



AN ARD-CHÚIRT
THE HIGH COURT

PLANNING AND ENVIRONMENT
H.JR.2023.0000946

MONDAY THE 7TH DAY OF APRIL 2025
BEFORE MR JUSTICE HUMPHREYS
BETWEEN/

GERARD COPELAND TIM STOREY JOHN COPELAND SEAN RYAN PADDY
COSTELLO PETER RYAN NOEL O BRIEN JOHN GREENE LIAM PLUMKETT
ANTHONY O CONNOR JOHN KELLY SNR DARREN KINSELLA DERMOT
DOYLE NICK COSTELLO FRANZ SCHUTTE DAVID O LEARY AND OWEN
CLARKIN

APPLICANTS

-AND-

THE MINISTER FOR HOUSING LOCAL GOVERNMENT AND HERITAGE THE
MINISTER OF STATE FOR THE DEPARTMENT OF HOUSING LOCAL
GOVERNMENT AND HERITAGE WITH SPECIAL RESPONSIBILITY FOR
PLANNING IRELAND AND THE ATTORNEY GENERAL

RESPONDENTS

-AND-

CODLING WIND PARK LIMITED AND THE MINISTER FOR AGRICULTURE
FOOD AND THE MARINE

NOTICE PARTIES

Upon application of Counsel for the Respondents coming before the Court this day for mention pursuant to the Notice of Motion filed the 31st day of October 2023 seeking the following reliefs

1. “An Order of Certiorari quashing the decision of the First Named Respondent to grant a licence under Section 3 of the Foreshore Act, 1933 (as amended) which decision was



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made on 19th May 2023 to Codling Wind Park Limited on application reference number FS007546 in respect of site investigations to a proposed off-shore wind farm and export cable corridor together with operation and maintenance facilities on a site that extends over an area of approximately 556km² and which lands are located off the coast of counties Dublin and Wicklow on a site that is focused primarily in respect of the off-shore wind farm on a site between Greystones and Wicklow Town with the export cable corridor potentially being sited with access onto the Wicklow and/or the Dublin Coastline.

2. Such Declaration(s) of the legal rights and/or legal position of the Applicant and/or Respondents and/or persons similarly situated as the Court considers appropriate.
3. A Declaration that the Second and Third Named Respondent failed to transpose the requirements of Council Directive 92/43/EEC in respect of an off-shore wind project's and export cable corridors together with operational and maintenance space on lands located off the coast of counties Dublin and Wicklow, and in particular failed to transpose the requirements of the Habitats Directive (92/43/EEC) in respect of the carrying out of a Stage I screening and Stage II Appropriate Assessment (AA) for the purposes of that Directive.
4. A Declaration that the European Communities (Birds and Natural Habitats) Regulations, 2011 (as amended) is inconsistent with and contrary to Council Directive 92/43/EEC.
5. A Declaration that the costs protection provisions of Section 50B of the Planning and Development Act, 2000 and/or the Environmental (Miscellaneous) Provisions Act, 2011 apply to the above entitled proceedings.



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6. A stay on any steps being taken to implement licence no. FS007546 in respect of the First Named Respondent and/or the Notice Party pending the determination of the above entitled proceedings.
7. Interim and/or interlocutory relief.
8. Further and other relief.
9. The costs of these proceedings.”

Whereupon and on reading the said Notice of Motion and the Affidavit of Augustus Cullen filed on the 31st day of November 2023 grounding the said Motion the Originating Statement of Grounds filed on the 18th day of September 2023 the Affidavit of Owen Clarkin filed on the 18th day of August 2023 Grounding the said Statement the respective Affidavits of Anthony O'Connor Dermot Doyle Gerard Copeland Nick Costello Franz Schutte Sean Ryan Paddy Costello John Copeland John Greene David O'Leary Darren Kinsella Noel O'Brien Tim Storey Liam Plunkett John Kelly Senior and Peter Ryan (2) all filed on the 18th day of August 2023 the Affidavit of Augustus Cullen filed on the 25th day of October 2023 the Affidavits (2) of Colin Ryan filed respectively on the 1st day of March 2024 and the 20th day of December 2024 the Affidavits (3) of Dr Yvonne Leahy (2) filed respectively on the 2nd and 4th day of April 2024 and the 6th day of February 2025 the Affidavit of Scott Sutherland filed on the 4th day of April 2024 the Affidavits (2) of Ciarán Farrell filed respectively on the 25th day of April and the 10th day of February 2025 the Affidavit of Marie Louise Heffernan filed on the 25th day of June 2024 the Affidavit of Owen Clarkin filed on the 26th day of June 2024 the Affidavit of Peter Ryan filed on the 26th day of June 2024 the documents and exhibits referred to in the said Affidavits and the written submissions filed in respect of the within proceedings



