APPROVED **[2026] IEHC 546**

THE HIGH COURT

PLANNING AND ENVIRONMENT

H.JR.2025.0000878

IN THE MATTER OF SECTION 50, 50A AND 50B OF THE PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED

BETWEEN

COUMNAGAPPUL WIND FARM LIMITED

APPLICANT

-and-

AN COIMISIÚN PLEANÁLA

RESPONDENT

JUDGMENT of Mr Justice Nolan delivered on the 31st day of July 2026

Introduction

1. This is an application pursuant to s. 50(8) of the Planning and Development Act 2000, as amended ("the 2000 Act"), to extend the period prescribed by s. 50(6) within which to apply for leave to seek judicial review of a Decision of the Commission made on 11 April 2025.

Background

2. The Applicant is a limited liability company and by an application dated 19 May 2023, sought planning permission to build a windfarm on certain lands. The proposed development consists of 10 turbines and associated infrastructure at the townlands of Coumnagappul, Carrigbrack, Knockavanniamountain, Barricreemountain Upper and Glennaneanemountain,

Skeehans, Lagg, Co. Waterford. By its Decision made on 11 April 2025 the Commission refused permission for the development as set out in that Decision. The Applicant says it decided it would challenge the Decision by way of judicial review but due to what is described as mistaken legal advice, it failed to apply for leave within the statutory eight-week period provided under the legislation.

3. Humphreys J. made an Order on 30 June 2025, extending the time to make an application for leave to apply, subject to the entitlement of the Respondent ("the Commission") to object. This it did, thus this application. The Applicant submits that mistaken legal advice is good and sufficient reason for the purposes of the test as set out in section 50(8) of the 2000 Act, while the Commission disagrees.

Section 50(8) of the 2000 Act

4. Section 50(8) of the 2000 Act provides:

> *"(8) The High Court may extend the period provided for in subsection (6) or (7) within which an application for leave referred to in that subsection may be made but shall only do so if it is satisfied that —*
>
> *(a) there is good and sufficient reason for doing so, and*
>
> *(b) the circumstances that resulted in the failure to make the application for leave within the period so provided were outside the control of the applicant for the extension."*

5. Therefore, there are two considerations for the Court in order; firstly, the Court must determine whether there is good and sufficient reason for extending the period within which to apply for leave to seek judicial review and secondly that the circumstances that resulted in the failure to make the application for leave within the period were outside its control.

The Timeline

- 11 April 2025; the Commission makes its decision.
- 14 April 2025; a physical copy of the decision was issued by the Commission.
- 16 April 2025; the decision was received by the Applicant.
- 16 April 2025; the decision was published on the Commission's website (at *https://www.pleanala.ie/en-ie/case/318446*) recording "*11/04/2025 Refuse Perm*."
- 17 April 2025; the Applicant's solicitor received the decision from the Applicant.
- 9 May 2025; "kick-off" call was made with the Applicant and its solicitors.
- 27 April 2025; date mistakenly read by the Applicant's solicitor as the date of the decision.
- 5 June 2025; pursuant to s.50(6) of the 2000 Act, the eight-week statutory period expired.
- 11 June 2025; error discovered during drafting of the Statement of Grounds.
- 13 June 2025; the Application for leave to seek extension of time to apply for judicial review.
- 30 June 2025 Humphreys J. granted an extension of time "*subject to the entitlement of the respondent to object*".

6. Therefore, that application was made eight days outside the statutory period.

The Explanation Offered

7. The affidavit of the solicitor dealing with the file, sworn on 13 June 2025, states that while he reviewed the order of An Bord Pleanála's (now the Commission) on 9 May 2025, during what he describes as a "kick-off" call with the Applicant, seeking to instruct counsel. I assume that a "kick-off" call refers to an initial consultation at the commencement of the judicial review process. As an observation, even on the Applicant's own mistaken timeline, this

review occurred 22 days after receipt of the papers. One might have expected the matter to have been addressed sooner, given the importance to the Applicant.

8. The solicitor explains that, when calculating time, he misread the handwritten date on page 9 of the Commission's order, mistakenly reading it as 27 April 2025, when in fact it was 11 April 2025. As a result, he advised the Applicant that the time within which to bring an application for leave to challenge the Decision would expire on 22 June 2025. As that date fell on a Sunday, the operative date would have been the following day, 23 June 2025, although he advised that it would be prudent to issue proceedings by 18 June 2025.

