

Procedures for the Curraghinalt Project (Dalradian Gold) conjoined Public Local Inquiries.



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Introduction

[1] The Department of Infrastructure, the Department of Agriculture, Environment and Rural Affairs and the Northern Ireland Environment Agency have requested that the Commission conduct public local inquiries in relation to the Curraghinalt Project (Dalradian Gold). This project comprises of eight applications including a regionally significant and two called-in planning applications, two applications for consents to discharge water and two applications for water abstraction and impoundment licenses. There is also a public local inquiry for an application for a proposed road abandonment order.

[2] This publication is intended to inform and assist all those who take part, in whatever capacity, in the upcoming public local inquiries conducted by the Planning Appeals Commission in relation to the Curraghinalt Project (Dalradian Gold).

[3] Although this booklet is not an exact statement of the law, the information it contains is intended to assist those taking part in the inquiries. The procedures set out below are based on the principles of openness, fairness and impartiality. All participants are required to follow these procedures and all have a duty to act in a fair and reasonable way and to respect rulings by the Commission.

[4] If, having made representations relating to the applications including the environmental statement and addendums, you need help to present your case at the inquiries, you may wish to contact a professional adviser.

The Planning Appeals Commission

[5] The Planning Appeals Commission is a statutory tribunal, independent of any government department or agency. Members of the Commission are public appointees and are called Commissioners. They have varied backgrounds and qualifications including town planning, architecture, and law. Administrative staff are responsible for the Commissions' day-to-day work. While they are available to deal with queries from the public about procedures, they are unable to comment on the merits of individual representations.

[6] All information presented to the Commission is processed in accordance with the Data Protection Act 2018 (see Appendix 1).

Organisation of the Inquiry

[7] The Commission is responsible for organising the inquiries. Appendix 2 sets out the main events. The Chief Commissioner will appoint Commissioner (or Commissioners) to conduct the proceedings. Although from a statutory perspective there will be eight separate inquiries, the proceedings will run concurrently. Participants will experience the event as if it were one single inquiry and it will be referred to as such for the remainder of this document.

[8] To ensure that the proceedings run efficiently, the Commission may organise a pre-inquiry meeting. The purposes of such meetings are to outline the arrangements and deal with procedural queries.

Notification of Arrangements

[9] The Departments will forward to the Commission copies of all representations in favour of or against the proposal from individuals, companies or groups. Such persons, whether objectors or supporters, are often referred to as “interested third parties”. There will be no need for anyone who made representations to the applications to correspond separately with the Commission in order to register an interest in the inquiries.

[10] The Commission will write to the applicant, the Departments and the third parties advising them of:-

- the time and place of the inquiries and any related meeting;
- the arrangements for submitting written statements of case; and
- the way in which the proceedings will be conducted.

[11] A questionnaire will be enclosed with the letter to the third parties, asking them to indicate how they wish their comments to be considered. There are three options:-

- A. Rely on your original representation and take no further part in the proceedings.
- B. Submit a written statement of case and take no further part in the proceedings.
- C. Submit a written statement of case and participate in the inquiries.

If on your questionnaire you nominate an agent to represent you, the Commission will correspond with your agent and not with you.

[12] Please note that the Commission will consider **all** representations unless they are withdrawn. Even if you do not attend the inquiries, the Commission will still take your comments into consideration.

People with a Common Cause

[13] The substance of the representations is of more significance than the number of people making representations and it is advantageous for people sharing a common cause to pool resources. The Commission encourages parties to join together to prepare written evidence. Spokespersons can be chosen to discuss particular issues on behalf of the group. The spokesperson can be assisted by the group at the inquiries. Similarly, agents representing people pursuing the same cause will be expected to co-operate with one another.

Statements of Case

[14] Your statement of case should be a fully comprehensive document structured on a topic basis, consisting of **all** the points you wish to rely on, **all** the evidence to support your case (including the evidence of all your witnesses), a list of documents referred to, and any relevant maps (A3 or A4 size only) and photographs. The statement of case should not exceed the word limit specified in the Commission’s letter. Appendices may be used for supporting information, but argument must be confined to the main body of the statement.
Statements of case must be submitted on time.

