of office/welfare containers	2	October 2020
Removal of warehouse buildings	2	October 2020
Removal of building foundations	2	October 2020
Removal of water treatment plant	2	October 2020
Removal of yard area hardstanding	2	October 2020
Removal of berms	2	October 2020
Removal of explosives store building, access track extension & hardstanding	2	October 2020
Removal of security hut	2	October 2020
Secure adit entrance	2	October 2020
Removal of temporary protective housing around existing ventilation raise	2	October 2020
Removal of perimeter/security fence, gates & CCTV	2	October 2020
Removal of culverts and headwall	2	October 2020

- LA10/2020/0955/DC was submitted on 28 September 2020 and sought to revise the timing of the works and extend them from October 2020 to October 2021. The Council refused to agree to the revised Statement on 30 November 2020.
- LA10/2020/1224/DC was submitted on 23 November 2020 and sought to revise the timing of the works and extend them from October 2020 to April 2021. The Council refused to agree to the revised Statement on 20 December 2020.

The decommissioning and restoration work was to be fully completed within the Statements by October 2020 but only the 1st and 2nd parts have been completed; namely a contractor appointed and the waste rock storage area restored.

Planning Enforcement

The Council presently has an open enforcement file in respect of breach of the decommissioning and restoration condition imposed on permission K/2014/0387/F. The Council is satisfied that there has been a breach of condition 6 of K/2014/0387/F.

A Breach of Condition Notice was issued on 16 December 2022 but was subsequently withdrawn.

The taking of further formal enforcement action remains under active consideration.

The comments in this report should not be read by any party as fettering the discretion of the Council as to the future exercise of its enforcement powers nor should they be relied upon as generating any legitimate expectation as to future conduct. The enforcement file remains open and under ongoing review as circumstances develop.

6.0 Planning (Environmental Impact Assessment) Regulations (NI) 2017

The application has been screened against the Regulations and a negative determination issued that the application does not need to be accompanied by an environmental statement. That determination has been considered as part of this recommendation and it remains the case that the determination is valid.

7.0 Preliminary Issues:

The application was made to the Council in accordance with Section 54 of the Planning Act (Northern Ireland) 2011 to develop land without compliance with conditions previously attached. In considering an application made under section 54, the Council must consider only the “question of the conditions” subject to which planning permission should be granted.

7.1 Assessment against Development Plan and other material considerations

In considering an application made under section 54, the Council must consider only the “question of the conditions” subject to which planning permission should be granted (section 54(3)) although it is also entitled to consider the circumstances that led to the previous (original) conditional grant of planning permission.

As required by section 45(1) where an application is made for planning permission, the Council, in dealing with the application, must have regard to the Local Development Plan, so far as material to the application, and to any other material considerations, and may grant planning permission, either unconditionally or subject to such conditions as it thinks fit; or refuse planning permission.

On 16 March 2023, the Council adopted the Fermanagh and Omagh District Council Local Development Plan 2030 - Plan Strategy. In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations 2015 (as amended) the Local Development Plan now becomes a combination of the Departmental Development Plan (DDP) and the Plan Strategy (PS) read together. In this application the Omagh Area Plan is the relevant DDP. In accordance with the legislation any conflict between a policy contained in the DDP and those of the Plan Strategy must be resolved in favour of the Plan Strategy.

In the DDP, the site is located in the countryside. The specific policies in the DDP and within Departmental Planning Policy Statements, for development outside

settlement limits, would have been in regional policy. In accordance with paragraph 1.9 of the Strategic Planning Policy Statement (SPPS), as the Council has adopted its Plan Strategy, existing policy retained under the transitional arrangements have ceased to have effect in the Council District and shall not be material from that date (16 March 2023), whether the planning application has been received before or after that date.

The Plan Strategy provides a plan-led policy framework for making day-to-day decisions to help the Council deliver sustainable development including future housing, employment, retail and infrastructure provision across the district. In determining planning applications, in accordance with the legislation, SPPS and PS, sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

In practice this means that development that accords with the development plan should be approved and development that conflicts with the development plan should be refused, unless other material considerations indicate otherwise.

The following Policies within the LPD are material:

Policy DE01 - General Amenity Requirements

The use as an explosives store was a temporary approval which has now ceased. There are no activities at the site which would unacceptably affect the amenities of the area or the residential amenity of nearby properties or sensitive receptors.

The existing development on site does not harm the amenity of the occupants of any properties nearby or along the surrounding roads.

Policy DE02 - Design Quality

Whilst this is a section 54 application, policy DE02 is engaged.

The planning approval for the revised explosives store acknowledged that the impact will be limited by the temporary nature of the proposal and a requirement to reinstate the site after this time

The development on site can be seen from the Glencullion Road and is a commitment in this AONB landscape and the siting, layout, height, scale, size, form, massing and proportion are not considered to be high quality, on an ongoing basis, within this sensitive landscape.

No details have been submitted in respect of the developments energy and resource efficiency in the context of the additional time period requested.

The remaining elements of DE02 are not engaged given the nature of the application. However for the reasons outlined above the proposal is contrary to DE02

Policy DE03 – Sustaining Rural Communities

Outside Special Countryside Areas (SCAs), the Council will support a range of types of development in the countryside which sustain rural communities while protecting

and improving the environment. Details of these are set out within the Policy. Under the heading 'Non-Residential Development' planning permission will be granted for non-residential development in the countryside in a number of cases. Although described as an explosives store the purpose of the store is integrally linked to the exploratory mine site across the road and therefore falls within the meaning of mineral development for the purposes of the Plan Strategy.

As the proposal fails to meet the minerals policy relating to restoration of the site, then it is contrary to this part of the Policy DE03.

All proposals for development in the countryside must comply with the following Development and Design policies: - • DE04 – Integration and Design of Buildings in the Countryside; • DE05 – Rural Character; • DE06 – The Setting of Settlements.

For the reasons listed the proposal fails to meet Policy DE05 and is therefore also contrary to this part of the Policy.

All development proposals for buildings in the countryside must cluster, consolidate and group new development with existing established buildings.

The development does not cluster, consolidate or group with any existing established buildings in the area and therefore fails to meet this part of the Policy test. Whilst the Planning Officer comments in the Planning Report for the application K/2014/0387/F that the location is necessary to meet the requirements of the Manufacture and Storage of Explosives Regulations (NI) 2006, the building is currently not being used to store explosives. Whilst it would be retained if the gold mine was approved there is no decision on this application and in the meantime the development adversely affects the visual amenity of the area.

For the reasons listed the proposal fails to meet DE03.

Policy DE04 - Integration and Design of Development in the Countryside

On reviewing the planning approval K/2014/0387/F for the revised explosives store location and layout; a temporary explosives store building and the accompanying surface works and infrastructure, the Planning Officer Report states that "it is acknowledged that there would be a visual impact from the infrastructure associated with the proposal. In the main views of the development will be from the Gorticashel Roads on the opposite flank of the valley. This impact will be limited by the temporary nature of the proposal and a requirement to reinstate the site after this time".

It also states that:

"whilst it is apparent that there will be visual impacts from the proposal; it is judged that with the proposed short term duration and appropriate restoration these impacts will be limited in the longer term".

Having regards to these considerations the Planning Officer found that "the proposal is not considered contrary to this Policy" (MIN02 of the Planning Strategy for Rural NI).

The current application seeks to extend the date by which the development will be removed from the site and the land restored.

