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Your Ref:

24 August 2026

URGENT LEGAL CORRESPONDENCE PROPOSED PROCEEDINGS

BY EMAIL ONLY

The Chief Executive
Causeway Coast and Glens Borough Council
Cloonavin
66 Portstewart Road
Coleraine
BT52 1EY

Email:

Dear Sirs

Re: Planning Application LA01/2023/0008/F, Brishey Wind Farm, Benbradagh Mountain; Asserted Public Rights of Way; Removal of Wayfinding Signage; Erection of "No Trespass" Signage; Tourism, Recreation and Public Access; PEACEPLUS Funding; and Preservation of Evidence

We act on behalf of Sábháil Binn Bradach / Save Benbradagh Community Group ("Save Benbradagh").

We write regarding planning application LA01/2023/0008/F, which is listed for consideration by the Council's Planning Committee on Wednesday, 26 August 2026 at 10.30 am.

The Council's published agenda identifies the application as agenda item 5.1. It concerns lands approximately 1.86 km WSW of 175 Gelvin Road, in the townlands of Brishey and Curraghlane, approximately 4.8 km east of Dungiven.

Our client's position is that the issues concerning asserted public rights of way, public access and recreational pathways on Benbradagh Mountain must be properly investigated and addressed before the planning application is determined.

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Ireland Office: 6 – 9 Trinity Street, Dublin 2 • Tanya Jennings BA Hons. is a member of the Childrens Order Panel

1. Public Right of Way Investigation Application

We are instructed that, on 24 August 2026, Save Benbradagh submitted a Public Right of Way Investigation Initiation Application to the Council, together with supporting material.

That material includes the investigation form and pathway mapping concerning routes on Benbradagh, including routes between Curragh Road, Boviell Road, Gelvin Road, Lenamore Forest, the summit, the former United States communications base and the bunker.

The supporting material asserts longstanding public use and public pathway rights affecting the area. It refers to documentary, mapping and witness evidence, with further evidence to follow.

The asserted routes include, in particular:

1. the routes from all access points (Curragh Road, Boviell Road, Gelvin, Peter's Road) used by pedestrians and cyclists to the former United States communications base at the summit of Benbradagh, a place of historical and tourist interest associated with what is locally known as the "American Road"; and
2. the routes from all access points across Benbradagh Mountain between Curragh Road and Gelvin Road/Peter's Road, used by pedestrians and cyclists, and
3. the routes from all access points used by pedestrians and cyclists to the peak of Benbradagh, a public viewing point and place of tourist interest off the Ulster Way/ Appalachian Trail; and
4. the routes from all access points used by pedestrians and cyclists to the US bunker at the summit of Benbradagh, a place of historical and tourist interest.

We are instructed that the public has used these routes over many decades. The routes are said to provide access to important natural, cultural and historic features and to afford views across Binevenagh, Lough Foyle, the Donegal hills and Carn Tóchair.

The area has also been used for community and customary sporting activities, including the annual "Poc Fada" event organised by a local hurling club. These uses are relevant to the recreational, cultural and community significance of the routes and to the nature and extent of public use.

2. Previous Notice to the Council

The Council was placed expressly on notice of these matters by Save Benbradagh's letter dated 3 November 2025 concerning application LA01/2023/0008/F.

That letter:

1. requested, as a matter of priority, the formal recording of the pathway over Benbradagh;

2. identified the former United States communications base and the route between Curragh Road and Gelvin Road as relevant destinations and termini;
3. asserted longstanding use by members of the public, including pedestrians and cyclists;
4. explained the importance of the routes to community health and well-being, tourism, recreation and access to local heritage;
5. referred to the route's significance for Dungiven and the wider Sperrins area;
6. drew attention to the Council's statutory functions concerning the assertion, protection and keeping open of public rights of way; and
7. identified published tourism and recreational material said to show or promote routes associated with Benbradagh, including the Ulster Way, the International Appalachian Trail, the North Sperrins Way and the Council's January 2025 Walking Festival.