9. The affidavit says that the consequence of this error was that all involved proceeded on the basis that the time limit for challenging the Decision expired on 22 June 2025, rather than on the correct date of 5 June 2025. However, the mistake was not confined to the solicitor. The Applicant itself had all the information concerning the applicable time limit, since it is standard practice and it is not in dispute that the Commission's order was furnished with a judicial review notice setting out the applicable eight-week time limit (as confirmed in the affidavit of the Director of Legal Affairs of the Commission).

10. There is no evidence before the Court as to what steps, if any, the Applicant took regarding the calculation of time.

11. It should also be noted that, even on the incorrect calculation, there remained just over three weeks between the solicitor's review of the file on 9 May 2025 and the actual expiry of the statutory time limit on 5 June 2025.

12. In fact, the error was not discovered for another four weeks, until 11 June 2025. Indeed it would seem from the precise wording of the affidavit, that the solicitor did not identify the problem, since the affidavit says that the firm, by which I presume the solicitor, "*became aware of the error shortly after close of business on 11 June 2025, when it was brought to its attention during the course of the drafting of the Statement of Grounds herein that the Board's website*

indicated that the Decision was made on 11 April2025 and not 27 April 2025". It would appear it was then communicated to the Applicant on the following day, 12 June 2025.

13. The affidavit does not identify who first detected the error, but it may well be the case that it was counsel who informed the solicitor of it. In his second affidavit, sworn on 22 May 2026, the solicitor again attributes the error to his misreading of the handwritten date appearing on page 9 of the Decision. He states that he did not review page 10 of the PDF, which was an important appendix, which clearly records that the date of the Decision was in fact 11 April 2025.

14. The solicitor maintains that the timeline notice was not furnished to his firm. But as experts in this area of law, he and his firm were already well aware of the applicable statutory time limits and therefore had in their possession all of the information necessary to calculate accurately the date on which time would expire.

Submissions

15. Mr. McGrath SC for the Applicant confronts the contention of the Commission that a mistake or incorrect legal advice can never comprise circumstances outside the control of the Applicant can amount to good and sufficient reason. He relies on the case of *F.G. v The Child and Family Agency* [2016] IEHC 156 and the Supreme Court's decision in the same case *G v The Child and Family Agency* [2018] IESC 28. He submits that these cases are clear authority that incorrect legal advice is capable of satisfying the test set out in section 50(8), of the 2000 Act.

16. He contends that the explanation for the delay — incorrect legal advice as to the applicable time limit — is capable of amounting to good and sufficient reason, particularly in light of *G*. He says the Commission's reliance on cases concerning mere ignorance of the law

or ignorance of judicial review time limits is misplaced, because those cases address a different issue.

17. Relying on *Heaney v. An Bord Pleanála* [2022] IECA 123, para. 95 and *Thomson & anor v An Bord Pleanála* [2025] IESC 31, Mr. McGrath says this requires a holistic assessment of all relevant circumstances, not just on a narrow focus on the reason for delay alone. The Court has a broad discretion and may consider factors such as the public interest and competing interests and must ultimately decide whether an extension is justified in the interests of justice. A reason may be *"good"* in principle but still not *"sufficient"* if outweighed by other considerations.

18. Mr. Foley SC for the Commission relies on *Casey v An Bord Pleanála* [2004] 2 ILRM 296*, S,* referred to above and *G.K. v International Protection Appeals Tribunal* [2022] IEHC 204, for the proposition that an applicant in judicial review proceedings is generally bound by the acts and omissions of their legal advisers. On that basis, any delay caused by a solicitor, counsel, or other legal agent — including a mistake in calculating time — is ordinarily attributable to the applicant. The Commission submits that the error regarding the applicable time limit is not, without more, a good and sufficient reason to extend time, and that the Applicant cannot characterise its advisers' error as something outside its control for the purposes of section 50(8)(b).

19. The Commission further relies on *O'Riordan v An Bord Pleanála* [2021] IEHC 1**,** *Reidy v An Bord Pleanála* [2020] IEHC 423**,** and *Heaney* to support its submission that ignorance or misunderstanding of the applicable limitation period does not justify an extension of time. It submits that a mistaken reading of the decision date, and the resulting miscalculation of the statutory deadline, is an internal matter within the Applicant's own sphere of responsibility rather than an external matter. The Commission says that treating such an error as "*good and*

sufficient" would undermine the certainty, finality, and effectiveness of the strict time limits imposed by section 50 of the 2000 Act.

The Caselaw - Discussion

20. At the outset I think it would be useful to tease out the submission of the Applicant. Mr. McGrath submits that incorrect legal advice can be capable of satisfying the test for an extension of time, relying on McKechnie J.'s decision in *G*. He submits that the Supreme Court has clearly indicated that a mistaken understanding of the law may, in certain circumstances meet the test to extend time and that the circumstances that resulted in the failure to make the application within time were outside the control of the Applicant.

