

01 October 2024

**THE CROCKANBOY ROAD GREENCASTLE COUNTY TYRONE (ABANDONMENT) ORDER
(NORTHERN IRELAND) 2021**

1.0 INTRODUCTION

1.1 EXPERT WITNESS – Kevin J McVitty BSc(Hons) MRICS

077 0707 5558 | kevin@mcvitty.co.uk | www.mcvitty.co.uk

1.2 SPECIALIST FIELD – My qualifications are I have a Bachelor of Science degree in Building Surveying with first class honours (2002). I am a professional member of the Royal Institution of Chartered Surveyors (2005).

I have been in professional practice since 1988.

In that time, I have prepared statements of evidence, reports and affidavits in Court proceedings in this jurisdiction. My evidence has been considered by the Courts regarding construction disputes, dilapidations, professional negligence, mapping, right-of-way and boundary matters.

In preparing advisory reports and Expert's evidence over the past 30 years, I often undertake detailed enquiry at the archives of Ordnance Survey of Northern Ireland and the Public Record Office of Northern Ireland to assist in the investigation and interpretation of maps and landed estate papers.

1.3 INSTRUCTED BY – Cleaver Fulton Rankin Solicitors,
50 Bedford Street Belfast BT2 7FW.

1.4 ON BEHALF OF – Dalradian Gold Limited.

1.5 SYNOPSIS – The Department for Infrastructure, Roads and Rivers – Network Development (hereafter “DfI Roads”), has made an Order, “*The Crockanboy Road, Greencastle, County Tyrone (Abandonment) Order (Northern Ireland) 2021*” (hereafter the “Abandonment Order”).

- 1.6 The project concerns the abandonment of part of adopted track U1244 at Crockanboy Hill (hereafter the “*Adopted Track*”) and the construction a proposed new road as an alternative. The length of the road to be abandoned is approximately 1,111.5m and the length of the alternative proposed new road is approximately 1,382.5m.
- 1.7 A 1:5000 scale A3 map of the project, prepared by DfI Roads and dated 17 November 2020, is included in Appendix 01.

INSTRUCTIONS

- 1.8 Instructions have been received from Cleaver Fulton Rankin Solicitors, to prepare a Technical Report as part of a Statement of Case for the Public Inquiry, to collate and report on the evidence available from public sources, to establish historic and present use of the part of the road, which is the subject of the abandonment request, to assist with the presentation of the abandonment request at the Public Inquiry.

DATE OF INSPECTION

- 1.9 29 November 2023.

1.10 DISCLOSURE OF INTERESTS

I have no such connection with any of the parties, witnesses or advisors involved in the case.

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1.12 APPENDICES

- 01 Ordnance Survey map extract at 1:15000 scale (at A3 size) of 6" County Series Tyrone Sheet 19-2 1854 Revision (2nd Edition)
- 02 Ordnance Survey map extract at 1:15000 scale (at A3 size) of 6" County Series Tyrone Sheet 19-2 1906 Revision (3rd Edition)
- 03 Extract from DfI Roads historical record of the Schedule of Public Roads with accompanying map (NTS).
- 04 Ordnance Survey map extract at 1:5000 scale (at A3 size) of Irish Grid tiles 106-05 and 106-06.
- 05 Ordnance Survey 2020 (current) orthophotography extract at 1:5000 scale (at A3 size) of Irish Grid tiles 106-05 and 106-06.

2.0 THE ASSESSMENT OF THE EXISTING ADOPTED TRACK

HISTORY OF THE ADOPTED TRACK

- 2.1 The Adopted Track, to be abandoned, forms a short part of the remains of a historical road at Crockanboy Hill that was first mapped by Ordnance Survey in 1854 (hereafter the “1854 Road”) – see Appendix 01.
- 2.2 The 1854 Road superseded a 16th century direct alignment road and was built to broadly follow the contours of the landscape. Over time, the road became fragmented and by the date of the 1906 Survey, a significant length of the road had been erased from the Ordnance survey map – see Appendix 02.
- 2.3 The responsibility for public roads transferred from the Grand Jurys to local councils in 1899. An early 20th century record of a “Schedule of Public Roads” is included in Appendix 03, together with a helpful public roads map that identifies different road networks in the area.
- 2.4 The Adopted Track forms part of the GT5 public road network, coloured yellow on the public roads map, and identified as 1244 (04). Fig. 01 below shows a clip from the said map with the location of the Adopted Track shown by my red arrow.



Fig. 01

Clip from the public roads map in Appendix 03.

(NTS)

- 2.5 The surface of the 1854 Road, and certainly what is left of it today, was never finished with tarmacadam and remains an unbound metalled roadway.

SITE INSPECTION

- 2.6 I attended at the locus on Wednesday 29 November 2023, where I carried out a visual inspection of the existing road network. This was not assuming any civil engineering expertise, but rather making observations as to the nature and condition of the running surface of the G15 public road network. My observations are made with photographs included below.



Fig. 02
Point A

- 2.7 Fig. 02 above shows a 2021 Google street view image at Point A, where the adopted track (right) joints the Mullydoo Road. It can be seen how the tarmac surface of the Mullydoor Road is affected by loose stone migrating from the unbound adopted track.
- 2.8 The evidence suggests this end of the adopted track has been in frequent use for access to lands in the immediate area.
- 2.9 During my inspection, on Wednesday 29 November 2023, my movement was predominantly in an easterly direction, i.e, from Point O towards Point A, and so many of my images are looking eastward, unless otherwise noted.



Fig. 03 Looking towards A



Fig. 04 Looking from Point C

- 2.10 Fig. 03 above shows the final straight of the adopted track approaching the Mullydoo Road. The nature of the unbound compacted surface is evident as are the pot-holes. Fig. 04 above shows the adopted track looking from Point C. Again, the surface is in poor condition.



Fig. 05 Point D



Fig. 06 Point E

- 2.11 Fig. 05 above shows a field gate at Point D. The evidence of tractor tyres tracks in the soft verge, indicates the adopted track is used by agricultural machinery to access fields via the farm gate at Point D.
- 2.12 Fig. 06 above shows dry stone walls to the sides of the adopted track at Point E. The top of wall to the right of the picture is in poor condition

whereby the dry stone is eroding adjacent to the grass verge. There are several bad bends in the track here where forward visibility is limited.



Fig. 07 Point F



Fig. 08 Point F

- 2.13 Figs. 07 & 08 show the access to the property known as 80 Mullydoo Road, a former shepherd's hut. Today, the gate is blocked by large stone boulders. I have indicated the location of the property as Point F1 and adjacent farm building as F2 on the maps in the Appendices.
- 2.14 80 Mullydoo Road is a vacant residential property now owned by Dalradian Gold Ltd. It was the only property that would have benefitted from the adopted track, out of necessity, for access to and from the Mullydoo Road, and so today the need for the track is nil. The context of this isolated former dwellinghouse is clear from orthophotography flown 2020, in Appendix 05.
- 2.15 The orthophotography in Appendix 05 is particularly helpful, as it indicates the maintenance and frequency of use of the Adopted Track, as being primarily limited to between Point A at the junction with the Mullydoo Road and Point J, at the top of adopted road 1244(06).



Fig. 09 Point G

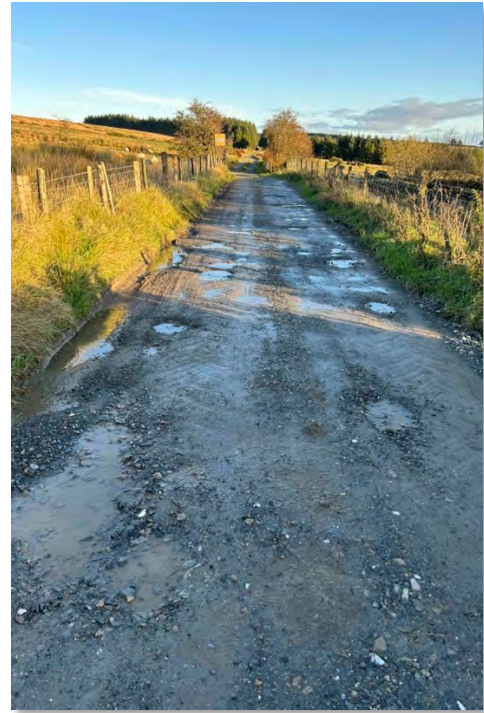


Fig. 10 Point H

2.16 Fig. 09 shows the condition of the adopted track at Point G and Fig. 10 likewise, looking towards Point H at Sarah B's cottage ruin. The image in Fig. 10, again, shows the impression of tractor tyre tracks in the surface of the adopted track.



Fig. 11 Point J



Fig. 12 Point J

2.17 Figs. 11 & 12 are both at the junction of adopted road 1244 (06) and the Adopted Track 1244 (04), at Point J. The impression of both car and tractor tyres are evident in the surface of the adopted track.

- 2.18 Fig. 12 shows the approach from the Crockanboy Road to the south. Here, the road 1244 (06) has a tarmacadam surface, which is in fair condition.

GT5 ROAD NETWORK 1244, PARTS UNAFFECTED

- 2.19 The Abandonment Order concerns that part of Adopted Track 1244 (04) between Point B and Point J only. The remainder of the GT5 public road network 1244, coloured yellow on the map, in Appendix 04 is unaffected.
- 2.20 The images below are of the residue of the GT5 public road network 1244 that remains unaffected by the Abandonment Order (hereafter the “residue”). Aside from the main Crockanboy Road between Greencastle and Rousky, the residue, by and large, provides access to farms and farmlands in the vicinity.
- 2.21 Moving south from Point J, the Remaining Road from Point J to point R at the junction with the Crockanboy Road is surfaced with tarmacadam.



Fig. 13 Point R



Fig. 14 Point R

- 2.22 Figs. 13 and 14 above are 2021 Google street view images, showing the position on the ground, both at Point R, where road 1244 (06) joins the Crockanboy Road.
- 2.23 Here, the 1244(06) has a tarmacadam surface and the junction is defined by white line paint, including a “STOP” sign and warning on the road surface, albeit the “S” has been lost due to a localised repair.



Fig. 15 Point S



Fig. 16 Point S

2.24 Moving up road 1244(06), Fig. 14 above shows the entrance to a farm settlement at point S. Here, the tarmac road connects the farm with the Adopted Track to the north and the Crockanboy Road to the south. This farm has direct access southwards to the Crockanboy Road at Point R, and is not reliant on the adopted track, out of necessity.

2.25 Fig. 16 above shows the tarmac road passing an agricultural barn to the northwest of the farmhouse.



Fig. 17 Point S



Fig. 18 Point J

2.26 Fig. 17 above shows the tarmac road extending north, uphill, where it meets the Adopted Track at Point J. The edge of the tarmac road surface has broken away, most likely due to the movement of heavy agricultural machinery to the barn side of the road.

2.27 Fig. 18 above is the view from the north end of road 1244(06) at Point J. The loose stone from the surface of the unbound Adopted track has migrated onto the tarmac surface of the road coming up the hill. The image shows surface water draining over the surface of the adopted track from the higher ground, behind the viewpoint of the camera.



Fig. 19 Point K



Fig. 20 Point L

2.28 Moving westward from Point J on the upper road 1244 (05), Fig. 13 shows another farm gate where occasional access to agricultural lands is made from the Remaining Road at Point K.

2.29 Fig. 14 shows the Remaining Road at Point L. Here the surface is subjected to water run-off from higher ground and appears to be liable to ponding at times of inclement weather.



Fig. 21 Point M



Fig. 22 Point M

2.30 Figs. 21 & 22 show the position at Point M. Here, the topography undulates as the adopted track crosses a culvert at a deep gully formed by a natural watercourse.



Fig. 23 Point N



Fig. 24 Point O looking east

- 2.31 Figs. 23 and 24 above show how the surface of the Remaining Road is degrading, through less frequent use than between Points J & O, where vegetation, including reed grass, is established between the wheel tracks.



Fig. 25 Point O from west



Fig. 26 Point O from south

- 2.32 Figs. 24, 25 and 26 above and Figs. 27 and 28 below show the position on the ground at and around Point O. Historically, this was a crossroads; however, the western leg did not form part of GT5 public road network 1244 map, shown in Appendix 04. Point O is the western end of the adopted road around the top.



Fig. 27 Point T



Fig. 28 Point T

2.33 Well south of Point O, the road 1244(05) joins the Crockanboy Road at Point T. Figs. 27 & 28 above are 2021 Google street view images of this road junction.

2.34 A surface dressing has been applied to the “bell-mouth” of the road surface here, which has in part, covered the white line paint on the tarmac surface defining the road junction. There is a give-way sign on the near side of the minor road and a white triangle painted on the road surface, approaching the junction.



Fig. 29 Point U



Fig. 30 Point U - Google 2021

2.35 The public road 1244(05) extends north from Point T. At Point U is the entrance to No. 204 Crockanboy Road.

2.36 Significantly, the 2021 Google street view image in Fig. 30 above, has captured a wheelie bin with the number “208” painted thereon, outside the gate of No. 204 Crockanboy Road.

- 2.37 The surface of the public road 1244(05) from Point T to Point U is tarmacadam. In fact, the tarmacadam surface extends approximately 70m north of Point U to Point V, where it stops, as shown in Fig. 31 below.



Fig. 31
Point V



Fig. 32 Between Points V - W



Fig. 33 Approaching Point W

- 2.38 Moving northwards from Point V, the public road 1244(05) is an unbound metalled roadway. Fig. 32, looking south, shows the condition of the road surface.

- 2.39 Fig. 33 shows the approach to No. 208 Crockanboy Road, at Point W. The metalled road surface is conditioned by vehicle movements into the farm settlement. The evidence clearly shows the dominant and habitual use of the public road 1244(05), between Point U and Point W, is to access and egress from No. 208 Crockanboy Road.
- 2.40 The condition of the metalled road between between Point V and Point W, as shown in Fig. 32 above, perhaps explains why the wheelie bin belonging to No. 208 Crockanboy Road had been drawn down to and left on the tarmacadam surfaced area outside No. 204 Crockanboy Road, for collection.
- 2.41 Whilst the public road 1244(05) extends north of Point W, the condition of the metalled road surface at Point W suggests only infrequent but nevertheless vehicle movements occur beyond this point.



Fig. 34 Point O



Fig. 35 Point O

- 2.42 Moving north of Point W, the surface of the public road 1244(05), approaching Point O, is in poor condition.

- 2.43 Fig. 34 above shows the rutted surface of the unbound metalled road eroding due to storm water. Fig. 35 above, shows an alternative view of the diagonal channel, evident in Fig. 32 above, across the width of the adopted track.



Fig. 36
Point O

- 2.44 Fig. 36 above, perhaps illustrates the nature of the blind turn awaiting drivers of vehicles intending to negotiate the corner at Point O. The fair condition of the existing grass verge, at what can only be described as a "tight" radius, suggests little vehicle movements occur here.

SUMMARY OF NATURE AND CONDITION OF ADOPTED TRACK BETWEEN B-J

- 2.45 The photographic schedule above illustrates the nature and condition of the adopted road network 1244 generally and the Adopted Track between B-J in particular.
- 2.46 The Adopted Track between points B-J, the surface is unbound; i.e. it does not have a recognisable bound road surface, such a bitumen macadam or asphalt, typical of the public adopted/maintained road network.
- 2.47 Dfl records of defects inspections for the Adopted Track, dated from 01/01/2018 indicate identification of defects to the rubble road, potholes in concrete and bitmac (assumed Mullydoo Road); potholes due to wheel of a lorry; making up verges; scheduled cleaning of roadside outlets; response cleaning of open drains; and tractor grass cutting (assumed to verges).

2.48 At the time of my inspection, the Adopted Track was in poor condition. I previously inspected the local area, in 2020 and again in 2021. The adopted track was also in poor condition then and shows no improvement over time.

SUMMARY OF USE OF THE ADOPTED TRACK BETWEEN B-J

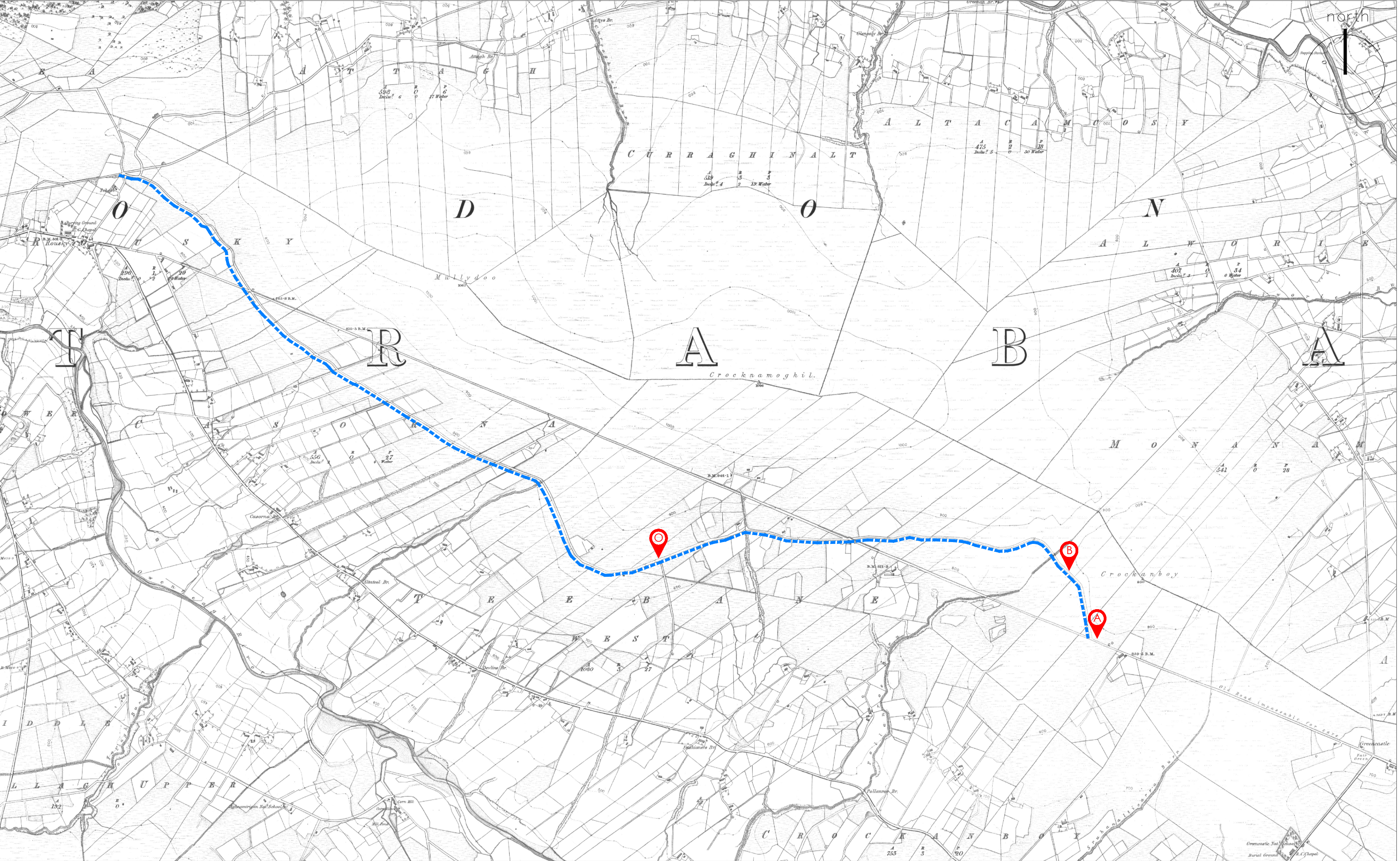
2.49 The use of the Adopted Track between points B-J can be summarised in four categories, as follows:

- a) To access farmland between points B-J. This use is limited, for example, at point D – see paragraph 2.13 and Fig. 05 above, where wheel tracks of a tractor or similar agricultural machinery can be seen in the soft verge suggesting access to farmland via a field gate;
- b) To access the vacant residential property owned by Dalradian between points B-J. This is only at point F – see paragraphs 2.15 - 2.16 and Figs. 07 & 08 above;
- c) To traverse between points B-J. This assumes vehicle movements occur from the top of the lane at point J to the Mullydoo Road, at point A; and
- d) Sporadic recreational use. I found no evidence of horse's hooves or droppings along the Adopted Track or verges in any visit.

2.50 Regarding 2.51 (c), it occurs that perhaps only the occupiers of, or visitors to the property known as 216 Crockanboy Road, at point S in Appendices 05 and 06 are most likely to make this movement. I find it hard to understand why the route S-J-A over the unbound metalled road, which is in poor condition, would be preferred to the route S-R-A, along alternative Bitumen macadam surfaced roads.

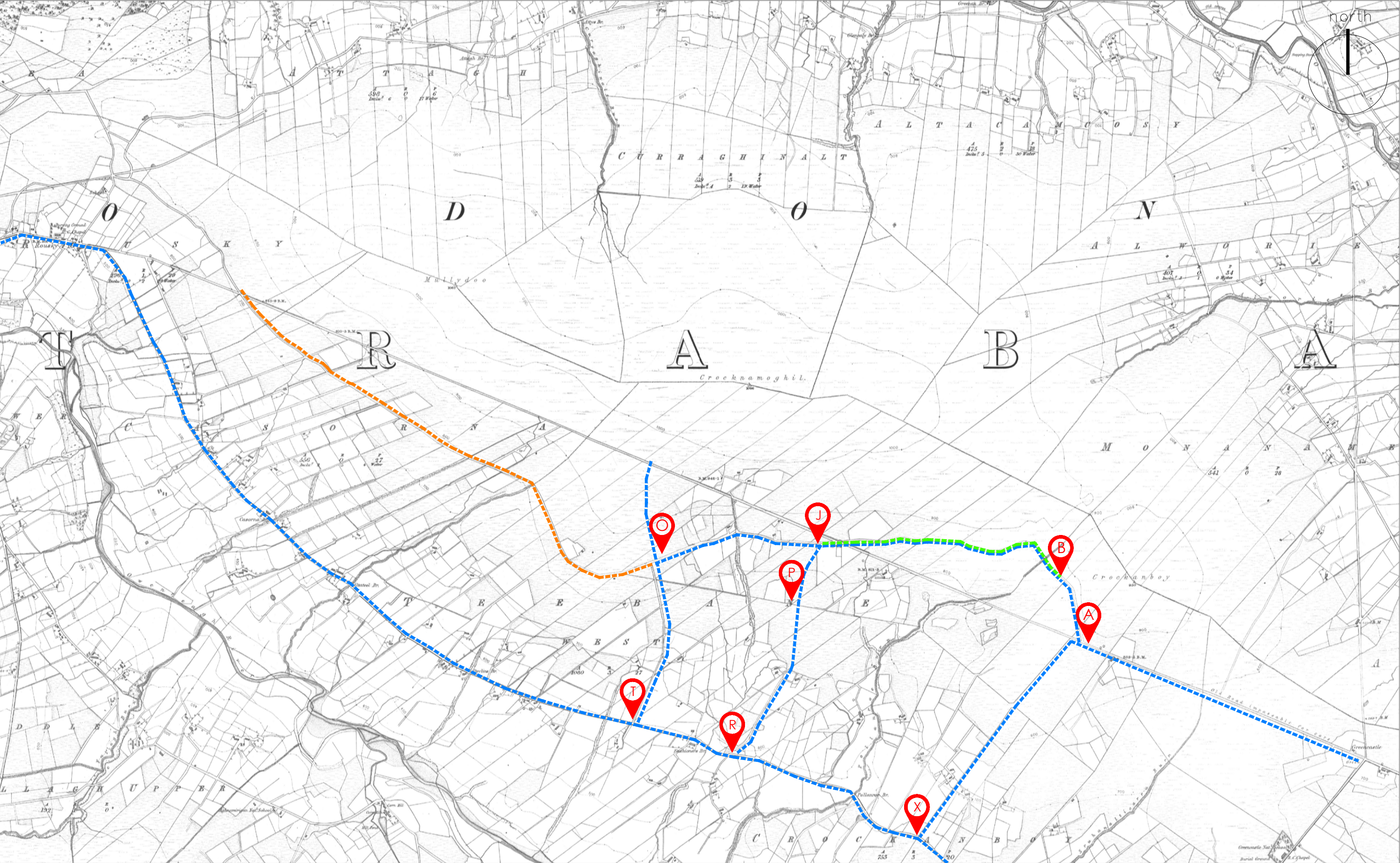
CONCLUSION

- 2.51 Contrary to speculation, the road to be abandoned does not date back to the medieval period in Ireland (1150-1550) but was in fact constructed sometime between 1834 and 1854, superseding a 16th century direct alignment road, and was built to broadly follow the contours of the landscape. Over time, the road became fragmented and by the date of the 1906 Survey, a significant length of the road had been erased from the Ordnance survey map.
- 2.52 The road has never been upgraded since it was first constructed, and the running surface remains unbound to this day. As a result, the condition of the road surface, which is exposed to and affected by the elements, is less than satisfactory, with many potholes and surface water ponding evident.
- 2.53 The proposed new road is necessary, in the public interest. It offers a safer way and has been designed to integrate into the existing physical features of the surrounding landscape; for example, it follows an established field boundary and integrates the remaining adopted road network.



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Legend		Property	Title				
	POINT OF INTEREST (PIN)			APPENDIX 01 - 6" County Series Tyrone Sheet 19-2 1854 revision (extract NTS)			
	THE 1854 ROAD (Contour Road)	Kevin J McVitty MRICS CHARTERED SURVEYOR 077 0707 5558 kevin@mcvitty.co.uk www.mcvitty.co.uk		Scale 1:15000 @ A3	OS ref Tyrone 19-1	PRONI ref OS-6-6-19-2	Date Oct 2024



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Legend		Property		Title			
	POINT OF INTEREST (PIN)		GT5 1244 PUBLIC ROAD NETWORK (PART)	Lands at Crockanboy Road Rousky Omagh			
			THE ADOPTED TRACK	APPENDIX 02 - 6" County Series Tyrone Sheet 19-3 1906 survey (extract NTS)			
			THE PROPOSED NEW ROAD	KEVIN J McVITT MRICS CHARTERED SURVEYOR		Scale	OS ref
			HISTORICALLY ABANDONED	077 0707 5558 kevin@mcvitty.co.uk www.mcvitty.co.uk		1:15000 @ A3	Tyrone 19-1
							PRONI ref
							OS-6-6-19-2
							Date
							Oct 2024

SCHEDULE OF PUBLIC ROADS

- 1238—2.50 miles from C.612 in Crock to Cookstown R.D., also in Crock with branch to C.554 in Keeran.
- 1239—.09 miles from B.159 northwards in Creggan.
- 1240—.84 miles from B.46 Eastwards to John Haughey's in Creggan.
- 1241—2.31 miles from C.612C to C.612 and thence to Cookstown R.D., all in Formil.
- 1242—2.94 miles from C.554 in Monanameal to C.612 in Formil, with the branch to C.554 in Monanameal, and branch to C.612 in Carnanrancy
- 1243—2.03 miles from B.46 in Rouskey to B.46 in Cassoma.
- 1244—5.44 miles from B.46 in Teebane West to same in Formill, with branch 0.28 miles to Mountain in Teebane West, branch to B.46 in Teebane West and branch to B.46 in Crockanboy.
- 1245—.38 miles from B.46 in Formil southwards to F. Fox's in Cashel.
- 1246—2.28 miles from 1247 in Leaghan to Tomogue in Creggan, with branch 0.31 miles Northwards in Leaghan.
- 1247—4.28 miles from C.554 in Cashel to B.159 in Leaghan with loop round Cashel Brae in Cashel and branch therefrom 0.53 miles to James Conway's Lane in Cashel, and branch to C.554 in Binnefreaghan.
- 1248—.31 miles from B.159 in Brackagh South, northwards to Ford in Brackagh South.
- 1249—.91 miles from B.46 to C.554 in Crockanboy.
- 1250—2.81 miles from B.46 in Teebane West to Lime Kiln in Brackagh.
- 1251—2.87 miles from C.554 in Binnefreaghan to same in Binnefreaghan, with branch 0.19 miles to Keenan's land in Aghaboy Upper and branch to 1250 in Binnefreaghan.
- 1252—2.25 miles from C.612D in Fallagh to 1250 in Aughnamerigan, with branch to C.612D in Lenagh.
- 1253—2.44 miles from B.159 in Mountfield to C.554 at Cornagillagh Bridge branch to 1254.
- 1254—0.34 miles from C.612D to P. McCrory's land to Lenagh.
- 1255—1.91 miles from B.46 in Glenmacoffer to Fallagh Burn in Fallagh Middle.
- 1256—2.66 miles from B.46 in Lenamore to same in Glenmacoffer, with a branch to same in Glenmacoffer.
- 1257—.91 miles from B.46 in Gortin to St. Patrick's Church.
- 1258—4.91 miles from B.48 in Gortin to B.46 in Glenmacoffer, with branch to B.46 in Lenamore, branch 0.47 miles to McKelvey's wire in Glenmacoffer and branch 0.25 miles to F. McBride's Hse. in Glenmacoffer.
- 1259—2.41 miles from 1258 in Glenmacoffer to 1255 in Glenmacoffer, with branch 0.67 miles to McKelvey's wire in Glenmacoffer.
- 1260—.50 miles from B.48 in Cullion to gate in Cullion.
- 1261—1.19 miles from B.48 in Rosnamuck to Lemmon's gate in Glenavnagh.
- 1262—4.19 miles from B.48 in Carnoney to C.625 in Crosh with branch 0.34 miles to Wauchob's gate in Glenhordial.