From the Glencullion Road the landscape slopes down to the valley before rising up steeply, with the slope continuing over the Camcosy Road and on up to the top of the ridgeline. The development on site can be seen from these views from the Glencullion Road and have an impact upon the character and appearance of the area. Whilst it may integrate into the landscape due to the rising land and surrounding landscaping the existing building sits isolated from any nearby buildings and appears as one off sporadic development in the rural area and AONB. This has an adverse impact on visual amenity (contrary to criteria (a)) and is an obtrusive feature in the landscape (contrary to criteria (d)).

The removal of the explosives store building, and extension to the existing access track and associated ancillary works, would restore the character and appearance of the landscape by returning the lands to blanket bog.

For these reasons the development is contrary to DE04, criteria (a) and (d).

Policy DE05 - Rural Character

Whilst visible in the landscape the site is not unduly prominent due to the long distance views, meeting criteria (a).

As stated previously there are no buildings nearby and the development does not create a build-up of development or change the rural character of the area by reason of 'build up', meeting criteria (b).

The traditional settlement pattern of the area is one of individual farm groups surrounded by fields with a dispersed rural character. New development is largely adjacent to these existing groups which expand and grow naturally with the new development clustering and grouping with existing buildings. For the reasons listed previously the development appears as one off sporadic development in the countryside and does not respect the traditional pattern of settlement exhibited in that area, contrary to DE05 criteria (c).

The development would not create a ribbon of development, meeting criteria (d).

For these reasons the development is contrary to DE05 criteria (c).

Policy DE06 - The Setting of Settlements

The site is far enough away from any nearby settlement to ensure that it does not mar the distinction between a settlement and the surrounding countryside or result in urban sprawl.

Policy TOU01 - Protection of Tourism Assets and Tourism Development

A tourism asset is any feature associated with the built or natural environment which is of intrinsic interest to tourists. The Sperrin AONB is considered as a tourism asset.

For the reasons listed within Policy L01 the proposal will harm the special quality and character of the AONB. Whilst the AONB includes a large area of land the harm to the visual amenity of the area means that the development adversely impacts on

the intrinsic character or quality of this part of the AONB and will diminish its tourism value, contrary to TOU01.

Policy MIN01 - Minerals Development

The application is not seeking to extract any minerals and as a result MIN01 is not triggered.

Policy MIN02 - Restoration and Aftercare

The original application includes details of the final restoration scheme and proposed future land use and timescales for completion of restoration. The Statements agree to remove all the buildings and other works and restore the site to blanket bog in accordance with the Management Plan for the Restoration of Blanket Bog Report dated August 2014 which accompanied the K/2014/0387/F application.

The restoration scheme is not being reconsidered within this application; only the timing.

The proposal seeks to extend the time period for completing the full restoration and decommissioning of the site to October 2025 (with the intention that the mine application would allow the works to be retained (if it was approved)).

Whilst the application has progressed and the PAC has opened the Inquiry and commenced the hearing, this has now been delayed and in the interim the development causes harm to the visual amenity of the area for the reasons listed within the report.

Para 4.85 of the accompanying Policy Clarification assists with the intent of the Policy stating that “Restoration of mineral development sites presents the opportunity to improve the landscape, encourage biodiversity and create recreational opportunities for local communities. This can only be achieved if the application includes high quality and, if appropriate, innovative restoration and aftercare proposals. Where appropriate, the progressive restoration of mineral extraction sites will be required to reduce the effect of the workings and to return the land to productive and beneficial use”.

Given the harm caused, the continued retention of the development is not considered as the progressive restoration of the site in a timely manner and is considered to be contrary to MIN02 criteria (b).

There is no restoration and aftercare bond or other financial provision will be required to ensure full restoration and reinstatement of the site should the developer fail to implement the previously agreed restoration plan. However the original approval did not include this and given the narrow scope of the application it would be unreasonable to request such a provision now.

Historic Environment Policies.

There are no listed buildings or sites of built heritage on the site.

There are no other features of historic interest recorded on the DfC map Viewer on the site or nearby.

Natural Environment

The application is not seeking to explore or extract any minerals and there is no damage to any nature conservation sites or species through the demolition of the building and removal of the ancillary works including the extended access track. The site will be restored and there is no demonstrable harm to the environment from the development.

Policy L01 – Development within the Sperrin Area of Outstanding Natural Beauty

Within the Clarification accompanying Policy L01, the Council recognises that there is a need to protect against any development which could be likely to adversely affect the scenic quality of the AONB and to protect against the piecemeal erosion of the distinctive character of the Sperrin AONB. This requires higher standards of design to ensure new development conserves and enhances the natural beauty of the Sperrin AONB while accommodating the needs of its local communities.

Therefore, development proposals within the Sperrin AONB, or those which could affect its setting, should be sensitive to the distinctive landscape character of the area and the quality of the landscape, historic environment and wildlife. Furthermore, they should reflect the traditional settlement and siting patterns within the locality and reflect the design characteristics of local vernacular buildings. Applicants should seek to minimise the visual impact of proposed development on the landscape and provide appropriate mitigation measures including landscape proposals to ensure the landscape and visual integration of the proposed development within the AONB.

For the reasons listed within the Report, the development will adversely impact upon the countryside. Given the higher standards applicable to the AONB the adverse impact is all the more critical. For the reasons listed previously the development would adversely affect or work to erode the distinctive special character including landscape character and visual amenity of the Sperrin AONB, its views or setting, when considered individually or cumulatively alongside existing development. The proposal is contrary to L01.

Flood Risk Management

The DfI Rivers flood maps record that the site is not within an area of fluvial floodplain or pluvial flooding.

Where practical, all development must include proposals for sustainable drainage systems.

However, the original approval did not include these and given the narrow scope of the application, it would be unreasonable to request such a provision now.

Policy TR01 – Land Use and Transport

Traffic from the development will not prejudice the safety and convenience of road users. Whilst there may be some traffic travelling along the roads close to the site during site decommissioning and restoration works, this will be at a low level and will not harm the amenity of persons living close to the site along the road.

Adequate parking facilities are provided in the yard area for any vehicles that may arrive.

Policy PU04 –Development Relying on Non-Mains Sewerage

The development does not rely upon non mains sewage.

SP01 – Furthering Sustainable Development

This strategic policy permits development proposals which further sustainable development and promote measures to mitigate and adapt to climate change, and which have regard to the Local Development Plan and other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

For the reasons listed the proposal is not considered as sustainable development and is contrary to Policy SP01.

Other Material Considerations

In relation to the planning application seeking to retain the infrastructure for use in the regionally significant application, a Public Local Inquiry has commenced but has been deferred/adjourned and in the meantime the development continues to harm the visual amenity of the countryside. No case has been made that the works are essential or there is any other reason for their retention other than it is part of the gold mine application.

The Method Statements provide detail on how the site will be decommissioned and restored. Potential risks to the environment are identified along with sensitive environmental receptors and detailed methodologies provided for the removal buildings etc., with mitigation measures incorporated. Due to the separation distances to nearby residents there will be no unacceptable affects. There may be some increase in traffic along the road during the demolition and restoration works but these will be controlled and short term, temporary in nature and are not considered to harm their residential amenity.

As a result there will be no unacceptable adverse impacts on the environment from the restoration and decommissioning. Whilst they may have to be rebuilt in the event of planning approval for the gold mine and this will incur an economic cost to the applicant and there will be environmental effects from the decommissioning and restoration works, including carbon emissions, the environmental benefits from their removal, in particular the visual benefits to the countryside and Sperrins AONB, outweigh the weight afforded to their retention. Any rebuilding authorised in due course would be subject to suitable assessment and control to avoid unacceptable adverse impacts.

