

**Strategic, pragmatic
and focused support**
Planning and Environmental
Group Experience



2019 was a busy year for our Planning and Environmental Group which advised on a number of high profile disputes and non-contentious matters.

Our dedicated planning and environmental team is proud to have advised clients from a wide range of sectors on the following matters in the last 12 months:

- Advising a **waste management company** in respect of a National Trans-Frontier Shipment Office (NTFSO) investigation relating to alleged illegal shipments of waste from Ireland to another EU country under Council Regulation 1013/2006 (the EU TFS Regulation).
- Advised **Black Lough Wind Farm Limited**, a wind farm development company, in a dispute with an adjoining landowner in respect of a breach of a wayleave agreement with our client which permitted our client to lay underground cables on the lands adjoining an ESB substation. The proceedings involved an analysis of the legal status of a **section 5 declaration (exempted development)**. The dispute also involved a third party windfarm developer that was also seeking access to the same ESB substation and both matters were successfully resolved by settlement out of court.
- Advised an **American data centre development company** (confidential) in respect of its multi-million Euro investment in a data facility to build a pair of two storey data centres on a site in west Dublin and associated planning matters. The project involved undertaking a review, in consultation with planning consultants, on the content of the planning application, associated EIAR and a subsequent **Request for Further Information** from the planning authorities.
- Advising **Burkeway Barna Limited** following a successful grant of planning permission in relation to a proposed development in Barna, Co. Galway. Judicial Review proceedings were issued against An Bord Pleanála, with our client named as a notice party, with a view to quashing the decision of An Bord Pleanála. The Applicants also sought a **protective costs order** relief under Section 50B of the Planning and Development Act 2000.
- Advised a (confidential) **property development group** on successfully seeking a **second extension of a planning permission** for 185 homes granted by the local planning authority. The decision created new precedent on the interpretation of Section 28 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and Section 42 of the Planning and Development Act 2000.
- Acted for **Spencer Place Development Company Limited** in its High Court judicial review challenge against Dublin City Council as regards the Council's interpretation of Ministerial Planning Guidelines of December 2018, particularly the application of those guidelines to a planning application made by our client to add two floors to what is known as 'Salesforce Tower' in Dublin.

- Advised **Dublin Port Company** in defending threatened **injunction proceedings** including allegations that the dredging activities associated with the Alexandra Basin Redevelopment Project were being undertaken in breach of the **planning permission** and/or were contrary to the requirements of the Environmental Impact Assessment Directive (EIA Directive) and/or the Habitats Directive.
- Advising **Spencer Place Development Company Limited** in its defence of multi-million Euro High Court proceedings arising from the alleged movement of **6,000 tonnes of alleged hazardous waste** from a site at Spencer Place to a licensed inert waste facility in County Dublin. Also advised on associated indemnification issues and engagement with the EPA.
- Advising a **real estate investment Plc** (confidential) in respect of a **Section 154 enforcement notice** under the Planning and Development Acts 2000-2016. It was alleged that certain apartments were in use as short term/overnight guest accommodation without the benefit of planning permission.
- Advised **Kitara Limited** in its defence of a multi-million Euro claim comprising eighty High Court proceedings relating to **allegations of pyritic heave** in a large residential complex in north County Dublin. The claims were brought on behalf of homeowners at the residential development by their insurer and related to alleged breaches of a number of construction contracts, building agreements and associated contracts for sale.
- Advised a **private client** who is the owner and occupier of No 6 Ormond Quay Upper, Dublin 7, a protected structure which is also scheduled under the National Monuments Acts. Our client issued planning injunction proceedings under Section 160 of the Planning and Development Act, 2000 asserting the recently commenced works were not being carried out in compliance with planning permission and there was a real risk of immediate damage being caused to our client's home (a unique and historic building which dates back to the 17th Century) as a consequence of the failure of the developer to adhere to the planning conditions.
- Advising a **windfarm development company** (confidential) in County Donegal in respect of a dispute with a neighbouring landowner. The permitted wind farm development has been accepted into the REFIT 2 (Renewable Energy Feed-in Tariff) scheme. The defendant placed a physical obstruction to the lands to prevent our client entering onto the lands to construct a windfarm despite our client having a written contractual right to do so. Our client issued proceedings seeking injunctive relief and due to the urgency and value of the dispute the proceedings were entered into the Commercial Court.

Key contacts

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