S. 37

File With _____

SECTION 131 FORM

Substitute Consent Application NO: ACP-323018-25
Defer Re O/H ☐

Having considered the contents of the submission received 22/8/25 from Derrybrien Bog Plot Owners' Society Limited I recommend that section 131 of the Planning and Development Act, 2000 be/not be invoked at this stage for the following reason(s): No new planning issues

E.O.: Daniel O Connor **Date:** 27/8/25

For further consideration by SEO/SAO

Section 131 not to be invoked at this stage. ☐

Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____ **Date:** _____

S.A.O: _____ **Date:** _____

M _____

Please prepare SC _____ **- Section 131 notice enclosing a copy of the attached submission**

to: _____ **Task No:** _____

Allow 2/3/4weeks – BP _____

EO: _____ **Date:** _____

AA: _____ **Date:** _____

S. 37

File With _____

CORRESPONDENCE FORM

Substitute Consent Application No: ~~ABP-~~ ACP-323018-25

M _____

Please treat correspondence received on 22/8/25 **as follows:**

1. Update database with new agent for Applicant/Appellant _____	
2. Acknowledge with SC F040	**1. RETURN TO SENDER with SC** _____
3. Keep copy of Board's Letter ☐	2. Keep Envelope: ☐
	3. Keep Copy of Board's letter ☐

Amendments/Comments Observation from Derrybrien Bog Plot Owners' Society Limited

4. Attach to file	
(a) R/S ☐ (d) Screening ☐	**RETURN TO EO** ☑
(b) GIS Processing ☐ (e) Inspectorate ☐	D O'Connor
(c) Processing ☐	

	Plans Date Stamped ☐
	Date Stamped/Filled in ☐
EO: Daniel O'Connor	**AA:**
Date: 27/8/25	**Date:** 29/08/25

Validation Checklist

Lodgement Number : **LDG-082386-25**
Case Number: **ACP-323018-25**
Customer: **Derrybrien Bog Plot Owners' Society Limited**
Lodgement Date: **22/08/2025 15:50:00**
Validation Officer: **Daniel O'Connor**
PA Name: **Galway County Council**
PA Reg Ref:
Case Type: **Further Development under 37L (FD Cases)**
Lodgement Type: **Observation / Submission**

An Coimisiún Pleanála

Validation Checklist	Value
Confirm Classification	Confirmed - Correct
Confirm ABP Case Link	Confirmed-Correct
Fee/Payment	Valid – Correct
Name and Address available	Yes
Agent Name and Address available (if engaged)	Yes
Subject Matter available	Yes
Grounds	Yes
Sufficient Fee Received	Yes
Received On time	Yes
Eligible to make lodgement	Yes
Completeness Check of Documentation	Yes

FD 40 to observer

Run at: 27/08/2025 12:40

Run by: Daniel O'Connor

Karen Byrne

From:	Doreen Brett <Doreen@vpshields.ie>
Sent:	Friday 22 August 2025 15:50
To:	Appeals2
Subject:	VPS Matter Ref: DER113-0001
Attachments:	Copy letters referred to in Observations.pdf; Letter by email to An Coimisiún Pleanála FD07.docx; Grounds of Objection FD07.docx

Caution: This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

Please see attached forwarded to you for and on behalf of Dan Shields Solicitor

Doreen Brett
Legal Secretary
VP Shields
Solicitors
Westbridge
Loughrea
Co. Galway.
☎: *Switchboard 091 841044*

✉: *doreen@vpshields.ie*

save a tree - please don't print this e-mail unless you really need to

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Daniel J. Shields

Peig Lynch
Emer Ryan
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Robert Meehan
Law Agent
Galway County Council
County Hall
Prospect Hill
Galway

By email only: rmeehan@galwaycoco.ie; lawagent@galwaycoco.ie

email: dan@vpshields.ie

Our Ref: DJS/KD/DER1130002 **Your Ref:** **Date: 11th October 2024**

Re: Our Clients: Derrybrien Bog Plot Holders Society
Derrybrien Windfarm Unauthorised Development

Dear Colleague,

We refer to previous correspondence and our recent discussions with regard to this matter. We confirm that notwithstanding their misgivings in relation to the matter that our clients attended the meeting held at Gort Community Centre on the 16th of September 2024. Our clients attended on the basis that it was hoped that this would be a genuine attempt at engagement with the members of the public in relation to the matter. There were ten people, approximately, there on behalf of the ESB but there was no clarity as to whether the people at the meeting were from the ESB or consultants or advisors to the ESB and the only identification was a sticky label with first names only.

Our clients sought to engage on the basis of the minimal effort that had been put into organising the meeting. When our clients sought information in relation to the issue of the bog and the bog holders and the environmental impact of the proposed works on the bog, they were given very short shrift. Essentially, our clients were told by the representative of the ESB with whom they were speaking at the time that they were wasting everybody's time being at the meeting and our clients felt that they were dismissed in a most arrogant manner.

Our clients went to the meeting with a relatively open mind in the hope of engaging in a constructive fashion, but to say that the meeting constituted any form of public engagement is a gross misrepresentation.