Planning Balance

For the reasons outlined above the application is recommended for refusal as it would cause demonstrable harm to interests of acknowledged importance and is not sustainable development. It is contrary to the Plan Strategy and there are no other material considerations that would justify a departure from the Plan or a decision contrary to the Plan Strategy Policies. The planning balance falls firmly and decisively in favour of refusal.

8.0 Recommendation

The application is recommended for refusal for the reasons listed within the report and subject to the following reasons:

- 1) The proposal is contrary to Policy SP01 and is not sustainable development.
- 2) The proposal is contrary to Policy DE02, in that the siting, layout, height, scale, size, form, massing and proportion are not considered to be high quality, on an ongoing basis, within this sensitive landscape and no details have been submitted in respect of how the development is energy and resource efficient.
- 3) The proposal is contrary to Policy DE03 and MIN02 as the application is not accompanied by a satisfactory proposal for the timely completion of the restoration of the site.
- 4) The proposal is contrary to DE03 and DE04, criteria (a) as the proposed site does not have the capacity to absorb continuing retention of the development the building without adverse impact on visual amenity and criteria (d) as it results in an obtrusive feature in the landscape.
- 5) The proposal is contrary to DE03 and DE05 criteria (c) as it does not respect the traditional pattern of settlement exhibited in the area.
- 6) The proposal is contrary to policy L01 of the Fermanagh and Omagh District Council Local Development Plan – Plan Strategy as it would adversely affect and work to erode the distinctive special character of the Sperrin Area of Outstanding Natural Beauty
- 7) The proposal is contrary to policy TOU 1(a) of the Fermanagh and Omagh District Council Local Development Plan – Plan Strategy as it would have an adverse impact on the intrinsic character or quality of the Sperrin Area of Outstanding Natural Beauty tourism asset, or part thereof, and diminish its tourism value, or part thereof.

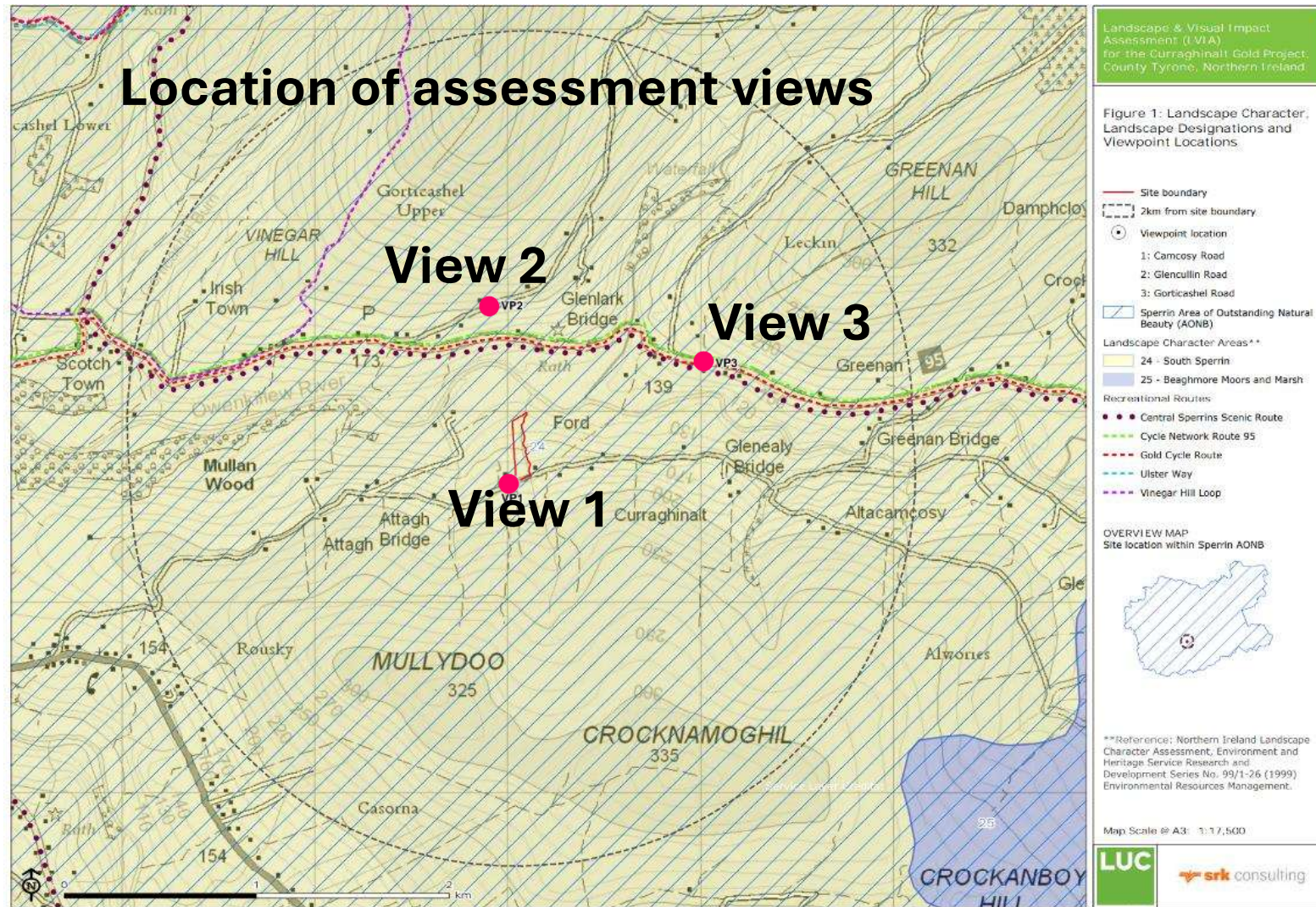
Application No 01: LA10/2023/1758/F - Variation of Condition 41 of K/2014/0246/F (Article 28 application for non-compliance with Conditions 25 and 26 of Application No K/2013/0072/F (Extension to existing underground exploration tunnel, including temporary buildings, vehicle parking, waste rock storage area, water treatment system and passing bays)) to complete restoration of the site in accordance with Drawing No 14 (K/2013/0072/F) and in accordance with Conditions No 39 & 40 (K/2014/0246/F) by the end of October 2025

Applicant: Dalradian Gold Limited

Location: Lands approximately 165m west of No. 45 Camcosy Road, Curraghinalt, Gortin, Co Tyrone, BT79, 7SF

