

Laura Crawford

From: Sarah Mulholland
Sent: 25 August 2026 14:40
To: Shane Mathers; Elaine Olphert; Laura Crawford; Planning
Cc: Andrew Ryan; office@mcivorfarrell.co.uk
Subject: URGENT LA01/2023/0008/F Brishey Wind Farm [TLT-TLT.FID8247151]
Attachments: Letter to CCGBC re Brishey Wind Farm 25.8.26(100237047.1).pdf

Importance: High

Dear Shane

Please find attached urgent correspondence for your attention ahead of Planning Committee tomorrow in relation to application LA01/2023/0008/F. Please acknowledge receipt.

Kind regards

Sarah

Sarah Mulholland
Senior Associate – Planning & Environment
For TLT NI LLP

M:
www.tlt.com

Please note my working days are Monday - Thursday

TLT. For what comes next.

Keep up to date with our latest [insights and events](#)

Please consider the environment before printing this email.

Please note telephone calls may be recorded for training or regulatory purposes

Please be aware of the increase in cybercrime and fraud.
TLT will not send you information about changes to bank account details by email.
If you receive an email purporting to be from someone at TLT advising you of a change to bank account details it is not genuine. Do not reply to the email or act on any information it may contain. Instead please contact the person dealing with your matter immediately.
TLT accepts no responsibility if you transfer money to a bank account which is not ours.
Please note we do not accept service by email.

The information in this email is confidential and may be privileged. It is for use by the addressee only. If you are not the addressee or if this email is sent to you in error, please let us know by return and delete the email from your computer. You may not copy it, use its contents or disclose them to another person. No liability is accepted for viruses and it is your responsibility to scan any attachments. TLT LLP, and TLT NI LLP (a separate practice in Northern Ireland) operate under the TLT brand and are together known as 'TLT'. Any reference in this communication or its attachments to 'TLT' is to be construed as a reference to the TLT entity based in the jurisdiction where the advice is being given. TLT LLP is a limited liability partnership registered in England & Wales number OC308658 whose registered office is at One Redcliff Street, Bristol, BS1 6TP. TLT LLP is authorised and regulated by the Solicitors Regulation Authority under ID 406297. In Scotland TLT LLP is a multi national practice regulated by the Law Society of Scotland. TLT (NI) LLP is a limited liability partnership registered in Northern Ireland under ref NC000856 whose registered office is at River House, 48 - 60 High Street, Belfast, BT1 2BE. TLT (NI) LLP is regulated by the Law Society of Northern Ireland under ref 9330.

TLT LLP and TLT (NI) LLP are recognised as Data Controllers under data protection legislation. If you would like to find out more about how we use personal data and your rights in relation to your personal data please see read our [privacy notice](#) which is available on our website.

TLT LLP is authorised and regulated by the Financial Conduct Authority under reference number FRN 780419. TLT (NI) LLP is authorised and regulated by the Financial Conduct Authority under reference number 807372. Details of our FCA permissions can be found on the Financial Services Register at <https://register.fca.org.uk>



TLT NI LLP
River House
48-60 High Street
Belfast BT1 2BE
+44 (0)333 006 0600
tlt.com

Our ref AR12/SM49
Your ref LA01/2023/0008/F

Mr Shane Mathers
Causeway Coast and Glens Borough Council
Cloonavin
66 Portstewart Road
Coleraine
BT52 1EY

By email

Direct tel +44 (0)333 006 0967 Date 25 August 2026
Email

Dear Sir

Request to adjourn the determination of planning application LA01/2023/0008/F ('Brishey Wind Farm')

We write on behalf of Brishey Wind Farm Limited who is the applicant for the above referenced application for planning permission. We write in opposition to the letter sent by McIvor Farrell Solicitors, dated 24 August 2026 and uploaded to the planning portal today, which vaguely threatens urgent judicial review proceedings in the event that the application is not removed from the Planning Committee agenda for 26 August 2026 by 12:00 today.

The letter is, at its base, a last ditch effort by a concerted group of local objections to further stymie the determination of this application. The threat of an urgent application for judicial review is baseless. There is no prospect of a judicial review court issuing an injunction overnight to stop the Planning Committee from even considering this application. There is no legal basis whatsoever for the grant of urgent injunctive relief in the circumstances here.

Several points of clarification can usefully be made:

- (1) The letter of objection, stripped back, requests that the application be deferred until the Council has completed an investigation of claimed public rights of way. As set out in the Protocol for the Operation of the Planning Committee (January 2025), it is for members to consider any request for items placed on the agenda to be deferred. It sets out the position as follows:

100237047.1

For what comes next

TLT is a trading name of TLT NI LLP which is a limited liability partnership registered under number NC000856 whose registered office is at River House 48-60 High Street Belfast BT1 2BE.

A list of members is available for inspection at that address.

TLT NI LLP is authorised and regulated by The Law Society of Northern Ireland under firm reference number 9330.

TLT NI LLP is authorised and regulated by the Financial Conduct Authority under firm reference number 807372.

Details of our FCA permissions can be found on the Financial Services Register at register.fca.org.uk.

Our paper is made from sustainable forests and is certified to FSC and ISO14001 standards. It is 100% recyclable.



“11.3 Members can defer consideration of an application to a subsequent meeting for further information [...] A proposal for a deferral must be seconded by another Member before being voted on. Consideration of an application should generally only be deferred once [...]

[...]

12.2. Deferrals inevitably have an adverse effect on processing times, and therefore should be an exception”.

Mclvor Farrell's letter fails to even reference the Protocol for the Operation of the Planning Committee (January 2025) and the procedure it sets out for deferrals. It attempts, wrongly, to deprive elected members of the ability to consider whether the application warrants deferral by demanding that it is deferred before it even gets to them. If a request for a deferral is going to be made, then it should be made and considered at the meeting tomorrow, and members can adjudicate upon it then. It is noted that two objectors have registered to speak tomorrow, at least one of which our client understands and believes to be a member of the Save Benbradagh Group.

- (2) It is instructive to look at the timeline closely as it shows that the objectors have typically chosen to wait until the very last minute to raise substantive and often new objections. So far as the public right of way issue is concerned, despite apparently corresponding with the Council in October or November of last year (just weeks before the matter last came before the Planning Committee), the Mclvor Farrell letter now discloses that it was only yesterday, *“on 24 August 2026, Save Benbradagh submitted a Public Right of Way Investigation Initiation Application to the Council”*. Objectors have waited until just days before the Planning Committee meeting, even though they had months to do so, to submit a Public Right of Way Investigation Initiation Application to the Council. The Mclvor Farrell letter includes a map with claimed public rights of way for the first time the origins of which are wholly unclear and the evidence in support of which is not even appended to the objection letter. Our client is concerned that objectors are acting in a calculated way that seeks to inflict maximum disruption at the last minute in order to secure further delay to their advantage—the last minute Mclvor Farrell letter is the high point of this strategy.
- (3) Irrespective of all of this, the single substantive point raised—that it would be unlawful to determine the planning application before any public right of way investigation has concluded—is without foundation and plainly wrong in law.
 - (i) Mclvor Farrell are not able to point to anything in either the Planning Act (Northern Ireland) 2011 or in the Access to Countryside (Northern Ireland) Order 1983 that supports such a sweeping legal assertion.
 - (ii) Mclvor Farrell are, equally, not able to point to anything in regional planning policy or guidance that supports such an assertion either.
 - (iii) Public rights of way investigations typically take very many years to conclude, especially where court proceedings are involved. There is no legal basis for suggesting that the only rational and lawful course of action is to delay the determination of an application for planning permission until that separate statutory process is completed.
 - (iv) A grant of planning permission does not, in any event, authorise an obstruction of any public right of way (see, for instance: *Malvern Hills District Council v Secretary of State for Housing, Communities and Local Government* [2021] EWHC 129, at paragraph 29). So even if permission was granted for a development which obstructed a public



right of way, the obstruction could not lawfully occur. Council, as well as members of the public, could by way of court declaration protect any public right of way from development which obstructed it. This is a trite position, which has been recognised by the Council in the past (see, for instance, its grant of permission for Rigged Hill and informatives attached to the same (*"This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands"*)).