[15] Parties should seek to agree facts and methodologies at an early stage. The extent of any agreement should be identified in the statements of case. The Departments will be expected to give clear views on each issue and to include a set of draft conditions on a without prejudice basis and a Habitats Assessment and Appropriate Assessment if required. Statements of case may be submitted electronically. If any material is submitted in paper

format, sufficient copies must be provided for all parties; the Commission will advise how many copies to submit.

[16] All statements of case will be exchanged by the Commission on a reciprocal basis. Therefore, if you do not submit a statement of case by the date specified by the Commission, you will not receive copies of other parties' statements of case. Parties who submit statements of case will be given an opportunity to comment on the other parties' cases within a set time. Such rebuttal evidence should concentrate on the matters still in dispute and avoid introducing new issues or repetition of previous arguments. Each party's rebuttal evidence will be copied for information to the opposing parties.

[17] **The time limits for submission of statements of case and rebuttal evidence will be applied strictly and will be extended only in the most compelling circumstances.** Ten working days before the inquiries, all statements of case and rebuttal evidence will be made available for inspection at the Commission's office. Where an application is subject to environmental impact assessment, the period for public viewing will be four weeks.

[18] Parties seeking to introduce new issues at the inquiries will have to persuade the Commissioners that they are relevant issues and that they could not have been dealt with in the written evidence. The introduction of such late evidence is to be avoided as it could result in delays.

What will Happen at the Inquiry?

[19] The Commissioners will conduct the inquiries openly, fairly and impartially. They will run smoothly if everyone co-operates. The Commissioners will direct when people should speak or ask questions and any problems should be raised with them **in public** at an appropriate time during the proceedings. The Commissioners will ensure that all parties are given an opportunity to express their views.

[20] The inquiries will be conducted in a conjoined manner on a topic basis. The Commission will publish a timetable of dates, topics and expected attendees in advance of the opening session. The Commissioners will lead a round table discussion on each topic. Before moving on to the next topic, the Commissioners may give all parties an opportunity for formal questioning or submissions to address any matters which were not covered in the round table discussion. However, as a general rule, questioning between parties who are pursuing the same issue will not be permitted unless there are significant differences in views between them.

Observing the Proceedings

[21] If you are not participating in the proceedings but just wish to observe you may do so. The inquiries are a public forum. All statements are made in public and all documents presented become public. The Commission intend to broadcast the inquiries on its YouTube Channel. A link will be posted on the Commission's website the week prior to the opening of the inquiries. The press may attend but there will be no live coverage on radio or television. Recording of the session will not be undertaken by PACWAC and it is not permitted for any other party to record or broadcast the event. Thus no-one is permitted to make any video or audio or other recording or image whatsoever of any part of the proceedings. This absolute prohibition includes a 'screenshot' or 'screengrab' or other related images of the proceedings.

[22] Anyone who wishes to attend the inquiries to observe or take part and has special

needs, such as a requirement for disabled access, should contact the Commission at an early stage so that appropriate arrangements can be made.

Close of the Inquiry

[23] When all the evidence has been heard, the Commissioners will close the proceedings and indicate when they expect to deliver the reports to the Departments. The Commissioners will examine all the evidence presented, visit the sites and prepare the reports. The reports will not summarise the evidence but will set out a reasoned consideration of the main issues and recommend how the applications should be determined.

[24] The Departments are required to consider the Commission reports before they make the final decisions on the applications, but they are not obliged to accept the recommendations. The timing of publication of the reports will be a matter for the Departments.

Complaints

[25] Details of the Commission's complaints system are provided on its website www.pacni.gov.uk and there is also a leaflet which is available on request.