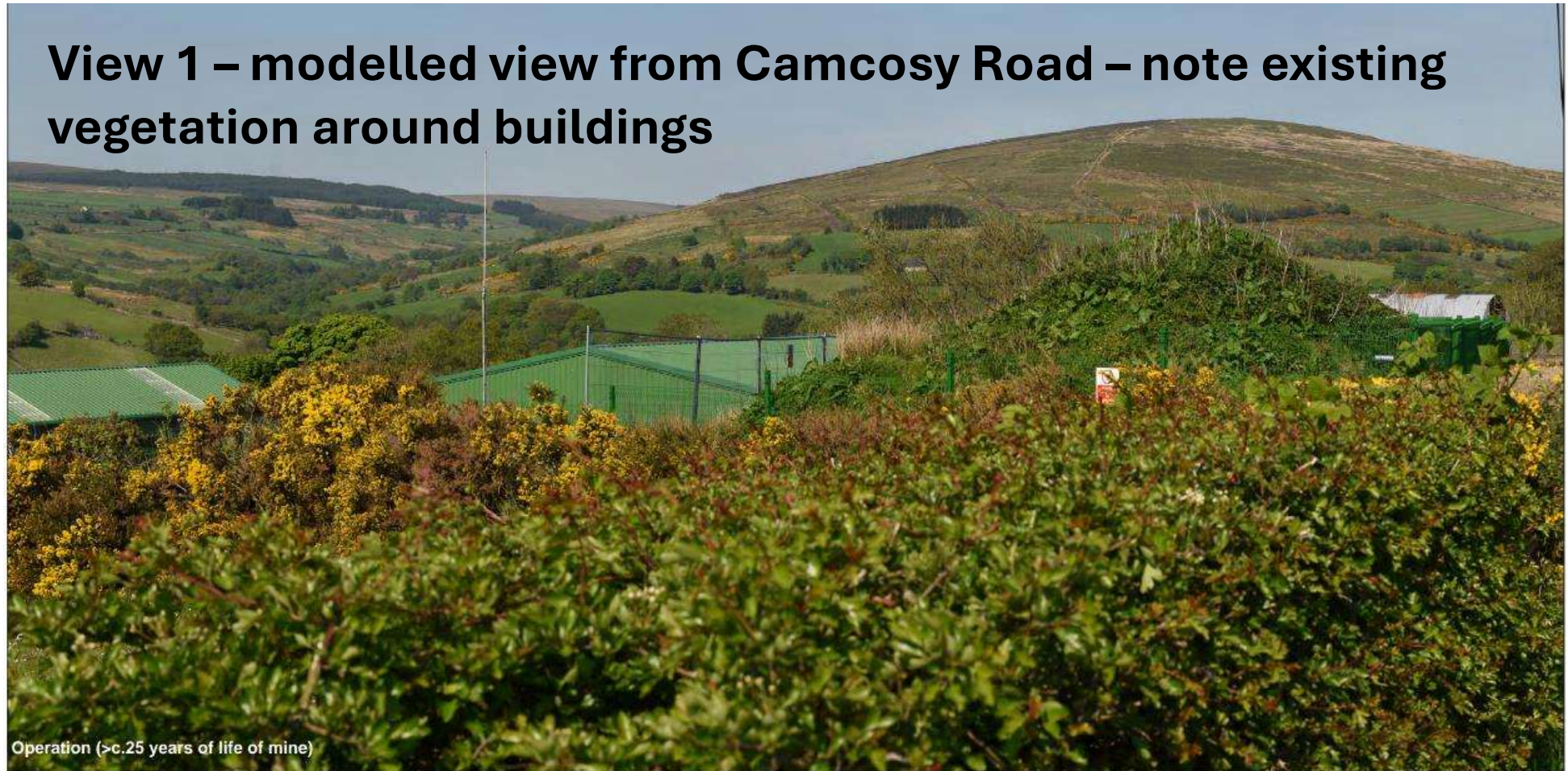
SLIDE 1

Location of assessment views



SLIDE 2

View 1 – modelled view from Camcosy Road – note existing vegetation around buildings



Operation (>c.25 years of life of mine)

Figure 2d
Viewpoint 1: Camcosy Road

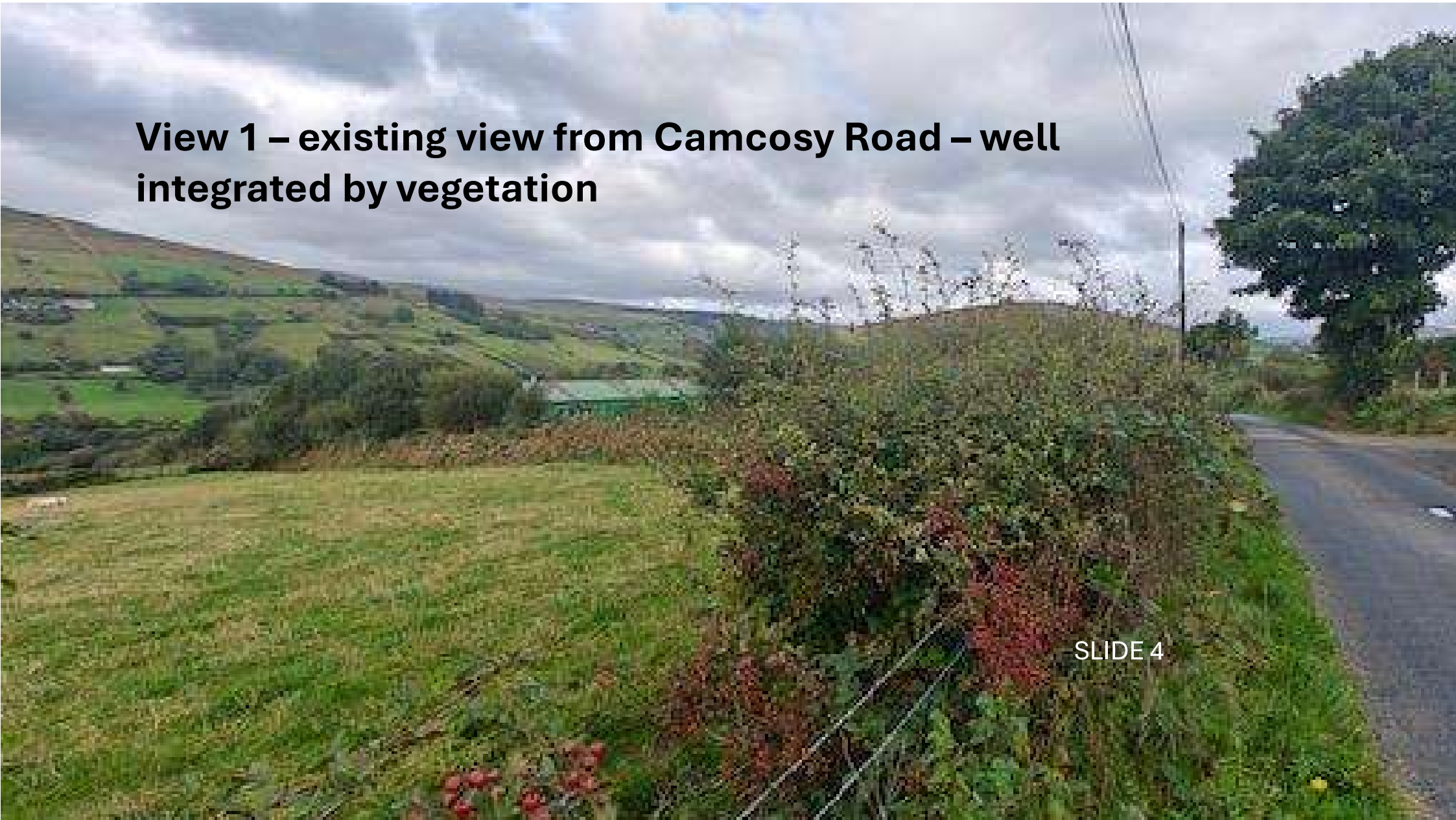
OS reference: 256959 E 386615 N
AOD: 172.5 m
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Paper size: 420 x 297mm (A3)

Camera: Nikon D750
Lens: Nikkor 50mm f/1.8D
Camera height: 1.5 m AGL
Date and time: 23/05/2018 16:50



View 1 – existing view from Camcosy Road – well integrated by vegetation

SLIDE 4



View 2 – modelled view from Glencullin Road – essentially a small number of buildings seen along Camcosy Road