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In the presence of said Counsel and Counsel for the Respondents and Counsel for the Notice Party

And on hearing said Counsel

And the Court hearing the matter has been resolved as between the parties

BY CONSENT

The Court **DOTH DECLARE** that in the period prior to the publication of site specific conservation objectives in respect of the Wicklow Head Special Protection Area on the 10th day of September 2024 the First and/or Second Named Respondents failed to fulfil their obligations under Article 26(2) of the European Communities (Birds and Natural Habitats) Regulations 2011 SI 477 of 2011 (as amended) by failing to establish the necessary site specific conservation objectives in the Wicklow Head Special Protection Area

IT IS ORDERED that the within proceedings be and the same are otherwise dismissed

And **IT IS ORDERED** that the Respondents and the First Notice Party do pay to the Applicants the costs of the within proceedings to be adjudicated in default of agreement the legal costs adjudicator to have regard in the adjudication of costs to the fact that the these proceedings were listed together with Featherstone & Ors v The Minister for Housing, Local Government and Heritage & Ors bearing record number 2023 No. 944 JR on the terms set out in the Case Management Order of this Court made in these proceedings on the 27th day of November 2023 a copy of which is appended as a schedule hereto

JOHN SINCLAIR
REGISTRAR
PERFECTED 07/04/2025



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Conways Solicitors
Solicitor for the Applicant

Chief State Solicitors Office
Solicitor for the Respondents

A&L Goodbody
Solicitors for the Notice Party

SCHEDULE HEREINBEFORE REFERRED TO



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THE HIGH COURT

**JUDICIAL REVIEW
2023 946 JR**

**MONDAY THE 27th DAY OF NOVEMBER 2023
BEFORE MR JUSTICE RICHARD HUMPHREYS
BETWEEN/**

**GERARD COPELAND TIM STOREY JOHN COPELAND SEAN RYAN PADDY
COSTELLO PETER RYAN NOEL O BRIEN JOHN GREENE LIAM PLUMKETT
ANTHONY O CONNOR JOHN KELLY SNR DARREN KINSELLA DERMOT
DOYLE NICK COSTELLO FRANZ SCHUTTE DAVID O LEARY AND OWEN
CLARKIN**

APPLICANTS

-AND-

**THE MINISTER FOR HOUSING LOCAL GOVERNMENT AND HERITAGE THE
MINISTER OF STATE FOR THE DEPARTMENT OF HOUSING LOCAL
GOVERNMENT AND HERITAGE WITH SPECIAL RESPONSIBILITY FOR
PLANNING IRELAND AND THE ATTORNEY GENERAL**

RESPONDENTS

-AND-

**CODLING WIND PARK LIMITED AND THE MINISTER FOR AGRICULTURE
FOOD AND THE MARINE**

NOTICE PARTIES

Upon application of Counsel for the Respondents coming before the Court this day for mention by way of remote hearing pursuant to the Notice of Motion filed the 31st day of October 2023

Whereupon and on reading the said Notice of Motion and the Affidavit of Augustus Cullen filed on the 31st day of November 2023 and the documents and exhibits referred to in the said Affidavits



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In the presence of said Counsel and Counsel for the Respondents

And on hearing said Counsel

THE COURT DOTH DIRECT that

1. The within proceedings are to be case managed to trial, together with the proceedings entitled Featherstone & Ors v Minister for Housing, Local Government and Heritage & Ors, High Court, Record No. 2023/944 JR (the “Featherstone proceedings”) as if the two sets of proceedings had been subject to an order for consolidation
2. A single set of opposition papers is to be filed by the Respondents and the Notice Parties in the within proceedings which will be taken to also constitute the opposition papers in the Featherstone proceedings
3. The Applicants shall be entitled to rely on any replying affidavit filed by the Applicants in the within proceedings in the Featherstone proceedings
4. The Respondents and Notice Parties shall be entitled to rely on any supplemental affidavits filed on their behalf in the within proceedings in the Featherstone proceedings
5. The Featherstone proceedings and the within proceedings are to be heard together in a single hearing

And the Court **DOTH ADJOURN** this matter for mention to the Commercial Planning and Environmental List on **Monday the 11th day of December 2023**

No Order as to Costs

JOHN SINCLAIR
REGISTRAR
PERFECTED 29/11/2023



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Conways Solicitors
Solicitor for the Applicant

Chief State Solicitors Office
Solicitor for the Respondents

A&L Goodbody
Solicitors for the Notice Party