

Laura Crawford

From: martin g tracey
Sent: 25 August 2025 22:52
To: Planning
Cc: DFI Regional Planning; PlanningResponse.Team@daera-ni.gov.uk; PACNI Info; Private Office Attorney General
Subject: Subject: For Circulation to Planning Committee – Representation re PAC Decision 2023/A0099 (RES Magheramore Wind Farm)
Attachments: PAC Appeal Decision 2023 A0099.docx; ViewDocument (3).pdf

To: Committee Clerk / Democratic Services Officer
Cc: Head of Planning, Causeway Coast & Glens Borough Council
Subject: For Circulation to Planning Committee – Representation re PAC Decision 2023/A0099 (RES Magheramore Wind Farm)

Dear Committee Clerk,

Please accept this correspondence as a formal written representation to the Planning Committee under the Council's procedures.

I request that the attached letter is:

1. Formally circulated to all Planning Committee members in advance of the meeting on Wednesday 27th August 2025, and
2. Placed on the public record as a representation in respect of agenda item relating to the PAC decision 2023/A0099 (RES Magheramore Wind Farm, LA01/2019/0922/F).

The letter sets out serious concerns regarding the lawfulness of the PAC's decision, the continuing statutory duties of Causeway Coast & Glens Borough Council as the competent authority, and the requirement for the Council to consider enforcement or Judicial Review.

I would be grateful if you could confirm receipt and circulation by return email, thank you !

Signed

Martin Tracey

Sent from [Outlook for Android](#)

Formal Representation to Planning Committee

Causeway Coast & Glens Borough Council

Planning Committee – Wednesday 27th August 2025

Ref: PAC Appeal Decision 2023/A0099 (RES Magheramore Wind Farm, LA01/2019/0922/F)

Submitted by: Mr Martin Tracey

1. Purpose of this Representation

This representation is submitted for circulation to all Planning Committee members and to be placed on the public record. It concerns the Planning Appeals Commission (PAC) decision dated 31 July 2025 which overturned the Council's refusal of planning application LA01/2019/0922/F and granted full permission for the RES wind farm at Magheramore.

I respectfully submit that the PAC decision is legally defective under the Habitats Regulations and that the Council, as competent authority, retains statutory responsibility to take urgent action.

2. Council's Continuing Statutory Duties

Regulation 43 of the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 requires the competent authority to ensure, beyond reasonable scientific doubt, that there will be no adverse effect on the integrity of European sites.

Sections 131 & 147 of the Planning Act (NI) 2011 make the Council responsible for discharging and enforcing conditions, regardless of whether the PAC or the Council granted permission.

The Council's statutory duties therefore continue throughout implementation of the project.

3. Defects in the PAC Decision under Habitats Regulations

The Shared Environmental Services Appropriate Assessment (22 March 2023) concluded “no adverse effect on site integrity (NAESI)” only if the following measures were secured by condition:

1. Final CEMP/CDMS with WMU oversight.
2. Operational SuDS maintenance programme (pre-operation).
3. Consent to Discharge (WMU) in place before development commences.
4. Decommissioning Plan submitted at least one year before end-of-life.

The PAC's permission fails to secure these safeguards. In particular:

No condition requiring an operational SuDS maintenance programme;

No condition requiring Consent to Discharge prior to commencement;

No requirement for CDMS to WMU eight weeks pre-works;

A weakened decommissioning condition requiring restoration only at expiry.

This renders the PAC's permission contrary to Regulation 43(1)(b) & (5) and the precautionary principle in Waddenzee (C-127/02).

4. Council's Legal Risk

If the Council allows works to proceed under the current PAC permission, it will be complicit in an unlawful breach of the Habitats Regulations and EU obligations under the Windsor Framework.

The Council itself originally refused this application, recognising significant harm. It cannot now simply “note” the PAC decision when that decision is weaker than the safeguards required by SES's Appropriate Assessment.

5. Required Action by the Council

The Council must therefore:

1. Confirm that no works may commence until all SES AA mitigation measures are lawfully secured.

2. Use its statutory enforcement powers under the Planning Act 2011 to prevent unlawful commencement.

3. Where the PAC has issued a permission incapable of lawful implementation, either:

Initiate Judicial Review to have the PAC decision quashed; or

Formally support third-party proceedings to the same effect.

6. Notice of Escalation

If the Council fails to take one of the above steps, I will escalate by:

Referring the matter to the Attorney General for NI;

Lodging complaint with the NI Public Services Ombudsman;

Initiating Judicial Review proceedings myself, naming the Council as an interested party that has failed in its statutory duty.

7. Conclusion

The Council cannot discharge its obligations by passively noting the PAC decision. It must now act to uphold its statutory duties under the Habitats Regulations and the Planning Act.

For the avoidance of doubt, I request that this representation is formally placed before the Planning Committee on Wednesday.

Yours faithfully,

Martin Tracey