The November 2025 correspondence also referred to the Council's support for the International Appalachian Trail and to publicly available Council and tourism material concerning walking routes in the area. Those matters are capable of being relevant to the Council's knowledge of, and treatment of, public recreational access to Benbradagh.

The Council has therefore had notice of the asserted right of way and the associated public access issues since at least 3 November 2025. These issues have not arisen for the first time immediately before the Planning Committee meeting.

Further, by correspondence dated 17 August 2026, this office sought confirmation that the Brishey Wind Farm application would not proceed until the investigation into the asserted rights of way over Benbradagh Mountain had been completed. Subsequent correspondence also records that Council officers intended to engage with the public to ascertain the position concerning public access at the site.

3. Statutory Functions Concerning Public Rights of Way

The Council's attention is drawn to Article 3 of the Access to the Countryside (Northern Ireland) Order 1983, which provides for district councils to assert, protect and keep open and free from obstruction or encroachment any public right of way.

Our client maintains that the asserted routes warrant urgent investigation in accordance with the Council's statutory functions. The fact that a route may not yet have been formally recorded does not, of itself, determine whether a public right of way exists. Its existence falls to be assessed by reference to the relevant evidence, including evidence concerning dedication, acceptance and public use as of right.

The November 2025 correspondence also referred to departmental guidance identifying factors relevant to the prioritisation of public right of way investigations, including:

- the length of the route;
- its scenic attractiveness;
- links to sites of tourist interest;
- likely levels of use; and
- its inclusion within a network of paths or a long-distance route.

On our client's case, the asserted Benbradagh routes engage each of those considerations. The present investigation should therefore be treated as a priority, particularly given the imminent proposed determination of a substantial renewable-energy development capable of affecting the routes and their use.

4. Constitution and Community Interest

Our client is a constituted community group. The constitution of Sábháil Binn Bradach / Save Benbradagh Community Group records that the association was established in September 2023 and that its constitution was adopted on 6 March 2024.

Its stated objects include conserving and promoting the environmental and cultural heritage of the Benbradagh area, preserving walking routes and enhancing public access.

Our client has a direct and legitimate interest in ensuring that the Council properly investigates the asserted public rights of way and fully assesses the effects of the proposed development on tourism, recreation and access to the countryside.

5. Strategic Planning Policy Statement, Edition 2

The Council's attention is expressly drawn to paragraph 6.223 of the **Strategic Planning Policy Statement for Northern Ireland, Edition 2 (December 2025)** ("SPPS Edition 2").

Paragraph 6.223 provides that renewable and low-carbon energy development, together with associated buildings and supporting infrastructure, will be permitted where the proposal will not result in an unacceptable adverse impact, alone or in combination with other developments, on specified planning considerations.

Those considerations expressly include:

- public safety;
- human health;
- residential amenity and impacts on other sensitive receptors, including communities and individuals;
- visual amenity and landscape character, including cumulative impact;

- biodiversity, geodiversity, nature conservation, archaeological and built heritage interests;
- local natural resources;
- the capacity of, and effects on, the transportation network; and
- **impacts on tourism, recreation and public access to the countryside.**

The asserted public rights of way, evidence of longstanding recreational use, historic and tourism value of the routes, use for customary sporting activities, and reported removal of wayfinding signage and erection of “No Trespass” signage are directly relevant to the assessment required by paragraph 6.223.

These matters are not collateral to the planning decision. They engage an express planning consideration under the applicable regional planning policy.

In particular, the Council must have an adequate evidential basis upon which to assess:

1. the nature and extent of existing public access;
2. the routes used by the public and the destinations served by those routes;
3. the likely effects of the proposed development on the continued use, amenity and accessibility of those routes;
4. the proposal’s effects on local tourism and recreation;
5. any obstruction, diversion, interruption or discouragement of public use;
6. the relationship between the asserted routes and wider recreational networks; and
7. any cumulative effects arising from this and other development.

