

Save Our Sperrins STATEMENT OF CASE ON ROAD ABANDONMENT

Curraghinalt Public Inquiry re Dalradian Gold Application

October 2024

Executive summary

The proposed road abandonment and construction of an alternate route contravenes several policies and principles outlined in the Fermanagh and Omagh Local Development Plan and Biodiversity Strategy, particularly those aimed at protecting, maintaining, and enhancing local biodiversity, mitigating climate change, and preserving community access and heritage as well as those policies which collectively aim to protect the unique character, natural beauty, and environmental value of the AONB and other designated areas, ensuring sustainable development that benefits the local community while preserving its natural and historical assets. The proposal would lead to potential harm to the area's landscape and environmental integrity. Furthermore, the proposed road abandonment and construction of a new road beside a 54 metre high tailings stack could impact several human rights, including the right to health, a healthy environment, property, participation in public affairs, cultural life, and freedom of movement, etc.

Introduction:

The proposed abandonment of a section of a road and the construction of another road (Ref IN1-21-5706) is an integral part of a much larger goldmining application LA10/2017/1249/F. In the event that the goldmining application LA10/2017/1249/F is refused, the abandonment of the road and construction of another road must not be considered or processed as stand-alone application as it is directly linked to and dependent on the approval of the goldmining application. Therefore, if the goldmining application is not approved, the Road abandonment and construction of another road must be deemed null and void.

Save Our Sperrins objects strongly to Department for Infrastructure's proposal to abandon 1.1 kilometres of the Crockanboy Road, near Greencastle. There was an earlier application from Dalradian Gold Limited in 2016 to abandon 1118.5 metres, an area of 6170 square metres of this road and there was a huge public outcry against it (991 individual letters of objection as well as a petition containing 827 names). It was then dropped until 2020 when a further application was submitted to abandon 1111.5 metres, an area of 8640 square metres, which was stated to be the same proposal, which is questionable.

Recently released documents gained from DfI Roads Division through Freedom Of Information requests show that Rural Needs Impact Assessment and Human Rights Impact Assessment were not properly conducted. The Rural Needs Impact Assessment did not consider the impacts on people in rural areas and the social and economic needs of people in rural areas. The Human Rights Impact Assessment did not identify that the proposal interferes or limits people's rights under Articles 8, 9, 10, 11 & 14.

DfI Roads state they are content to abandon roads if they are lightly trafficked and there are reasonable alternative routes. This section of road proposed for abandonment may

be considered lightly trafficked in terms of vehicular traffic as it is untarred, but it is used on a daily basis by the public for walking, running, jogging, cycling, horse riding, etc. It is also used by people visiting the Mass rock which dates from the Penal Laws of 1691-1760 as well as pilgrims to the Statue of Blessed Virgin Mary. (1) The road has a connection to the Flight of the Earls in 1607 as Hugh O'Neill travelled by it on his way to Rathmullan. (2) It is very much part of local people's religion, culture, heritage and history. It provides safe access to the countryside to locals, visitors & tourists. Farmers also use the road to access land and to exercise turbary rights.

The alternative route proposed by Dalradian is not reasonable. Dalradian suggest building an alternate road along the side of their proposed 17 storey high mountain of toxic waste rock, being constructed continuously for the next 20 years, containing heavy metals, tailings, radioactive contaminants, etc, all crushed to the fine consistency of flour which has the potential to blow into people's lungs, causing respiratory diseases and cancers. This fine particulate matter containing arsenic and mercury was found in a study in Finland to have blown distances up to 60 kilometres from a goldmine. (3) Dalradian's proposed alternate road would be intersected by an industrial scale access road to a new tunnel into the hillside with continual heavy lorries usage – with all the amenity loss, dust, noise, disruption, health and safety risks for people walking along it.

It seems irrational to propose abandonment of a public amenity and ruin a quiet, scenic, healthy roadway in return for a noisy, dangerous road, the construction of which would do major damage to the environment as well as the toxic impacts on people's health from inhaling the air alongside the 17-storey high waste dump. Such action is in direct opposition to the public interest and well-being.

The abandonment of the existing road and the construction of an alternate road to facilitate a goldmining company would contravene several policies in the Fermanagh and Omagh District Council Local Development Plan (LDP) and the Biodiversity Strategy. The area in question is part of the Sperrins Area of Outstanding Natural Beauty (AONB), which has specific protections under the LDP. Key policies that would be contravened include:

Policy NE02 - Protection of Area of Outstanding Natural Beauty (AONB)

Policy HE06 - Local Landscape Policy Areas (LLPA)

Policy DE02 - Design Quality

Policy IB02 - Loss of Industry and Business Uses

Policy OSR01 - Open Space and Recreation

FODC Biodiversity Strategy would be violated as well as Wildlife & Natural Environment Act (NI) 2011, the Conservation (Natural Habitats, etc) Regulations (NI) 1995, amended in 2012, The Environment Act (NI) 2021, The Climate Change Act (NI) 2022 and NI Peatland Strategy 2022-2040 would all be contravened by the impacts of this Road Abandonment.