21. But the facts in *G* were quite singular. In that case the applicant said that she received legal advice that the limitation period for judicial review was six months, when in fact it had been reduced to three months, three years before. It is not clear that the legal advice was intended for her, but even if it was, it was an email copied on to her from a legal executive in a firm of solicitors she had contacted. That was in April 2015. She then applied as a litigant in person, in July 2015 for judicial review, but her application was refused as being out of time. She applied again nearly a year later. Humphreys J. observed as follows: -

> *"12. All of the circumstances must be taken into account, including in particular the fact that the applicant is seeking new additional reliefs in her present application, and is bringing significant new evidence to bear in relation to the reliefs that were refused ex parte on a previous occasion.*
>
> *13. There are a number of factors as a matter of law to significantly distinguish the present application from that before Noonan J. Firstly, in the original application, the applicant appears not to have sought an extension of time. Such an application was, therefore, not refused, because it was not made. The fact that a particular application*

may be out of time does not, at the level of principle, absolutely preclude in all circumstances a subsequent application for an order extending time.

14. Furthermore, the interests of justice are of significance in this context. The applicant not only states that she was misadvised by her legal advisers as to the limitation period, but has produced documentary evidence to that effect. She has, in fact, shown the entire, unredacted email from her counsel to me prior to my directing that the agency be put on notice, although only a redacted version is exhibited… However, what purports to be legal advice as to the limitation period as set out in the redacted version is a separate matter and is clear and unambiguous. Assuming that the document exhibited by the applicant is a true copy of the email containing the advice given to her, and for the purposes of these proceedings I have no reason to think it is not, that advice was incorrect. It must have, therefore, been something of a surprise to her that her original application was rejected as out of time. Under those circumstances, it would not have been reasonable to expect an unrepresented applicant in particular to deal with such a situation on her feet on the day she was before Noonan J. I consider that the interests of justice should militate in favour of permitting the applicant to renew the ex parte application based on additional information and in the context of a new and express application for an order extending time."

22. The facts in that case could not be further than the facts in this case. Just a couple of important examples. Firstly, the Applicant was a litigant in person at the time she made her application to Noonan J. Secondly, the advice she received was from lawyers, who never represented her in the application in the High Court and Supreme Court. Thirdly, in her second application she sought further reliefs and was bringing further evidence before the court. Humphreys J. placed significant emphasis on the interests of justice in circumstances where her legal advice had misled and may have abandoned her.

23. In the Supreme Court McKechnie J. again placed emphasis on the further evidence that had evolved in the meantime. He noted that there had not been an application for extension of time before Noonan J. It is clear from the judgment that the court considered that the email with the incorrect advice was a piece of material evidence which *"was capable of satisfying the test for an extension".* I do not consider that the words of McKechnie J. can be taken as setting aside the general rule that an applicant is bound by the actions or inactions of its lawyers. As Barr J., said in *Maguire v PSW Sales and Logistics* [2026] IEHC 81, at para. 64: *"It boils down to fundamental principles of agency law. The plaintiff, qua principal, cannot appropriate the actions of a solicitor which are to his benefit; while at the same time reprobate those actions of a solicitor which are not in his interests".*

24. In *Thomson,* the Supreme Court further considered the analysis that the court must carry out when determining whether there is "*good and sufficient reason"* to extend time. Woulfe J. noted the observations of Baker J. in *Irish Skydiving Club Ltd v An Bord Pleanála* [2016] IEHC 448, where she said:

> "*11. The time limit is strict, and one in respect of which the power to grant an extension is also to be strictly construed. That this is justifiably so has been considered in a number of* cases".

25. Woulfe J. noted that it is important to consider the phrase "*good and sufficient reason*" in the context of the overall language used in section 50(8). The court has a broader discretionary jurisdiction which must be exercised in accordance with the relevant principles in the interests of justice, as observed by Finlay Geoghegan J. in *M O'S v The Residential Institutional Redress Board* [2018] IESC 61. Finlay Geoghegan J. went on to say at para. 60 of her judgment in regard to similar provision in the rule Order 84, rule 21:

> *"It also requires the Court to consider whether the reasons proffered by an applicant objectively explain and justify the failure to apply within the time specified and any*

subsequent period prior to the application and are sufficient to justify the Court exercising its discretion to extend time…The case law makes clear that the Court must also have regard to all the relevant facts and circumstances, which include the decision sought to be challenged, the nature of the claim made that it is invalid or unlawful and any relevant facts and circumstances pertaining to the parties, and must ultimately determine in accordance with the interests of justice whether or not the extension should be granted…The judgments cited do not, in my view, admit of a bright line principle which precludes a Court taking into account a relevant change in the jurisprudence of the courts when deciding whether an applicant has established a good and sufficient reason for an extension of time."

