

**Record No:  
H.JR.2024.1236**

**THE HIGH COURT  
PLANNING & ENVIRONMENT  
JUDICIAL REVIEW**

**IN THE MATTER OF REGULATION 54 OF THE EUROPEAN  
COMMUNITIES (BIRDS AND NATURAL HABITATS) REGULATIONS  
2011, AND IN THE MATTER OF ORDER 84 OF THE RULES OF SUPERIOR  
COURT**

**Between:**

**GERARD COPELAND, GEORGINA O'CONNOR, JOHN COPELAND, SEAN  
RYAN, PADDY COSTELLO, PETER RYAN, NOEL O'BRIEN, JOHN GREENE,  
LIAM PLUNKETT, ANTHONY O'CONNOR, JOHNNY KELLY SNR, DARREN  
KINSELLA, DERMOT DOYLE, NICK COSTELLO, FRANZ SCHUTTE, DAVID  
O'LEARY, JAMES DOYLE, GER DIXON, MARK JACKSON, CHARLIE  
JACKSON, JAMES ROCHE, KENNETH ROCHE, JOHNNY KAVANAGH**

**Applicants**

**-and-**

**THE MINISTER FOR HOUSING, LOCAL GOVERNMENT AND HERITAGE**

**First Named Respondent**

**-and-**

**IRELAND**

**ATTORNEY GENERAL**

**Second and Third Named Respondents**

**-and-**

**RWE RENEWABLES IRELAND LIMITED**

**First Named Notice Party**

**-and-**

**MARITIME AREA REGULATORY AUTHORITY**

**Second Named Notice Party**

**DRAFT TERMS OF CONSENT ORDER**

The proceedings herein being listed for mention before the Court on the 1st day of December 2025 in the presence of Counsel for the Applicants, Counsel for the Respondents, Counsel for the First Notice Party and solicitor for the Second Notice Party

And said Counsel and solicitors confirming that the parties were agreeable to consent orders being made in conclusion the proceedings

**BY CONSENT THE COURT DOTH MAKE:**

1. An order of certiorari quashing the derogation, ref DER – CETACEANS -2024-105, granted on the 30th April, 2024, on the grounds that the First Respondent failed to correctly apply the provisions of Article 16(1)(c) of the Council Directive 92/43 EEC and regulation 54(2)(c) of the European Communities (Birds and Natural Habitats) Regulations 2011 S.I.477/2011, in that the First Respondent did not identify which of the reasons within Article 16(1)(c)/54(2)(c) were met in the circumstances as pleaded in the particulars of Core Ground 3 in §42 of the Applicants’ amended statement of grounds.
2. An order, pursuant to Order 84, rule 27 of the Rules of the Superior Courts, remitting the application for a derogation licence to the Minister for Housing, Local Government and Heritage (the “**Minister**”) with a direction to reconsider it and reach a decision in accordance with the following directions
  - i. The Minister to seek confirmation from the First Named Notice Party of the exact nature and extent, and timing, of the surveys actually carried out
  - ii. The Minister to consider and determine the application for a Derogation Licence based on the actual surveys that were carried out and the information available to the Minister (to include the information provided to the Minister in the application for the Derogation Licence and such further information as the Minister may deem necessary).
3. An order for costs as against the First Respondent and in favour of the Applicants, to include reserved costs, such costs to be adjudicated in default of agreement.