Figure 3d
Viewpoint 2: Glencullin Road

OS reference: 256908 E 387556 N
AOD: 200.5 m
Horizontal field of view: 40° (planar projection)
Paper size: 420 x 297mm (A3)

Camera: Nikon D750
Lens: Nikkor 50mm f/1.8D
Camera height: 1.5 m AGL
Date and time: 23/05/2018 18:25



View 2 – current view from Glencullin Road – note the landscaped waste rock pile, and buildings well enclosed within mature hedgerows and trees



SLIDE 6

View 3 – modelled view from Gorticashel Road – set within trees, context includes other farm buildings



Operation (>c.25 years of life of mine)

Figure 4d
Viewpoint 3: Gorticashel Road

OS reference: 258023 E 387254 N
AOD: 153.5 m
Horizontal field of view: 40° (planar projection)
Paper size: 420 x 297mm (A3)

Camera: Nikon D750
Lens: Nikkor 50mm f/1.8D
Camera height: 1.5 m AGL
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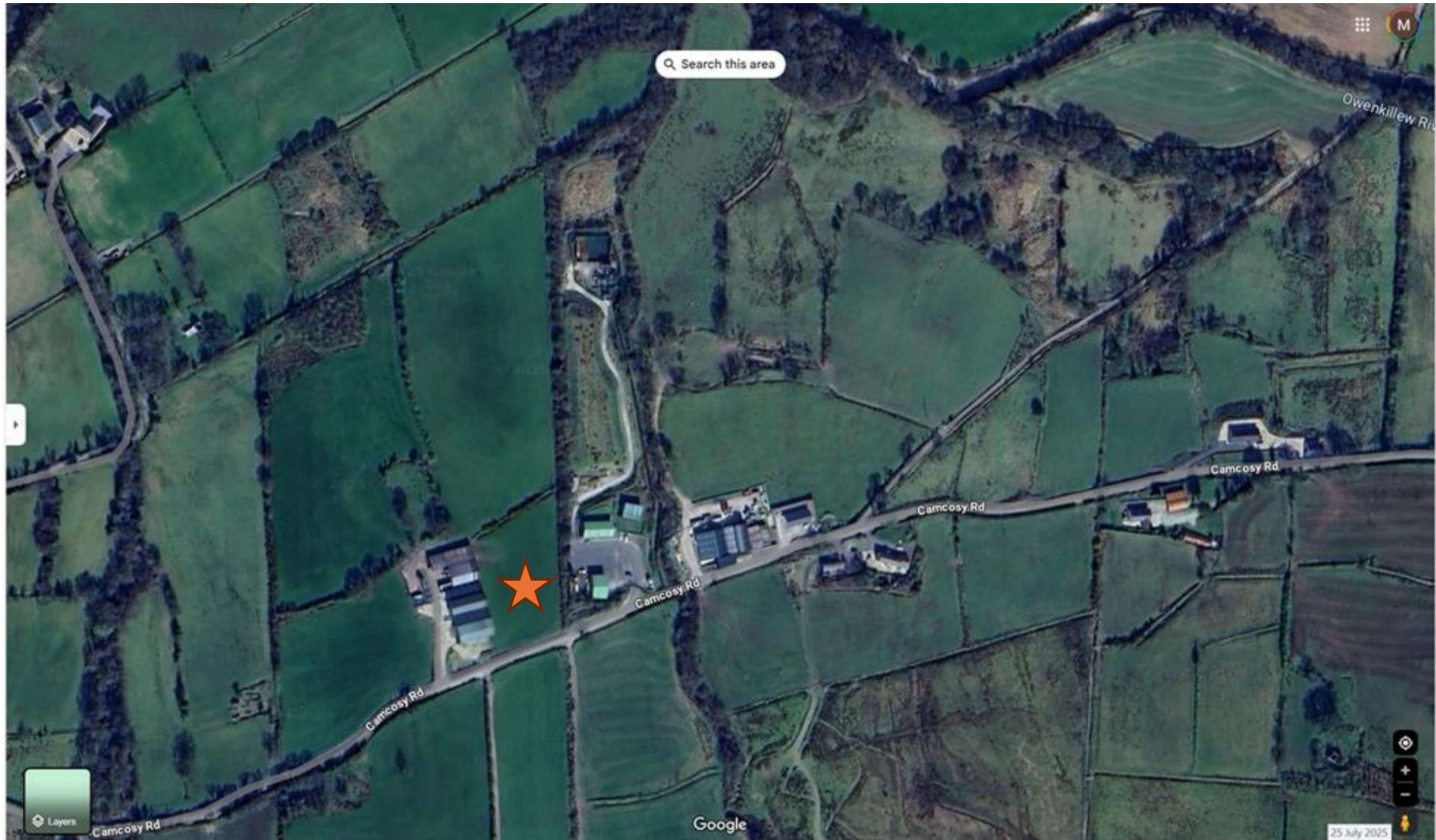


View 3 – current view from Gorticashel Road – set within trees, and with other similar looking buildings seen nearby and across this area



SLIDE 8

Planning

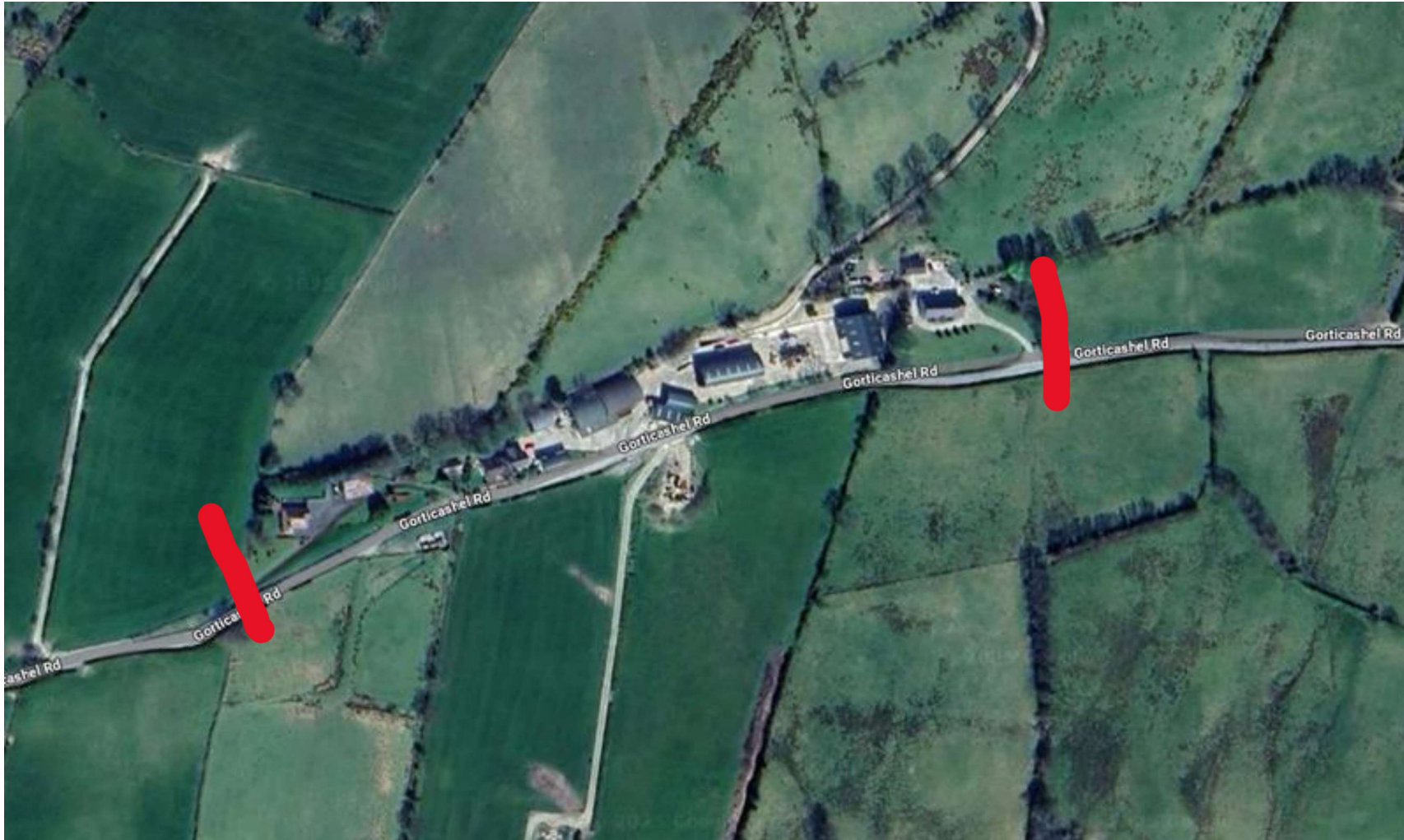


SLIDE 9

Planning



Planning



SLIDE 11

Planning

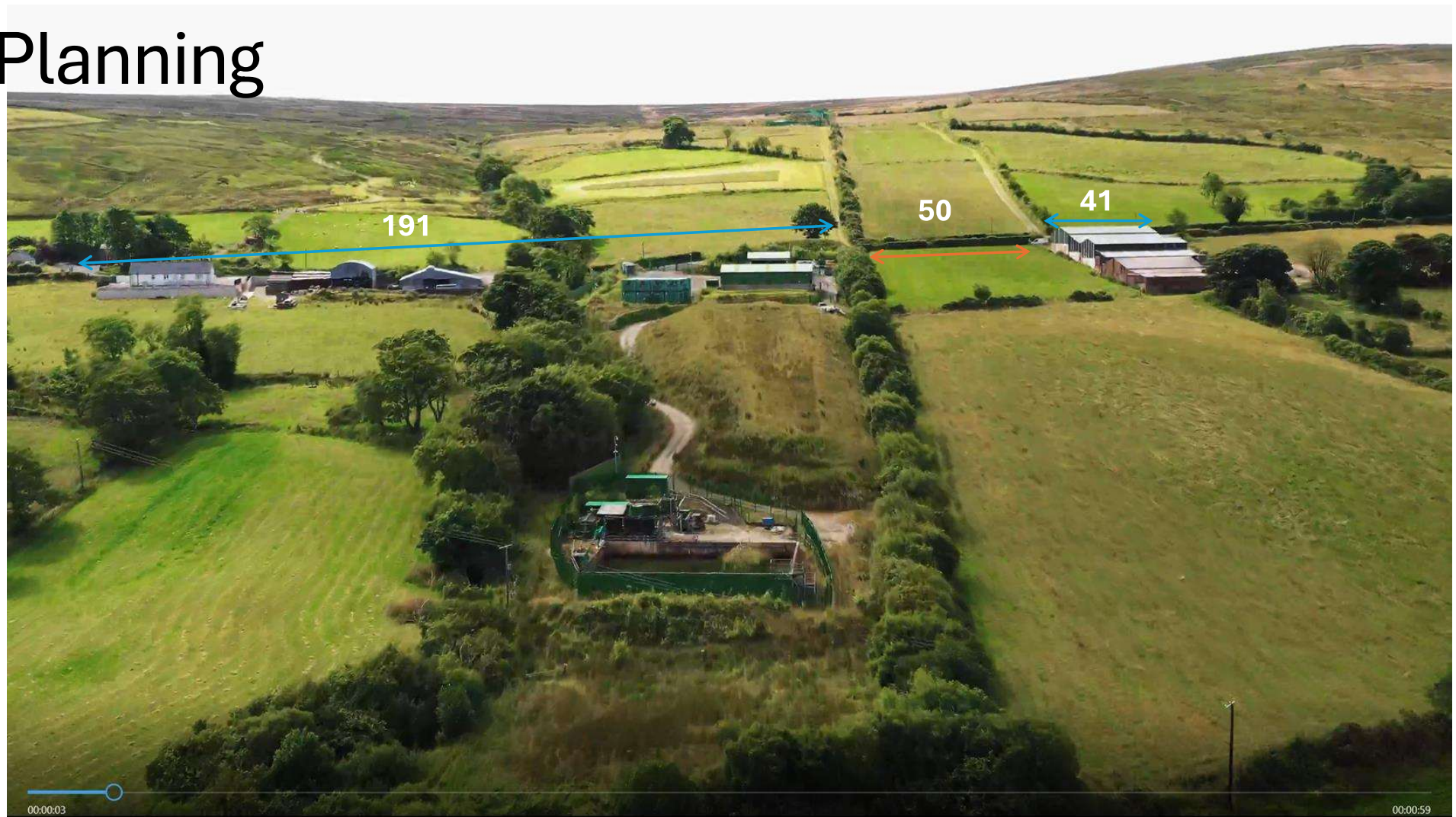


Planning



SLIDE 13

Planning



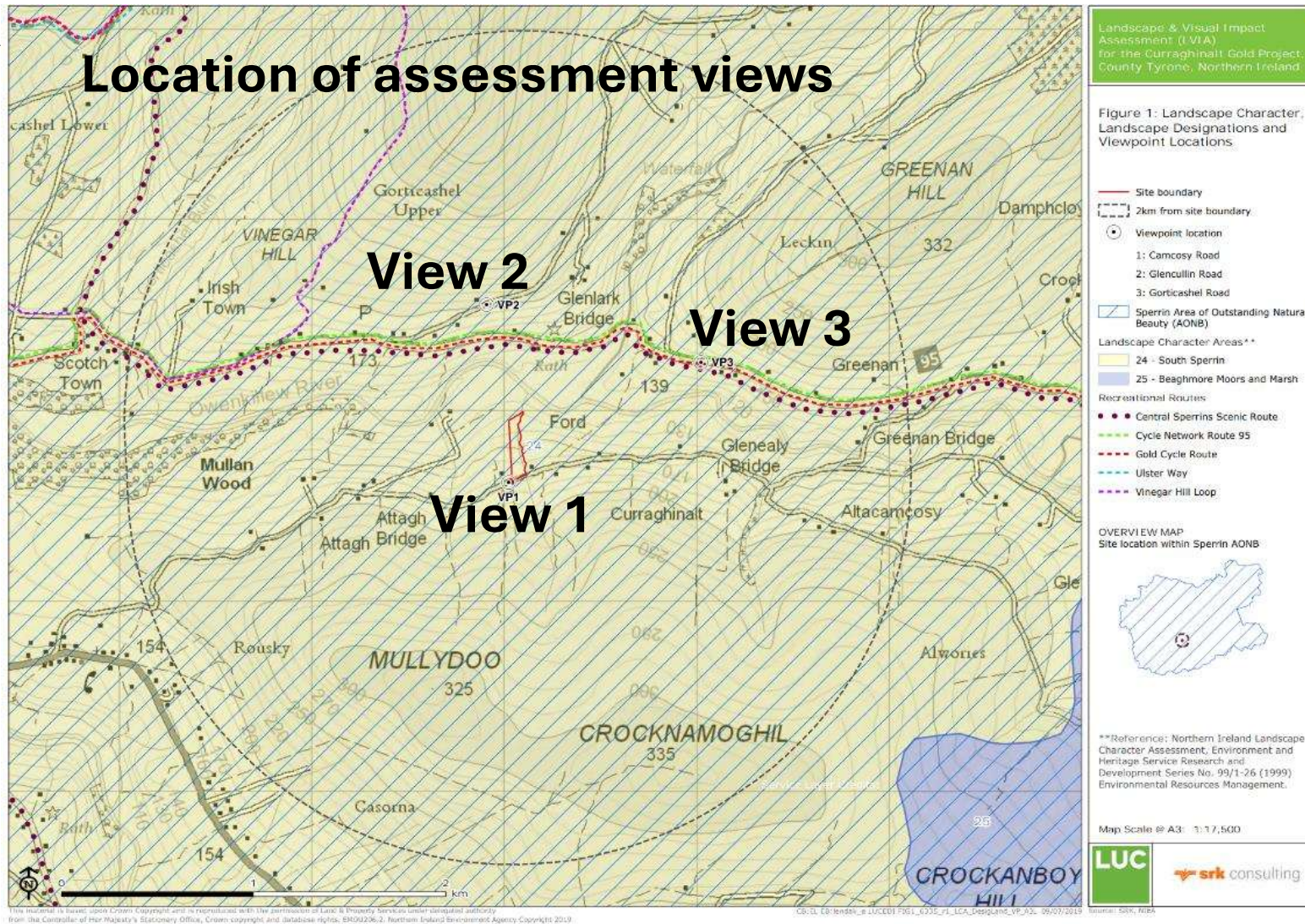
Application No 02: LA10/2023/1759/F

Variation of Condition 6 of K/2014/0387/F (Revised explosives store location and layout, a temporary explosives store building, extension to the existing access track, security fencing and gates, 3 culverts/headwalls, CCTV, screening bund, protective housing, hard standing areas and site restoration) to complete restoration of the site in accordance with Conditions 5 & 7 of K/2014/0387/F by the end of October 2025