Our clients impression was distinctly that this was purely a box-ticking exercise and that their presence at the meeting was not desired and was not going to be engaged with in any fashion whatsoever. In those circumstances having regard to the manner in which this meeting has been conducted, our clients take the view that there is no genuine commitment to a public engagement in relation to this decommissioning process and therefore they are considering their options with regard to how to proceed on the assumption that this is going to be yet another "stitch up" between the ESB and Galway County Council. Such an approach is entirely unacceptable and while our clients accept that there are complexities and difficulties in relation to the matter, the way to deal with those complexities and difficulties is to face them head on and to address them rather than to seek to dismiss genuine concerns raised by people with a long track record of involvement in relation to this matter.

Yours faithfully,

Dan Shields

Dan Shields
VP Shields Solicitors

Daniel J. Shields

Peig Lynch
Emer Ryan
Ciara Donoghue

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Damien Glancy
ESB Legal Department – Litigation

By email only: damien.glancy@esb.ie

email: dan@vpshields.ie

Our Ref: DJS/KD/DER1130002 **Your Ref:** **Date: 16 October 2024**

Re: Our clients: Derrybrien Bog Plot Holders Society
Re: Derrybrien Windfarm Unauthorised Development

Dear Sirs,

We refer to previous correspondence in relation to this matter. We have been instructed by our clients to write to you in respect of the public information event held in relation to the ESB proposals for dealing with the unauthorised development at Derrybrien Windfarm. Our clients attended at the meeting in good faith and with the expectation that at the very least the ESB would attempt to present the event as a genuine effort at public participation.

When our clients identified themselves to various persons present on behalf of ESB at the event, they were informed that they were wasting their time at the meeting. This is a most unfortunate attitude to be taken by the ESB representatives present on the date. Our clients now request the name and professional details of all of the ten parties present at the said information event identifying those who are ESB employees and those who are consultants or otherwise. Please identify the professional qualifications of each such relevant participant in order that our clients can assess their ongoing role in relation to this matter. If your clients wish to offer an explanation for the response given to our client, we await same with interest.

Yours faithfully,

VP Shields Solicitors

OIFIG AN GHNÍOMHAIRLE DLÍ
Áras an Chontae,
Cnoc na Radharc,
Gaillimh, H91 H6KX.

Fón/Phone:(091) 509 343
R-Phost/Email: lawagent@galwaycoco.ie

Comhairle Chontae na Gaillimhe
Galway County Council

LAW AGENT'S OFFICE
Áras an Chontae,
Prospect Hill,
Galway, H91 H6KX.

Gníomhaire Dlí/Law Agent:
Robert Meehan

Ár dTag/Our Ref:

Do Thag/Your Ref:

RM/MH/PG0001/0010

DGF/DO/DER1130002

3rd December, 2024

V.P. Shields Solicitors,
Westbridge,
Loughrea,
Co. Galway.
H62 F762
Post & email *dan@vpshields.ie*

Re: Your Client - Derrybrien Bog Plot Holders Society
Our Client – Galway County Council
Derrybrien Wind Farm

Dear Colleague,

I refer to the above and your most recent correspondence received on the 1st ult. for which I am grateful.

Please be advised that the content of same, as for the previous correspondence, were brought to the attention of the Director of Services. I am informed that the ESB were provided an outline of the level of your clients' frustrations in relation to matters with a request that they deal with said issues directly.

I am also advised that the matter of the Planning Enforcement Notice was raised with a request that concerted efforts be made in terms of compliance together with a request for update in the short term.

Yours faithfully,

Robert Meehan
Law Agent - County Solicitor
Telephone No. (091) 509345

Daniel J. Shields

Peig Lynch
Emer Ryan
Ciara Donoghue

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An Coimisiún Pleanála,

By email only: appeals@pleanala.ie

email: dan@vpshields.ie

Our Ref: DJS/DB/DER1130001 **Your Ref:** **Date: 22 August 2025**

Re: Derrybrien Bog
Reference FD07.323018

Dear Sirs,

Further to your email of the 15th ist we now enclose herewith observations in respect of the above application. We trust that this is in order and we await hearing from you at your convenience.

We note that the Site Notice was erected on the 3rd of July 2025.

Yours faithfully,
VP Shields Solicitors
sent by e-mail only and accordingly bears no signature

Re: FD07.323018

Application in respect of lands at Bohaboy, Boleyneendorrish, Coppanagh, Derrybrien East, Derrybrien North, Derrybrien South, Derrybrien West, Funshadawn, Kilbeg, Loughatorick North, Toormacnevin, Co. Galway and Slieveanore, Co. Clare.

Application by Gort Wind Farms and Others.

Application pursuant to Section 37 of the Planning and Development Act 2000 for the decommissioning of Derrybrien Wind Farm, including enabling works, the removal of turbines and other structures on site, the removal of the Derrybrien Aganyal overhead line and all other works.

Objection on behalf of Derrybrien Bog Plot Owners' Society Limited.