The Council cannot lawfully or rationally conclude that the proposal will not have an unacceptable adverse impact on tourism, recreation and public access to the countryside unless those matters have first been properly identified, investigated and assessed.

Determination of the application while the asserted rights of way remain under active investigation would risk proceeding on incomplete information, failing to take account of material considerations and frustrating the effective performance of the Council’s statutory functions.

6. Required Action

In those circumstances, our client requires the Council to adjourn, defer or otherwise withdraw application LA01/2023/0008/F from the Planning Committee schedule for 26 August 2026, pending:

1. proper investigation of the Public Right of Way Investigation Initiation Application;
2. consideration of the associated documentary, mapping and witness evidence;
3. meaningful public engagement concerning use of the routes;
4. identification of the nature and extent of existing public access; and
5. a lawful and evidence-based assessment of the matters specified in paragraph 6.223 of SPPS Edition 2.

Please provide a substantive written response confirming:

1. whether application LA01/2023/0008/F will remain before the Planning Committee on 26 August 2026;
2. whether the Council will adjourn, defer or withdraw the application pending proper investigation of the asserted public rights of way and public access issues;
3. what consideration the Council has given to Save Benbradagh's letter dated 3 November 2025 and its subsequent correspondence and submissions;
4. what steps have been taken, or will now be taken, to investigate the asserted routes;
5. what consideration has been given to the supporting documentary, mapping and witness evidence;
6. how the Council proposes to assess the application against paragraph 6.223 of SPPS Edition 2, particularly in respect of tourism, recreation and public access to the countryside;
7. whether the Planning Committee has been, or will be, provided with Save Benbradagh's submissions and informed of the pending public right of way investigation;
8. whether the Council accepts that determination should not proceed in the absence of a properly informed assessment of these issues; and
9. if the Council refuses to adjourn, defer or withdraw the application, the full legal, policy, evidential and factual basis upon which it proposes to proceed.

7. Preservation of Evidence

The Council is required to take immediate steps to preserve all documents and information relevant to these matters, including:

1. internal and external correspondence concerning the asserted routes and public access to Benbradagh;

2. maps, photographs, videos, site inspection records and geographic information system data;
3. records concerning wayfinding, trail or “No Trespass” signage, including its installation, removal, replacement or alteration;
4. records of communications with the applicant, landowners, occupiers, statutory consultees, tourism bodies, community groups and members of the public;
5. records concerning the Ulster Way, International Appalachian Trail, North Sperrins Way and any other walking or recreational route associated with Benbradagh;
6. records relating to walking festivals, tourism promotion, trail funding, PEACEPLUS funding and recreational infrastructure;
7. minutes, notes, reports and recommendations concerning public access or rights of way; and
8. documents relevant to the Council’s assessment of paragraph 6.223 of SPPS Edition 2.

This preservation requirement extends to electronic documents, emails, messages, metadata, archived material and documents held on personal devices or accounts where used for Council business. No relevant material should be deleted, altered, overwritten or destroyed.

8. Deadline and Proposed Proceedings

Given the imminent Planning Committee meeting, a substantive and satisfactory written response is required **no later than 12.00 noon on Tuesday, 25 August 2026**.