Applicant: Dalradian Gold Limited

Location: Lands approximately 600m southwest of No. 45 Camcosy Road, Curraghinalt, Gortin, Co Tyrone, BT79, 7SF

SLIDE 1



SLIDE 2

View 2 – modelled view from Glencullin Road – sites are above Camcosy Road and are hard to see

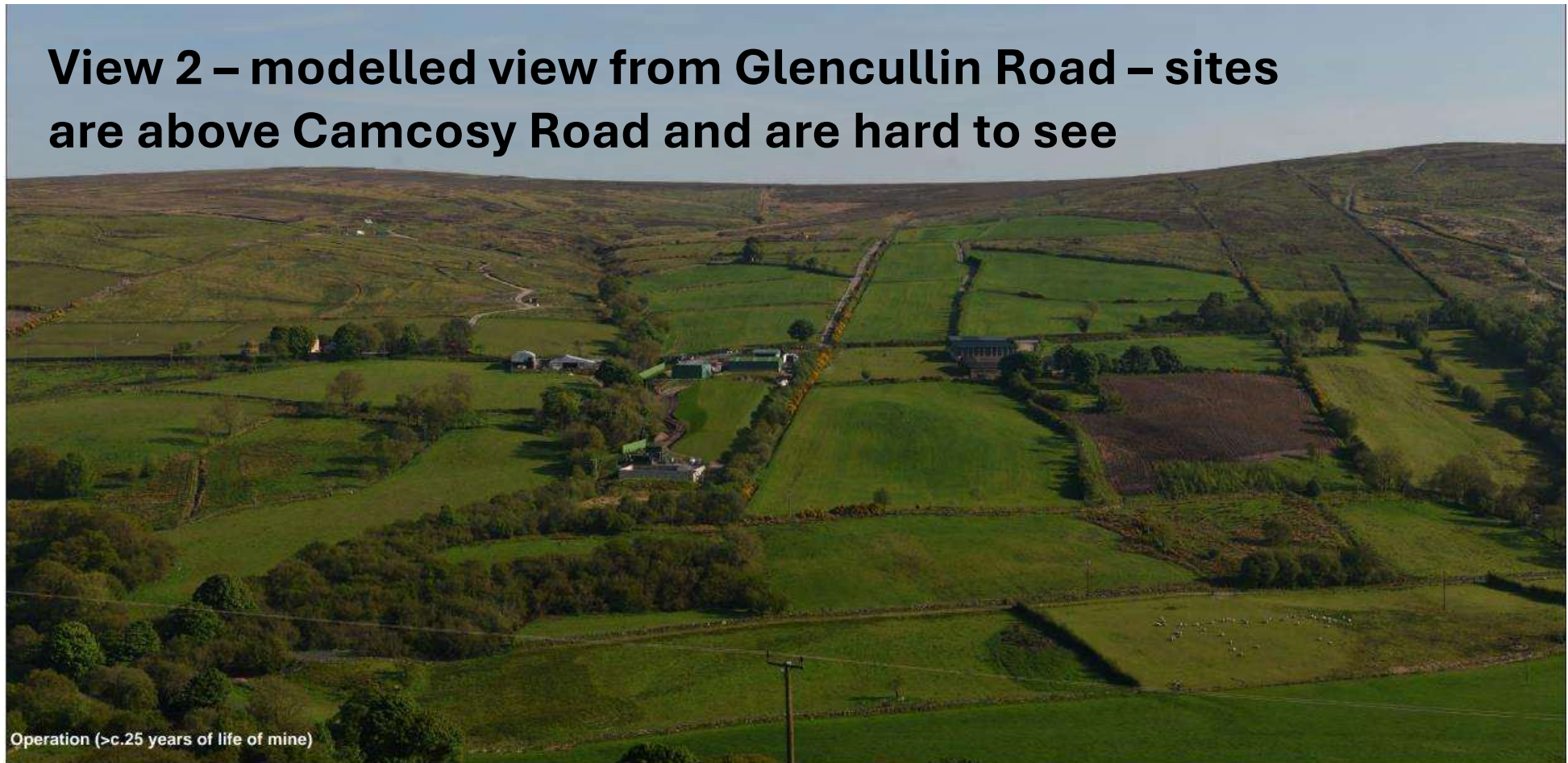


Figure 3d
Viewpoint 2: Glencullin Road

OS reference: 256908 E 387556 N
AOD: 200.5 m
Horizontal field of view: 40° (planar projection)
Paper size: 420 x 297mm (A3)

Camera: Nikon D750
Lens: Nikkor 50mm f/1.8D
Camera height: 1.5 m AGL
Date and time: 23/05/2018 18:25



**View 2 – current view from Glencullin Road –
just seen on hillside above Camcosy Road –
integrates into landscape, small features**



SLIDE 4

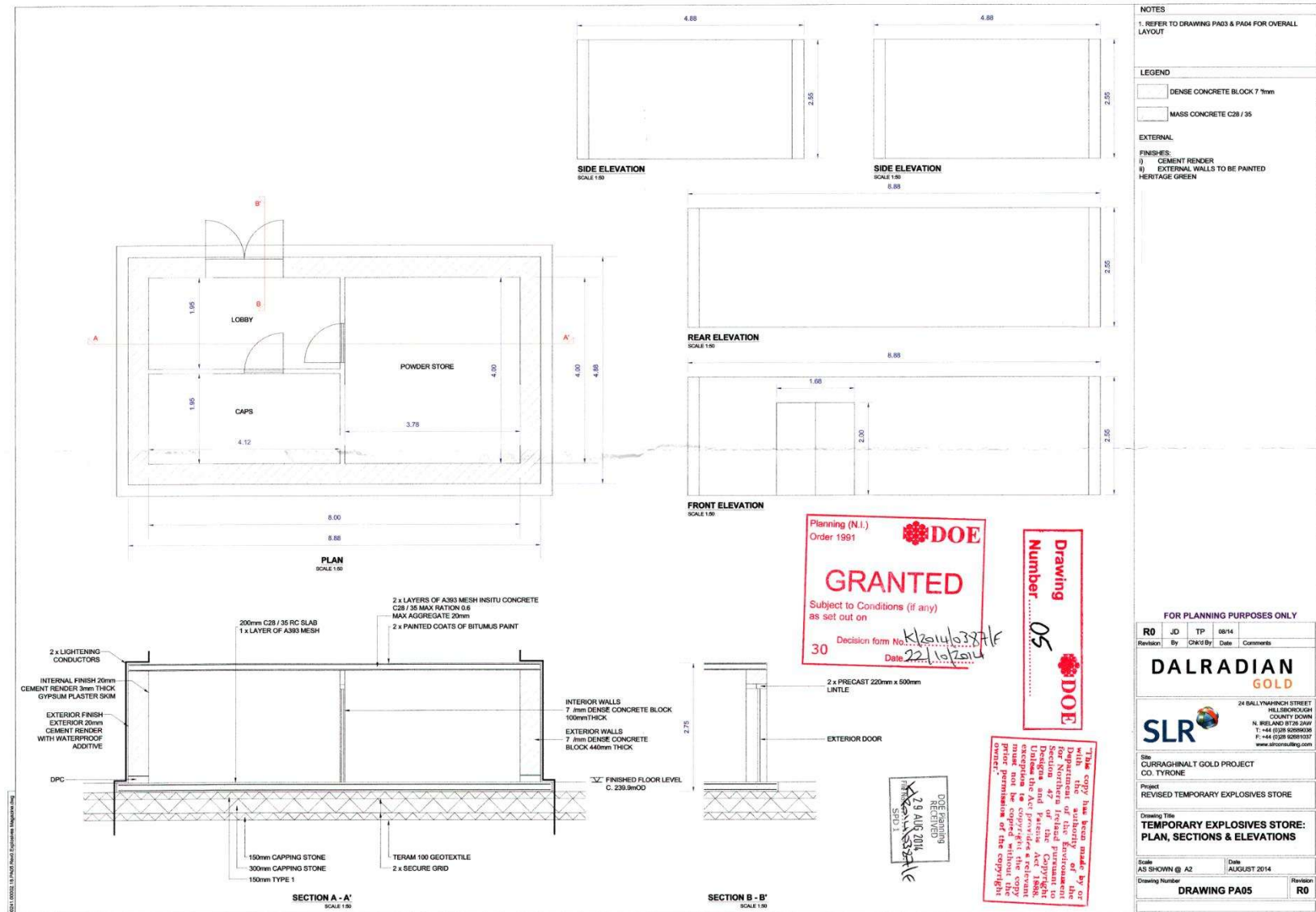
Planning



SLIDE 5

Planning

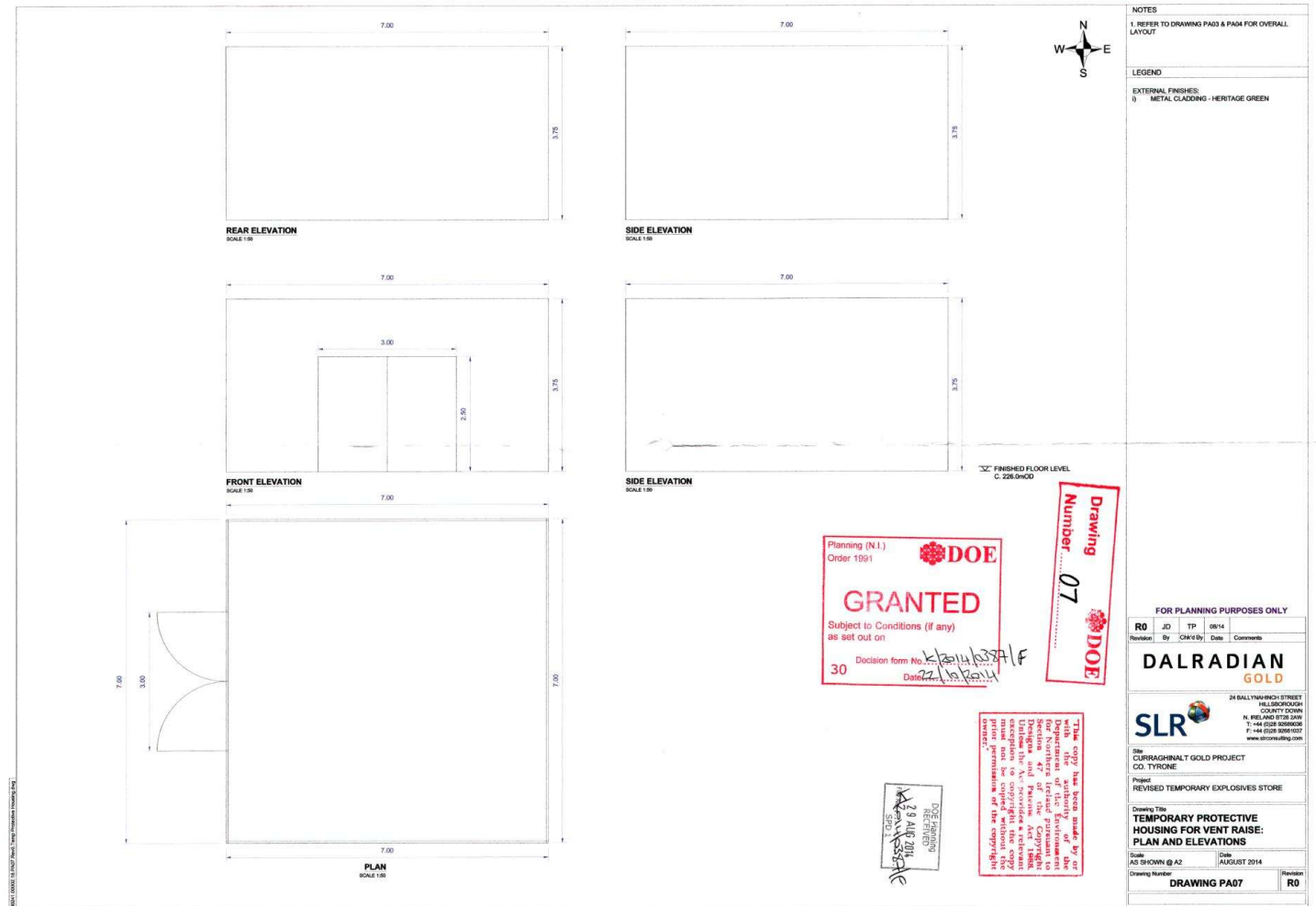
SLIDE 6





SLIDE 7

Planning



SLIDE 8



SLIDE 9

Vent Raise (in housing)

Explosives Store



Google Maps

SLIDE 10



Planning



SLIDE 11

Planning



SLIDE 12