Protection of Biodiversity

- Wildlife and Natural Environment Act (NI) 2011 requires every public body to further the conservation of biodiversity as part of their functions. Abandoning a road and constructing a new one could harm local habitats and species, directly opposing this duty.

- Habitat Destruction and Fragmentation: "The biggest threat to biodiversity is the loss of natural habitats and the fragmentation of existing habitats". (4) Abandonment of a section

of the Crockanboy Road & constructing a new road would contribute to habitat destruction and fragmentation, adversely impacting local wildlife.

Maintenance of Biodiversity:

- Impact on Species and Habitats: The area hosts unique species and habitats that would be disrupted by the abandonment of a section of the Crockanboy Road and the construction of a new road. This goes against the plan's aim to maintain and enhance these natural resources.
- Peatland Protection: The new road could damage peatlands, which are crucial biodiversity hotspots. "Peatlands provide many essential ecosystem services, regulating the water cycle, purifying the water and supporting a wealth of biodiversity."(5)

Enhancement and Restoration of Biodiversity

- Biodiversity Duty: The council and all public bodies have a legal duty and responsibility "to further the conservation of biodiversity" and "to enhance and restore biodiversity". (6) The disturbance caused by the abandonment of a section of the Crockanboy Road and the new road construction would hinder these efforts and reduce the effectiveness of ongoing conservation projects. "The aim of the duty is to raise the profile and visibility of biodiversity and to make it an integral part of policy and decision making."(7)

Climate Change and Environmental Impact

- Climate Change Mitigation: The strategy emphasises the role of peatlands and other natural habitats in mitigating climate change. Destroying these areas for road construction would release stored carbon, contributing to climate change. The importance of bogs for biodiversity, their value as carbon sinks and their key feature in flood alleviation have all been recognised globally.(8)
- Pollution and Health Risks: Construction activities and the new road would increase pollution levels, affecting air quality and public health. The fine particulate matter from mining operations is a significant concern. (9)

Community and Cultural Impact

- Access and Heritage: The existing road provides essential access for local communities and holds cultural significance, such as the route to the Mass rock. Its abandonment would disrupt these important social, cultural & religious functions. "Bogs are an intrinsic part of our cultural heritage and have harboured some of our most significant archaeological finds over the decades, from treasure hoards and bog bodies to ancient track ways and ritual monuments" (10) The Dalradian Application adopts an inadequate interpretation of cultural heritage that fails to grasp the interconnectedness of people, place and living things.
- Public Opposition: There is significant public opposition to the road abandonment, with numerous objections lodged. Ignoring these voices undermines community engagement and trust. DfI do not own this road as barter or trade and it is not theirs to give away to anyone, let alone to a Canadian mining company. Local people have contributed to the upkeep of this particular stretch of untarred road by filling in potholes over many years. Local people have asserted the Right of the Community to pass and re-pass along this stretch of road, just as their forefathers did for generations before them and which their descendants will do for

generations after them. The people are the custodians of the road for as long as they live here.
[See Appendix 1. Photo of Rights of Community.

Civil Society Submission to UN UPR of UK on Human Rights Violations Arising from the Proposed Goldmine at Greencastle, Co. Tyrone. 2022. https://drive.google.com/file/d/1J00TsGOq-qSsGluWBrdoTcAMHrORmdW1/view?usp=drive_link

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Human Rights

The road abandonment and construction of another road beside a proposed 54-metre-high tailings dam would also impact human rights legislation, eg. ECHR - European Convention of Human Rights, ICESCR - International Covenant on Economic, Social and Cultural Rights & ICCPR- International Covenant on Civil and Political Rights, as well as CRC- Convention on the Rights of the Child. Some local people's human rights have already been impacted since the arrival of Dalradian in NI, as reported to UN in the submission made by Save Our Sperrins to the Universal Periodic Review of the UK in 2022. (12)

Right to Health:

- Article 12 of ICESCR: This article recognises the right to the highest attainable standard of physical and mental health. The construction activities and potential pollution from a proposed goldmine, its infrastructure including the 54 metres high toxic waste dam would negatively affect air and water quality, posing health risks to local residents.

