

Statement of Case

Crockanboy Road Proposed Abandonment

Dalradian Gold Ltd Road Abandonment Application (PAC Ref: DR001)

Curraghinalt, Gortin

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Executive Summary

This Statement of Cases addresses the abandonment of an area of 8640 square metres of road at Crockanboy Road, Greencastle, Co Tyrone, and the provision of an alternative road.

Article 68(4) of the Roads (Northern Ireland) Order provides that:

“No order shall be made under paragraph (1) in relation to a road unless—

(a) the Department is of the opinion that the road is not necessary for road traffic or that another road is available which provides, or is capable, if improved, of providing, alternative facilities for road traffic; or

(b) the order provides for the carrying out by the Department or any other person of such works as the Department considers necessary for the provision of alternative facilities for road traffic before the road is stopped-up or abandoned.”

Evidence is provided that the existing adopted track is that it is in poor condition; it has no bound material, contains significant potholes, is not designed to any standards, has no formal passing bays nor designed intervisibility of passing bays.

The Proposed Alternative is designed to an appropriate standard for a road in this location and is a significantly safer design; it will be constructed using a bound material e.g. blacktop, has standard size passing bays that are intervisible, appropriate forward sight distances and an appropriate vehicle restraint system.

The Proposed Alternative is a safer alternative to the adopted track and provides significantly enhanced alternative facilities for all road traffic and road users.

DfI Roads has confirmed acceptance of all elements of the design for the Proposed Alternative.

The statutory test provided in Article 68 is therefore exceeded as the alternative is significantly better than the existing track.

Representations received are addressed in Section 6 of the Statement.

1. Introduction and Background

- 1.1 This Statement of Case (SoC) has been prepared on behalf of Dalradian Gold Limited (the Applicant) in relation to a proposed abandonment of an adopted track at Crockanboy Road. The application (“the original application”) was submitted on 3rd February 2016, pursuant to Article 68 of the Roads (Northern Ireland) Order 1993.
- 1.2 On 20th November 2022, an application for the modification of the Abandonment Order was made (“the modification”) to the Department for Infrastructure (DfI).
- 1.3 The case of the applicant consists of this SoC incorporating the assessment of the adopted track and the proposed alternative at Appendices 2 and 3.

2. Application overview

- 2.1 The original application sought the abandonment of one area consisting of 6170 square metres of single carriageway track, located to the north of the Crockanboy Road, commencing at a point 300 metres north-west of the junction with the Mullydoo Road (259183, 384310) and extending for a distance of 1115 metres in a westerly direction (258160, 384447).
- 2.2 The modification seeks the abandonment of an area of 8640 square metres of road at Crockanboy Road, Greencastle, Co Tyrone, from a point 300 metres north-west of its junction with Mullydoo Road (259183, 384310) and extending for a distance of 1111.5 metres in a western direction (258160, 384447).
- 2.3 As part of the modification, the applicant will construct an alternative road (“the Proposed New Road”). The Proposed New Road is 3.0m wide, with 1.5m grass verges either side. The verges are widened locally in places to 5.5m to facilitate the Road Restraint System and Forward Sight Distance considered below.

3. Statutory framework

- 3.1 The application is made under Article 68 of The Roads (Northern Ireland) Order 1993 (“the Roads Order”).
- 3.2 Article 68(1) states:
The Department may by order provide for—
(a) the abandonment of any road; or
(b) the stopping-up of any road

3.3 Article 68(4) provides that:

“No order shall be made under paragraph (1) in relation to a road unless—

(a) the Department is of the opinion that the road is not necessary for road traffic or that another road is available which provides, or is capable, if improved, of providing, alternative facilities for road traffic; or

(b) the order provides for the carrying out by the Department or any other person of such works as the Department considers necessary for the provision of alternative facilities for road traffic before the road is stopped-up or abandoned.”

3.4 The statutory framework engages concepts relating to whether the road is necessary for road traffic, or whether another road is capable of providing alternative facilities.

4. Case for the Applicant

4.1 The Existing Condition And Usage Of The Adopted Track

A detailed assessment of the existing condition of the road is set out in Section 2 of Kevin McVitty's Technical Report (TR) at Appendix 2. The existing adopted track is in poor condition; it has no bound material, contains significant potholes, is not designed to any standards, has no formal passing bays nor designed intervisibility of passing bays.

A detailed assessment of the use of the adopted track is available at Section 2 of Kevin McVitty's report at Appendix 2. The adopted track has limited usage, related to access farmland and sporadic recreational use.

Based on current usage, it is clear the adopted track has limited utility for users. A proposed alternative route provides a significantly improved road to adoption standards for all users of the new road.

4.2 The Proposed Alternative – Location, Structure, Benefits

The Technical Report at Appendix 3 provides details of the design of the Proposed New Road. It has been designed to an appropriate standard for a road in this location and will be available for traffic. The construction of the Proposed New Road will occur in phase 1 of construction (months 1-6) It is a significantly safer design; it will be constructed using a bound material i.e. blacktop, has standard size passing bays that

are intervisible, appropriate forward sight distances and an appropriate vehicle restraint system.

The Proposed New Road is 1,380m long and 3m wide. The character of the existing adopted track is a narrow track with informal passing points and limited verges. It is a minor road but poorly designed and badly maintained. The overall design criteria retains the character of a narrow, minor road with significant enhancement by way of providing 3m wide with planned 5.5m passing bays. The character of the road remains similar within the local setting but will be constructed to a much higher design in terms of appearance, finish and safety.

The Department has confirmed acceptance of all elements of the design for the Proposed New Road through accepting the Scheme Design Overview and Road Safety Audit for this element of the Works.

4.3 *Compliance With Statutory Requirements*

Under Article 68(4), it must be demonstrated that the road to be abandoned is not necessary for road traffic, or another road is available which can provide alternative facilities for road traffic.

To the extent that the existing track is necessary based on its condition and limited usage, the Proposed Alternative provides significantly enhanced alternative facilities for all road traffic and road users and the statutory test is exceeded as the alternative is significantly better.

5. **Third Party Representations**

The representations received by the DfI following the advertisement of the proposed abandonment and modification are addressed in the Table below.

TOPIC	SUMMARY OF REPRESENTATIONS	RESPONSE
Recreation	The road is used for recreational purposes such as cycling, horse-riding, running (including use by the local running club) and walking	The alternative route to be provided ensures continued access to all relevant locations, including the Greencastle Community Association Grounds (GAA grounds). The Proposed New Road has been carefully planned with the agreement of DfI Roads to minimise any disruption to the community, maintaining the same level of accessibility as before.

	• The road is in close proximity to the Greencastle Gaelic Football Club & Community Centre and as a means to access same • Used to experience natural beauty and wildlife	The Proposed New Road has been designed with the community's recreational needs in mind. It provides safe access for walking, jogging, horse riding, and other activities. It opens up the views overlooking the valley and adds length for recreational use in terms of wellbeing. Also, it is safer than the existing track with provision of a full bound material road base, safe intervisible passing bays for vehicles, forwards sightlines and 1.5m verges.
Procedural	• Road abandonment by the Department is premature as planning permission has not been granted • Project splitting • Department needs to consider the precedent of the Sandale Judgment • No notification of the proposed abandonment received and thus prejudiced. Local residents not fully consulted • Roadway should remain in public realm • The legal requirement in Schedule 8 was not adhered to • Insufficient, incomplete and misleading information provided in consultation process regarding modification	The abandonment request is being considered at a conjoined inquiry in respect of the planning application and other related applications. All procedural and legislative requirements have been addressed. DfI Roads has followed the statutory procedure in respect of the proposed abandonment. The provision of the Proposed New Road has been subject to consultation and assessment, including as part of the planning application for the mine and Environmental Impact Assessment. The Proposed New Road ensures that local interests are protected and ensures that the community continues to benefit from public access.
General use of Land	• Regularly used by farmers	The Proposed New Road has been designed to ensure that residents will not experience any reduction in the quality of access they currently enjoy.

	• Access to 'Green Road' and Crockanboy Mass Rock • As a link between Greencastle Road and Crockanboy Road • Loss of turbary rights • Flood and adverse weather in 2017 demonstrated this is the only other access to main routes via the Mullydoo Road when other road washed away	The Proposed New Road has been planned to ensure that all agricultural activities, including access to farmland and the exercise of turbary rights, remain unaffected. Farmers will continue to have unhindered access to their lands, and the Proposed New Road has been assessed to ensure it meets all the needs of the local agricultural community. All safety concerns have been thoroughly assessed in the Environmental Statement and in discussion with DfI Roads. The Proposed New Road ensures safe passage, particularly during adverse weather conditions and other emergencies. It has been designed to provide reliable access to all key areas, ensuring that residents are not left isolated during critical time.
Tourism	• concerns regarding the existing use of the Adopted Track by tourists • the desire to grow the tourist economy within the Sperrins AONB and the potential negative impact of the Adopted Track's abandonment on this objective • negative impact of the Adopted Track's abandonment on the tourist experience.	It is highly unlikely that the proposed abandonment of the adopted track will have a significant, negative impact on the scale of tourism or the tourist experience in the area. This is because there is no evidence to suggest existing significant scale of tourist use of the adopted track. As per the evidence at Appendix 2, it is currently in poor condition, and there was no evidence of pedestrian or horse activity at the time of the survey. Additionally; assuming tourist activity currently takes place on the adopted track, there is no evidence to suggest that the adopted track is a driver of tourism in its own right. Tourists do not visit the Sperrins in order to use the adopted track specifically, and will continue to visit the Sperrins following its abandonment. The adopted track's abandonment would displace any existing or future tourist use to alternative routes (such as the Proposed New Road). The Proposed New Road would act as an effective mitigation measure against any potential impacts of the abandonment of the Adopted Track on tourism. As per the evidence at Appendix 2, the Proposed New Road will be designed to a higher specification and in keeping with the local area, providing views of and access to the Sperrins

		AONB. Therefore, the Proposed New Road will act as a significantly enhanced replacement to the adopted track, providing a high-quality (and safer, due to its design) tourist experience.
History & Heritage	• The route has been in use for hundreds of years • Access route that originated in medieval Ireland • Flight of the Earls and other historical events connection • Road should be upgraded to a historical site/ tourist attraction • The renowned archaeological monument the Aughacribba Ogham Stone is less than two Kms away from this proposed abandonment.	The historical value of the adopted track has been thoroughly considered and the section to be abandoned does not form part of any historic road. The road to be abandoned did not exist at the time of the Ordnance Survey's 6" First Edition 1833 Survey maps, and only first appeared on the 6" Second Edition 1854 Survey maps. The section of road to be abandoned has no historical or heritage importance. The medieval period in Ireland is considered to have been between 1150-1550 and the Flight of the Earls is reported to have taken place in 1607. The Proposed New Road has been designed to respect the cultural heritage of the area while providing a more practical and safe option for modern use. The Proposed New Road ensures that the community's connection to the area's history is maintained without sacrificing accessibility.
Alternative Route	• Alternative is a narrower pathway and construction would damage the environment • The form of the alternative road is not an appropriate replacement for the existing route	The Proposed New Road respects the principle of public access. It continues to offer free passage to the public, ensuring that the community retains uninterrupted access to all necessary areas. The commitment to maintaining public access has been a priority in the planning process, ensuring that the community's rights are protected. The Proposed New Road ensures safe passage during adverse weather conditions and other emergencies. It has been designed to provide reliable access to all key areas, ensuring that residents are not left isolated during critical time.
	• Alternate path would cut across and destroy the 'Green Road'	On 7 of July 2021, Fermanagh and Omagh District Council ("FODC") issued proceedings to assert under the provisions of the Access to the Countryside (NI) Order 1983 that a public right of way existed on a route between

		Greencastle and Rousky. These proceedings were dismissed and not appealed, and there is no public right of way over what is known locally as the “green road”. In rejecting FODC’s case, His Honour Judge Kinney (as he then was having been appointed to the High Court since) stated:- <i>“There is no evidence of any public expenditure in relation to the upkeep, maintenance or repair of the route. Mr McVitty’s evidence is sufficient to satisfy me that the asserted route has not been passable with any ease for many decades. Parts of the route are completely impassable because of the deep gorges, or Spinks, which have existed for some considerable time. Many parts of the route have been fenced off and on other sections new construction has been made. Parts of the asserted route are completely unidentifiable. I am satisfied that the more recent work on the lands, including strimming and the construction of styles, has been done in the context of the dispute which is now before the court. I am satisfied there is no evidence of acceptance or user by the public.”</i>
Lack of clarity/ information on alternative route	• Lack of adequate detail on road to be abandoned and alternative road • DfI notice misleading and incomplete on reality surrounding alternative route • Withholding information that alternative route will run alongside tailings facility – noise, dust and lorries, loss of amenity and dangerous	The use of the proposed new road by occasional recreational users in proximity to the site may result in very brief and short-term elevated noise level due to passing vehicles on the re-aligned road or in an active area on the Dalradian site. However, this is no different to very brief and short-term elevated noise levels experienced on every road due to passing vehicles on a daily basis. The use of the proposed new road alignment by occasional recreational users in proximity to the site may result in very brief and short-term elevated dust levels when in close proximity to passing vehicles on the re-aligned road or an active area on the Dalradian site. However, this is no different to very brief and short-term elevated dust levels experienced in close proximity to every road due to emissions from passing vehicles on a daily basis.

Traffic & HGV activity	• Rural roads are not constructed for heavy and constant traffic • Alternative road will be intersected by industrial scale access road with continual lorry usage • Activities are likely to induce considerable heavy and damaging traffic onto adjacent road infrastructure	There will be no mine related industrial traffic utilising the Proposed New Road except for the crossing point as shown in the general arrangement drawing. The Proposed New Road has been specifically designed to manage traffic effectively and assess any increase in heavy or damaging traffic through local roads. The Environmental Impact Assessment has confirmed that the Proposed New Road will not lead to adverse impacts on the local road infrastructure. That crossing point will be the subject of supervision and on-going maintenance during operations to ensure the quality of the Proposed New Road.
Bog Impact	• Stretch of bog will have to be removed to build road • Alternative road will have negative impacts on bog land, aquifers and ecosystems	All effects relating to the construction of the Proposed New Road have been assessed as part of the EIA for the mine planning application.
Land Ownership	• DfI do not own the road and so it is not theirs to trade or give away. • Local people have contributed to the upkeep of the road	DfI has the statutory power to abandon the road. The road has not been maintained and is in a state of disrepair.
Application Area	• Although considered the same proposal there is significant difference between the original application and the modification	The modification is the request before the Planning Appeals Commission