OBSERVATIONS

1. There has been a complete failure of the Applicants to engage in any proper public participation process in relation to the application. Having regard to the extended history of the Derrybrien Wind Farm site, there was an obligation on the applicants to facilitate a full and proper public participation process in respect of this application. As long ago as 2004, the ESB in the context of the bog slide produced a significant PR campaign in respect of their alleged sponsorship of a public participation process in respect of the rehabilitation works to be carried out at Derrybrien. This process never happened. The applicants advertised a public information event to take place on the 16th of September 2024. When the representatives of the Derrybrien Bog Plot Owners attended at the meeting they were informed that their presence was not welcome and the engagement with them was absolutely minimal.

2. Over many years, the Derrybrien Development Society Limited and the Derrybrien Bog Plot Owners Society Limited each sought engagement with the ESB in relation to a public participation process in relation to matters arising from the issues arising in respect of the Derrybrien Wind Farm. On each and every occasion, when an opportunity was afforded to the ESB to engage productively with the local community in relation to the modalities of such a public participation process, they have failed and refused to do so. As public participation is one of the principal pillars of the European Environmental Planning Framework, the consistent refusal of the ESB to facilitate such proper public participation constitutes a sufficient reason for the refusal of the planning permission now sought.

3. The Environmental Impact Assessment and the Remedial Natura Impact Statement submitted with the application are extensive and voluminous, but they are entirely without substance due to the failure of the ESB to facilitate a scientific evaluation with community organisations of the content of such reports. The only means by which a meaningful engagement by the local community would be in the context where financial assistance was provided to the local community to enable them to obtain sufficient scientific and expert advice in relation to the EIAR and Natura Impact Statements for the purposes of comprehensively responding to same. To the extent that this has been refused by the ESB, there is a clear attempt to prevent the

local community from having any genuine involvement or public participation in the process.

4. The REIAR report fails to properly take account of the SPA in existence over the entire site. Arguments for the retention of significant elements of the development within the site appear to be based purely on economic factors and do not take into account the issue arising from the SPA, consequently the environmental assessment is inadequate.

5. There appears to be a repetition in the nature of the application of the significant element of salami slicing that occurred in relation to the original planning application for the Derrybrien Windfarm which resulted ultimately in the decisions of the European Court. No objective explanation has been offered for the reasons for the subdivision of the application.

6. The environmental impact assessment fails to adequately analyse the drainage works which were carried out in the aftermath of the original landslide. As the original environmental impact assessment was predicated on the nonsensical proposition that no drainage was required at the location, the subsequent emergency works have never been adequately assessed or reviewed for their drainage impact on the local environment and the downstream impact of such drainage works on the overall environment in the area.

7. The retention on the site of the turbines with their substantial weight and considerable amount of concrete left in situ without any analysis of its future impact is entirely inappropriate.

8. The Environmental Impact Assessment Report continues to make the specious allegation that there is a significant impact in terms of soil stability from the turf-cutting operations. These are the subject matter of several civil proceedings but it is clear from the contents of the report that there was no attempt to view and assess the actual turf-cutting machinery that was in use at the location, and assumptions were made on the basis of standard machinery used in other locations rather than the machinery in actual use on Derrybrien Bog. On that basis, the assessment contained within the EIAR in respect of impact on soil stability is without any foundation and is entirely unreliable.

9. It is submitted that the claim made that there has been an individual analysis of each bog plot in relation to the issue of soil stability is entirely rejected as it clearly ignores substantial work carried out by the ESB in the period immediately prior to the decision of An Bord Pleanala in relation to the substitute consent application on individual bog plots in the vicinity.

10. The Environmental Impact Assessment is clearly inadequate in that it fails to make any significant investigation of the impact of the works carried out on an ongoing basis by the ESB at the location during the operation of the wind farm. As such works involve the bringing on to floating roads of very heavy trucks and equipment, a proper assessment of the actual impact of the windfarm and the works required for the decommissioning would require a significantly more thorough examination and investigation.

11. There is no analysis in the EIAR and no provision in the planning application for the quarries opened up on the site for rock for the floating roads and for the bases which had a significant additional impact in terms of both drainage and soil stability which is not analysed anywhere in the reports submitted with this planning application. It is considered that in its current condition the main quarry at the site entrance is extremely dangerous and constitutes a public nuisance.

12. It is submitted that the entire application is vitiated by the failure to make any provision for the ongoing maintenance and rehabilitation of the entire wind farm site after the completion of the decommissioning process.

13. It is noted that in the Reports submitted considerable emphasis is placed by the experts engaged by the ESB in relation to the public consultation allegedly entered in to in relation to the matter. In the first place as has previously been pointed out due to the gross inequality in respect of capacity and availability of expert advice the very concept of public participation is being rendered meaningless in this process. Secondly in so far as reference is made to a public consultation event we enclose herewith copy correspondence which was entered in to subsequent to the said event and in particular we refer to our letter of the 11th of October 2024 to the Law Agent of Galway County Council and the 16th of October 2024 to the ESB Legal Department. We also refer to the letter dated the 3rd of December 2024 from the Law Agent of Galway County Council in response. No response was received from the ESB in relation to the matters raised. It is quite clear that the alleged public consultation process referred to in the reports submitted was a facile PR exercise and not intended in any way to engage with the actual concerns of the relevant members of the public.