

Daniel J Shields

Peig Lynch
Emer Ryan

An Bord Pleanála
64 Marlborough Street,
Dublin 1
DO1 V902



Westbridge
Loughrea, Co Galway
Postcode: H62 F762
DX: 86 001 Loughrea
T: 091 841 044
F: 091 842 156
W: www.vpshields.ie

email: dan@vpshields.ie

Our Ref: DJS/GM/DER1130001

Your Ref: ABP-308109-20

Date: 18th November 2021

**Re: Application of Gort Wind Farms Limited made the 21st August 2020 for
Substitute Consent under Section 177 of the Planning and Development Act 2010
Case Number: ABP-308019-20**

Dear Sirs,

We refer to previous correspondence in relation to this matter and in particular your letters of the 5th inst. We note that the time allotted for our clients to consider the 38 page response furnished with your letters allowing our clients no more than 2 weeks to consider the extensive contents of same.

In the circumstances we will confine ourselves to making the following observations.

1. It is noted that the applicants refused to accept the consequences of the judgements of the Court of Justice of the European Communities in relation to the operation of the windfarm. We would point out that in the Supreme Court hearing which they rely on, their case was entirely based on the spurious claim that the decisions of the European Court did not apply to Derrybrien windfarm. It is to be noted that the decision of the Supreme Court in the instant matter was entirely based on the exercise of discretion within Domestic Law in relation to the granting of an injunction in circumstances where the Court failed to advert to the significant issues of European Law which had already been decided by the European Court of Justice. As a result the Irish State has been penalised in relation to these matters and there is an ongoing penalty being incurred

directly as a result of the breaches of the relevant legislation by the applicant. On that basis to assert that this is not an unlawful development is entirely spurious.

2. In respect of the impact of the development on turf cutting at the location, we have on behalf of our clients written on a number of occasions to the ESB. Their initial response was simply to avoid dealing with the issues on the basis that individual complainants had not been identified. When individual complainants were identified they have simply ignored the correspondence. Under the circumstances the failure of the applicant to provide the requisite assurances in relation to the continuation of the turbary and plot owners' rights in relation to the matter is deeply disturbing. Our clients and their predecessors in title have cut turf on Derrybrien bog for many generations and there was never any issue of slope stability until the activities of the applicants at the site potentially undermined the stability of certain areas. The applicant's proposals in relation to the matter involve erecting hazard signs and preventing the exercise of long established rights in respect of the use of their property by our clients. This is entirely unacceptable and does not constitute an appropriate response in the circumstances.

We will refer you also to our observations previously with regard to the issues arising in relation to the legal basis for this application and we reserve our position entirely in that regard.

Yours faithfully,

VP Shields Solicitors