- (v) However, on careful analysis, even if one takes the claimed public rights of way at face value, there will be no obstruction. If one looks at the roughly sketched overlay of the claimed public rights of way that is appended by Catriona McReynolds and Nodlaig Ní Bhrollaigh with their 26 August 2026 speaking note, one can see that the black dashed lines do not, in fact, appear to be obstructed by the proposed development. Our client has undertaken further, more detailed analysis of its own based on much more accurate mapping, and has confirmed that with appropriate micro siting, there will not be any physical obstruction of the claimed public rights of way in any event. Accordingly, the concern in the Mclvor Farrell letter falls away entirely.
- (vi) It is worth highlighting, nevertheless, that these are nothing more than claimed public rights of way at this stage. It is understood by our client that the relevant landowners contest the existence of these claimed public rights of way. They have not been asserted by the Council or confirmed in any legal proceedings. They are entirely speculative. It cannot be the case that an objector can stymie an application for planning permission by producing a map with a claimed public right of way across it and demands that the application be delayed until a lengthy investigation into that has concluded. In a separate letter sent by Mclvor Farrell to the Council on 13 August 2026 (which also threatened urgent legal proceedings which never, ultimately, materialised), the uncertainties around the claimed public rights of way and the need for evidence and, if necessary, legal action was acknowledged:

"The precise legal status, alignment and extent of any public right of way will ultimately be a matter to be established by evidence and, if necessary, determined by the appropriate legal process".

- (vii) So far as impacts on tourism are concerned, Chapter 13 of the Environmental Statement deals with impacts on tourism including, importantly, on tourism associated with walking (see, for instance: 13.47 to 13.49). Our client remains of the view that *"no significant negative impact on the tourism sector has been identified"*. The claimed public rights of way do not change the analysis in any way. Additionally, the Landscape and Visual Impact Assessment, updated most recently in the Further Environmental Information, looks at tourism and amenity provision, including walking (see, notably, paragraphs 2.100 to 2.103). The assessment already acknowledges, in the context of the Ulster Way, that there will be adverse effects along an identified stretch of the Ulster Way. The impacts of the proposal within the application site, and beyond, have been fully assessed. Nothing in the claimed public rights of way changes the analysis.

When one, therefore, takes a step back it can be seen that:



- (1) Objectors have done nothing more than claimed that a public right of way exists;
- (2) Even if they are right about the extent of the claimed public of right of way—which, it is understood, will be contested by landowners—on even their own analysis there will be no physical obstruction from this development (and, even if there was, as a matter of law, planning permission does not override a public right of way anyway so the point goes nowhere);
- (3) Impacts on tourism have already been considered including in a bespoke chapter in the environmental statement and in the landscape and visual impact assessment. The claimed public rights of way do not change the analysis.

Against that backdrop, there is no justification whatsoever for deferring the determination of this application as requested. An adequate assessment of the impacts of this proposal can be made now. The Mclvor Farrell letter is, on proper analysis, a further delaying tactic which, if accepted, would delay determination of this planning application for many years and enable objectors to stymie developments by claiming last minute that public rights of way exist and demanding that no decisions be made until their claims have been determined. The reality is that the objectors have been on notice of this application for over three years now and have only yesterday submitted to the Council a Public Right of Way Investigation Initiation Application. They have dragged their heels and should not be allowed to benefit from the glacial pace at which they are pursuing their claimed public rights of way at the expense of our client who has a reasonable expectation, three years on, for a decision on its application. Our client is entitled to have this application determined now on its merits in light of the circumstances that exist on the ground at present.

Our client reserves its rights in the event of a further unjustified deferral including its rights of non-determination appeal. Any deferral on grounds set out by Mclvor Farrell is not justified on its merits and will form the basis of an application for costs in any non-determination appeal on grounds of unreasonably causing an unnecessary appeal.

This letter is being copied to Mclvor Farrell. If any application for legal aid has been or is being made in connection with this matter, this letter must be placed before the Legal Services Agency.

Yours faithfully

TLT NI LLP

Andrew Ryan
Partner
for TLT NI LLP

Cc Mclvor Farrell Solicitors Ltd