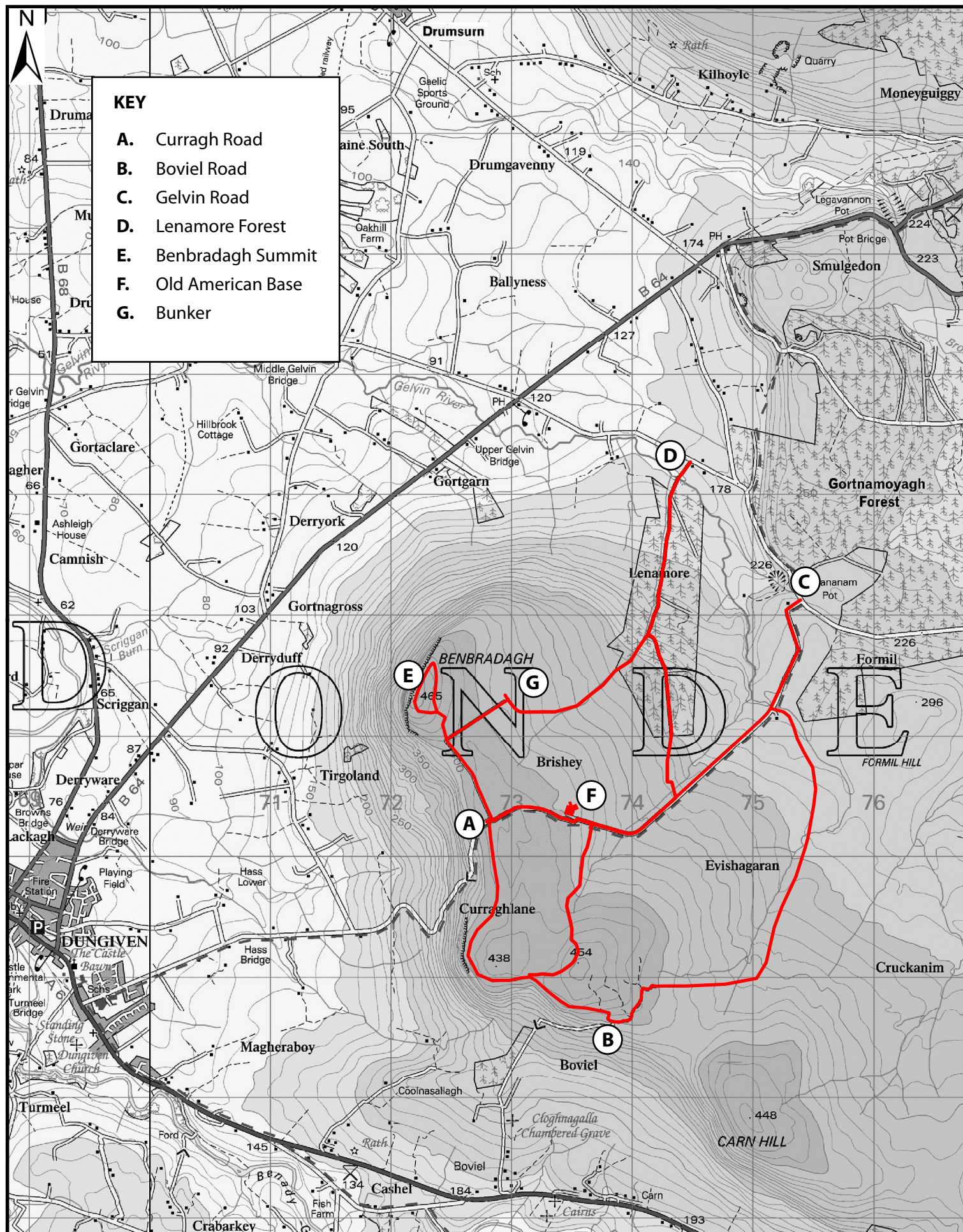
If such a response is not received by that deadline, our instructions are to issue proceedings forthwith and without further notice. Those proceedings may include an application for urgent interim relief preventing determination of application LA01/2023/0008/F pending resolution of the relevant issues.

Our client will place this correspondence before the Court and rely upon it in relation to costs, including as evidence that the Council was given a reasonable opportunity to avoid proceedings but failed to provide a timely and satisfactory response.

For the avoidance of doubt, our client reserves all rights and remedies, including the right to seek interim and final injunctive relief and such other relief as may be appropriate. Nothing in this correspondence constitutes an exhaustive statement of our client’s grounds, evidence or legal position, all of which are expressly reserved.

Yours faithfully

Ciaran O'Hare LL.B
McIVOR FARRELL SOLICITORS LTD.



Map 01. Benbradagh Mountain Public Pathways

Scale: 1 : 40,000 (@ A4) See also scalebar	Rev: *	Date: 20.08.2026
Revision:		Date:
Revision:		Date: