

Your Ref

Our Ref Dalradian Public Inquiry

Date 26 April 2024

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Fermanagh & Omagh  
District Council  
Comhairle Ceantair  
Fhear Manach agus na hÓmaí

**Alison McCullagh**  
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Dear Dr McMahon,

## **Re. Conjoined Public Inquiries into the Dalradian Gold Mine Applications**

I write further to my letter of 19 April 2024 and in response to correspondence between the Planning Appeals Commission and the referring authorities which the Planning Appeals Commission published yesterday.

The Planning Appeals Commission's letter to the Department for Infrastructure yesterday confirmed that "in light of the position outlined in the NIEA response, the public inquiries into the abstraction and impoundment license applications can no longer form part of the current conjoined public inquiry which is expected to open on 10th September 2024".

In light of this, the letter from the PAC also sought views from the Department in relation to "... how you wish to proceed in the absence of the public inquiries into the water abstraction and impoundment applications". This was in the context of deadlines for the submission of statements of case and rebuttals having previously been set for 31 May and 3 July respectively.

In my letter of 19 April 2024, I advised that:

"Given the importance of these applications to some of the issues arising under planning application reference LA10/2017/1249/F — especially in respect of ecological impacts and impacts on the water environment — it is not apparent to the Council how the public local inquiry into application reference LA10/2017/1249/F can now assess the impacts of the project as a whole on the environment if these applications cannot also be considered.

I also stated that:

"It is quite clear to the Council that it has been the intention all along — from the perspective of the referring authorities, the applicant, and the Planning Appeals Commission — that all

of these related applications should be considered together in a holistic way. That intention was sound. It was based on the recognition, made clear in the letter sent by DAERA to the Planning Appeals Commission on 5 November 2021, that the issues arising in connection with these applications were “*relevant to*” the public inquiry into application reference LA10/2017/1249/F; and, related to this, on the recognition that the applications overlap significantly in scope, such that one cannot sensibly be considered in isolation from the others”

The PAC expressed a similar view in its letter to the Department, stating that “all requests for the relevant public inquiries had been co-ordinated by the referring authorities so that all related applications would be considered together as part of a conjoined inquiry”.

The Council notes that DAERA have received confirmation from Dalradian (on 24 April 2024) that two new water abstraction and impoundment applications will be submitted shortly. It will not be possible for these to be progressed within the confines of the current inquiry timetable in light of the statutory procedures which must be followed.

The Council therefore considers that the appropriate course of action is for the remaining inquiries to stand adjourned, until those future applications are also ready to be subject to a public inquiry. It would be inconsistent with how these matters have proceeded to date for the remaining inquiries to proceed by themselves, in isolation from the necessary applications under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006.

The effect of doing so would be to exclude from consideration what was acknowledged by DAERA in its 5 November 2021 letter as information which is “*relevant to [the] public local inquiry*” into application reference LA10/2017/1249/F. The project must be assessed holistically, not in a piecemeal manner.

The public interest is not served by continuing with a public inquiry that does not meet the expectations of all those involved, including that it will consider the project holistically. The Council has a legitimate expectation, that all elements of the project would be heard holistically and that a recommendation from the PAC would come forward on the project as a whole. The Council would be greatly concerned if the project progressed to inquiry by way of a piecemeal approach.

The Council has also expressed its concerns previously to the Department in relation to the availability and accessibility of documents associated with the inquiry. It welcomes the commitment from the Department at the pre-inquiry meeting, through counsel, and in correspondence that it will create an inquiry website and will, in advance of this, produce an inquiry document list.

At the pre-inquiry meeting the Council also raised concerns about the potential for further environmental information to be submitted by Dalradian and advised that it would not be appropriate for this to be submitted at the statement of case stage as it would not give an adequate opportunity for parties to respond. Commissioner McParland made it clear at the pre-inquiry meeting that the Planning Appeals Commission would not welcome further environmental information being submitted at the statement of case stage. The Council intends to ensure that this is the case.

At the inquiry meeting the Department also confirmed that the project did not raise any transboundary concerns and that transboundary consultation has not taken place. This is a position Council will contest strongly. The Council would refer the Department to the consultation response of NIEA NED on 09 March 2021, which in summary raises concern in relation to the population of Atlantic Salmon and the Owenkillew River and the River Foyle and Tributaries SAC. Given the location, context and reasons for designation of the River Foyle and Tributaries SAC, it is very clear that transboundary consultation should have taken place.

If the remaining inquiries were to stand adjourned, this would give the Department sufficient time to address the concerns raised above, which are summarised below:

- (1) availability and accessibility of documents;
- (2) submission of further environmental information at the statement of case stage; and
- (3) failure to undertake necessary transboundary consultations.

The Council considers that it would be in the interests of all parties for these matters to be resolved now. Agreeing for these inquiries to stand adjourned now would allow for suitable arrangements to be made to resolve these matters before the inquiry opens. There is a real risk that if these matters are not dealt with now that they will cause procedural issues later down the line.

An urgent decision on these matters is required given the pressures which participants are under to comply with current inquiry deadlines. It is unreasonable to expect participants to continue work on their statements of case and the Council has already spent a considerable amount of time and money on preparing its statements of case for these inquiries and wants to avoid abortive costs.

I look forward to urgent clarification being provided on these matters.

Yours sincerely



Kim Mc Laughlin  
**Director of Regeneration and Planning**

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