Appendix 1

DATA PROTECTION AND FREEDOM OF INFORMATION

The Data Protection Act regulates the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information. The Commission is fully committed to complying with the Act. The Commission's Data Protection & Freedom of Information Policy and Privacy Notice is available on its website.

The Commission receives a range of personal information from a number of sources, which falls within the remit of the Data Protection Act. This includes representations about development proposals. The information received by the Commission varies but may include:-

- details of an individual's name, address and occupation;
- information about the health, personal or family circumstances of an individual; and
- an individual's opinions about a development proposal.

This information is held and considered by the Commission in accordance with the principles set out in the Data Protection Act. It is only used by the Commission for the purpose for which it was provided. It is only retained as long as reasonably necessary, usually no longer than three years from the completion of the Commission's work. However, all Commission reports and decisions must have clear reasons for the conclusions reached and it may be necessary to refer to an individual's personal or family circumstances in a report or decision, which may be retained indefinitely.

The Commission is a tribunal and must operate openly, fairly and impartially. All documents on casework files can be viewed by any member of the public, under the Commission's supervision.

An individual should therefore only provide personal or sensitive information that he/she accepts will be available to the public. No-one should present personal information about other people without their consent. Information provided will not be vetted or redacted by the Commission because of its role to carry out its functions as an independent decision maker in an open, fair and transparent manner.

Under the Data Protection Act, an individual can request access to his/her personal information held by the Commission. Such requests should be in writing and sent to the address below. There is a charge of £10 for requests and the person making the request will also need to send proof of identity.

A request made under the Data Protection Act should include:-

- the specific information which is being sought;
- who you are and how you can be contacted;
- how you would like to receive the information.

Please also identify any accessibility requirements you may have and if you need to receive the information in a particular format, for example, large print, Braille etc.

You are entitled to a response to your request within 40 calendar days. It is in the Commission's and your interests to hold accurate data. If the data is inaccurate, you can ask us to erase, amend or add to the information though you should note that personal or family circumstances referred to in a Commission report or decision cannot be changed. There will be no charge for this.

Any complaints about how the Commission dealt with requests about information will be processed in accordance with the Commission's Complaints System which is published under Publications on the Commission's website. These complaints will not be reviewed by the Complaints Audit Panel, see below.

If you remain dissatisfied with the Commission's response to your information request you may contact the Information Commissioner at

51 Adelaide Street
BELFAST BT2 8FE
Telephone number: (028) 9026-9380
Fax number: (028) 9026-9388
email address: ni@ico.gsi.gov.uk; or
website address: www.ico.gov.uk.

Requests for access to personal information should be sent to

The Chief Administrative Officer
4th Floor,
92 Ann Street
BELFAST BT1 3HH
Telephone number: (028) 9024-4710
e-mail address: info@pacni.gov.uk
website address: www.pacni.gov.uk

The Commission reviews its procedures regularly to ensure continued compliance with the Data Protection Act.

Freedom of Information Act - The Commission is not identified as a Public Authority under the Act. The Environmental Information Regulations 2004 apply to any body that has public responsibilities relating to the environment, exercises functions of a public nature relating to the environment or provides public services relating to the environment. This could include the Commission, but the Regulations do not apply to the extent that the Commission is acting in a judicial capacity. Nonetheless, as a tribunal which operates openly fairly and impartially, the Commission seeks to comply with the spirit of the Act and Regulations.

Appendix 2

THE MAIN EVENTS

The Department requests the Commission to conduct the inquiry and forwards copies of the representations it has received.

The Commission notifies all interested parties of the arrangements for the inquiry and invites third parties to complete questionnaires indicating how they wish to participate.

The Commission may hold a pre-inquiry meeting.

Parties prepare and submit statements of case, which are exchanged by the Commission.

Parties prepare and submit rebuttal evidence, which is copied to the opposing parties for information.

The Commissioner conducts the inquiry or hearing.

The Commissioner prepares the reports and recommendations.

The Commission sends the report to the Departments.

The Department considers the report and recommendation.

The Departments make their final decision on the applications and publishes the Commission's report.

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