26. It seems to me that the last observation has particular resonance in this case when one considers the Planning and Development Act 2024, recently introduced. The provision dealing with precisely the same issue is section 281 which reads as follows: -

"(3) The High Court may grant an order under subsection (2), and make such consequential orders as it considers appropriate in the circumstances, if it is satisfied that—

(a) there is good and sufficient reason for doing so, and

(b) the circumstances that resulted in—

(i) the proceedings being brought outside the period referred to in subsection (1), and

(ii) the delay, if any, between the expiry of the period referred to in subsection (1) and the proceedings being brought,

were outside the control of the party applying for the extension and the legal practitioners advising that party in relation to the application."

27. It is clear from the inclusion of the phrase "*the legal practitioners*" that the Oireachtas intended that the circumstances of a delay on the part of an applicant and/or of the legal practitioner advising that party, was something which would not be considered. To put it in simple language, the court must be satisfied that the reason for the delay was not the fault of the applicant or their lawyers.

28. While the Applicant submits that in *G.M. (Georgia) v The International Protection Appeals Tribunal* [2020] IEHC 32, Humphreys J. drew a distinction between general reliance or second guessing of lawyers, which would typically not amount to a good and sufficient reason, and cases where it is clear that the legal advice was wrong.

29. In *G.M.,* the explanations for the delay in challenging the original decision were that the applicants were advised that papers had been sent to counsel regarding a possible judicial review and there is no evidence that counsel had come back with a definite position, and secondly, that the applicants were not advised to seek a second opinion. He said at para. 5:

> *"To accept such an explanation would be to drive a coach and four through the legislation because it would apply to vast numbers of applicants, and indeed with a little adjustment could be made to apply to any applicant where the lawyers decide not to seek judicial review of a given decision. That would allow the dormant claimant to jerk into life months or years later and complain that the delay was the responsibility of their lawyers and not themselves."*

30. In my view the factual matrix of those cases, involving as they do, litigants in person, is not persuasive in the context of the facts in this case before the Court**.** The legal architecture surrounding the planning and IPAT codes are entirely different. The planning law code is complex and very many cases require applicants to seek expert advice. No more so than in this case, where it sought the advice of one of the leading firms in the country. Such expert lawyers are clearly the agents of their client when they interact with the planning code and its agencies.

31. In *Casey* a mistake by counsel about the computation of time was not excused. In that case (at page 308), Murphy J., in the context of refusing the applicant an extension of time to seek judicial review of a decision of the Board, unequivocally held that:

> *"Where there is a delay on the part of the applicant's (technical or legal) agent then that delay is attributable to the applicant as principal."*

32. In my view that case is much more in line with the situation here. Murphy J. cited the Supreme Court judgment of Denham J. in *S v Minister for Justice, Equality and Law Reform* [2002] 2 IR 163 as authority for this proposition. Notably, at page 167, Denham J. (as she then was) stated as follows:

> *"The delay in issue is essentially delay by legal advisers. Legal advisers have a duty to act with expedition in these cases. In general, delay by legal advisers will not prima facie be a good and sufficient reason to extend time. Circumstances must exist to excuse such a delay and to enable the matter to be considered further."*

33. In *G.K.* at para. 56 Barr J. refused an extension time in an asylum law judicial review, and rejected the applicant's explanation that the delay in bringing the proceedings had been caused by the applicant's legal adviser (namely other commitments of the applicant's counsel):

> *"56. Although there are potential significant consequences for the applicant, he is bound by the actions of his agent. He was legally represented at all points of his application for international protection, and those legal advisers must be taken to have known the relevant time periods within which to bring a challenge to the decision of the respondent. In considering this, the court has had regard to the extent of the delay…*
>
> *57. If the court were to grant an extension on the basis of the explanation given by the applicant in this case, it would render the legislative time limit near ineffective, as any applicant could claim that their counsel had 'other commitments' to attend to."*
>
> (Emphasis added)

34. It is clear from the relevant case law set out above that an applicant in judicial review is generally bound by the actions of their agent and that, *prima facie*, a delay by legal advisers or a mistake as to the law is not, in itself a good and sufficient reason to extend time.

35. The key factor in this case is that not only was the mistake not in itself a good a sufficient reason, but that it was not outside the control of the Applicant, as explained above. The legal adviser and the client are *prima facie* linked. The Applicant will find it hard to distance itself from the error of its legal advisers. In my view the relevant error is legally attributable to the Applicant. The Applicant was informed of the relevant time frame at the outset and sought advice.

The Dates on the Decision

36. I have read the Decision, itis a nine-page document with the Commission's Appendix setting out the costs due to it in the sum of €42,453. On the last page, page 9, the date is written in hand. It is possible, if all other matters were excluded, to read the date as 27 April 2025, as opposed to 11 April 2025. There is, however, no possible mistaking the date on the next page which clearly reads 11 April 2025. The mistaken date could never have been correct since the solicitors received the papers on the 17 April 2025, which would have been 10 days before it was made. Therefore, even with a little consideration, the mistaken date was obviously incorrect. The problem is not only that the date was misread; it is that the misreading was inconsistent with facts already known to the solicitors. The mistaken date would have implied the Decision was made after it was received.

37. There was a long period (about seven weeks) in which the mistake could have been detected. The Decision had been on the Commission's website from the 16 April, dated 11 April 2025. There is no explanation proffered regarding that mistake.

38. In my view these matters distinguish the case from mere mistaken legal advice as referred in *G.* In a firm of its size, it would be reasonable to assume that a number of people were involved in the management of the case, yet the affidavits are silent on the issue.

39. Further, most, if not all, law firms have a solicitors' critical dates register, or some similar document management system, which alert practitioners in regard to crucial dates for the purposes of the Statute of Limitations or compliance with court orders, for obvious reasons. Yet the affidavits are silent as to whether such a system existed, and if it did, how the error was not noticed until the Statement of Grounds were being drafted.

40. But the error in this case was not only that of the lawyers, but on the face of it, the Applicant itself. No doubt it has invested significant sums in the development and must have appreciated the possibility that permission would be refused. Further, it had an explanatory letter from the Commission setting out precisely the time frame to bring a judicial review. There is nothing in the affidavits explaining how the Applicant ignored the information received from the Commission. Both the Applicant and its solicitors had the Decision for close to 50 days before expiry of the statutory period under section 50(6).

41. I note that the height of the case made by the Applicant's solicitor, is that when he came to review the Decision, he misread the relevant date but then goes on to say he did not refer back to the communications which acknowledged, no doubt, receipt of the papers on 17 April, nor recall the dates the papers were received. Anyone can make a mistake, but it is important that when seeking discretionary relief, such as is sought here, all matters are disclosed. There seems to be too much missing information.

42. I do not find the Applicant's submission that the error was the error of the Commission regarding the handwritten date in anyway persuasive.

43. While Mr. McGrath submits that the Court should consider the societal benefits of the application in the context of wind energy or the public-interest considerations, in reality the

application was refused and therefore the legal position is that there is no planning permission and no societal benefit. I accept that there is no prejudice *per se* but the decisions of the Commission must be considered lawful until shown to be otherwise.

44. As Finlay Geoghegan J. made clear in *M O'S*, the Court must consider whether the reasons advanced by an applicant objectively explain and justify its failure to apply within the prescribed period. In the present case, however, the Court has concerns that the circumstances surrounding the error have not been fully explained.

Conclusion

45. I have also considered the other matters relied upon by the Applicant in support of the application. The delay of eight days beyond the statutory period was not, in itself, extensive. I accept that once the error was identified on 11 June 2025, the Applicant acted with expedition in bringing the application. I also accept that the Applicant contends that the proposed development is a significant renewable energy project and that the proceedings raise arguable issues concerning the lawfulness of the Commission's Decision, however that submission must be viewed against the presumption that the Commission's is in fact lawful. Further, no specific has been identified by the Commission, beyond the prejudice inherent in the disturbance of the finality of a planning decision.

46. All these considerations are outweighed by the absence of a satisfactory explanation capable of constituting a good and sufficient reason for the delay and by my conclusion that the circumstances giving rise to it were not outside the control of the Applicant. The interests of justice must be assessed in the context of the legislative objective of certainty and finality in planning decisions, reflected in the strict time limits established by the Oireachtas.

47. To allow an extension of time in these circumstances would, in my opinion, significantly weaken the certainty and finality which the Oireachtas sought to secure through

the strict time limits imposed under section 50 of the 2000 Act. It would also be in direct contravention of the equivalent section in the 2024 Act.

48. Taking all matters into consideration, I do not believe that the Applicant has established good and sufficient reason which were outside its control in order to seek an extension of time to apply for leave to seek judicial review of the Decision of the Commission. I shall refuse the application. I have decided that it is not in the public interest to grant an extension for the reasons set out above. I shall refuse the application.