Right to a Healthy Environment:

- Article 1 of the Aarhus Convention: This convention grants the public rights regarding access to information, public participation, and access to justice in environmental matters. The disruption of local ecosystems and potential environmental & health hazards posed by the goldmine & 54-metre-high toxic waste dam would infringe on this right.

Right to Property:

- Article 1, Protocol 1 to ECHR: This protects the right to peaceful enjoyment of one's property/possessions. The road abandonment and new construction could affect local landowners' access to their property and the value of their land due to environmental degradation and reduced accessibility, as well as the noise, dust, vibrations from explosives, 24 hour lighting, etc from the proposed goldmine.

Right to Participation in Public Affairs:

- Article 25 of the ICCPR: This article ensures the right to take part in the conduct of public affairs. If the community is not adequately consulted or if their objections are ignored, this right could be compromised. Almost fifty thousand people have objected to the proposed goldmine as well as the two thousand who have objected to the abandonment of a section of the Crockanboy Road and their voices should be heard.

Right to Cultural Life:

- Article 27 of the ICCPR: This article protects the rights of minorities to enjoy their culture. The road provides access to culturally significant sites, such as the Mass rock. Abandoning the road would prevent access to this site, affecting cultural and religious practice.

Right to Freedom of Movement:

- Article 12 of the ICCPR: This article protects the right to freedom of movement. The road abandonment could restrict local residents' ability to move freely and access different parts of the region, particularly when the alternative road is less accessible or poses health & safety concerns.

Conclusion

The proposal violates many strategic policies and priorities and fails to understand the importance of the local roadway and its significance both culturally and historically. On many grounds including the obligations of the Aarhus Convention, this Application should be refused.

References

(1) Irish News – 2 May 2017

https://drive.google.com/file/d/18P8fLlb7Fm_yjFD-qnfvpvGlt84Ym3aV5/view?usp=drive_link

(2) Greencastle's Historical link to 'The Flight of the Earls'

https://drive.google.com/file/d/1sbNMIFqfWa8NF8B3P8PYkra02iCuAupa/view?usp=drive_link

(3) Natunen, Jari. (Finnish biochemist) (in email 12/04/2024 to Fidelma O'Kane, SOS) "Small particle dust and heavy metals and/or arsene can be seen in moss plant on the ground about 60 km from Talvivaara and some older mines. In Kittilä they had results to 5 and may be 10 km."

In earlier email 8th Feb 2016 Jari Natunen wrote to Sean Tracey (SOS) 'The tailings facility would mean dust problems as well as leaching waste stone hills. Small particle dust is effective with distances of kilometres (Kittila arsene and heavy metals), we have forest research maps with 50-60 km effects of some mines with fine dust. A village within 1200m would be in very bad position."

4) FODC Biodiversity Strategy 2022

(5) NI Peatland Strategy 2022-2040

(6) FODC Biodiverdity Strategy 2022

(7) Ibid.

(8) Strecker, A. 2024. Curraghinalt Project (Dalradian Gold) and breaches of environmental law, cultural heritage law, and human rights. https://drive.google.com/file/d/1rFohjMiDPwFk4uvAviSfQc1-4Hh2Zmwr/view?usp=drive_link

(9) *Int. J. Environ. Res. Public Health* **2018**,*15*(4), 736; <https://doi.org/10.3390/ijerph15040736>

(10) FODC Biodiversity Strategy 2022

Appendix 1

Photo of Rights of Community

Civil Society Submission to UN UPR of UK on Human Rights Violations Arising from the Proposed Goldmine at Greencastle, Co. Tyrone. 2022. https://drive.google.com/file/d/1J00TsGOq-gSsGluWBrdoTcAMHrORmdW1/view?usp=drive_link

Public Notice
Assertion of Rights of Community

We, the people of the Sperrins, assert the right of the public to pass and re-pass along this road, just as our forefathers did for generations before us, and our descendants will continue to do for generations after us.

People, nature and eco-systems are all part of our community, including the mountains, hills, rivers, streams, wells, bogs, trees, sacred places and all living therein. We, people and nature, are interdependent on each other. Our natural environment has the right to exist, thrive, regenerate and to be protected.

This road does not belong to DfI Roads Branch to give away to Dalradian or to any other; the People are custodians of this road for the children & future generations.

We assert our rights: to live in a healthy climate, to clean water, clean air, unpolluted land and sustainable farming. We assert our right to make decisions about projects which affect these rights.

Furthermore, it is the duty of us all to protect & defend the rights of our community.

Asserted this day, 3rd April 2021 by People of the Sperrins



