

Monday the 30th day of July 2018

BEFORE

THE CHIEF JUSTICE

MR JUSTICE O'DONNELL

MS JUSTICE DUNNE

MS JUSTICE O'MALLEY

MS JUSTICE FINLAY GEOGHEGAN

High Court 2014 No. 488 JR

BETWEEN

KATHLEEN CONNELLY

APPLICANT

AND

AN BORD PLEANÁLA

RESPONDENT

AND

CLARE COUNTY COUNCIL

McMAHON FINN WIND ACQUISITIONS LIMITED

NOTICE PARTIES

The Motion on the part of the Respondent pursuant to Notice of Appeal dated the 18th day of January 2017 by way of appeal from the Judgments of the High Court (Mr Justice Barrett) given on the 14th day of June 2016 and the 8th day of November 2016 and the Order made on the 15th day of December 2016 granting an Order of Certiorari in respect of the decision made by the Respondent on the 6th day of June 2014 on appeal reference PL 03.239378 (Register Reference Number 11/360) granting planning permission

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for a development comprising of 4 number wind turbines each with a hub height of up to 85m and a rotor diameter of up to 82m together with associated development at Coor West Shanavogh County Clare and refusing the Respondent's application for a certificate of appeal pursuant to section 50A(&) of the Planning and Development Act 2000 as amended and for an Order setting aside the said Judgments and Order on the grounds and as set forth in the said Notice of Appeal having come on for hearing before this Court on the 5th day of March 2018

Whereupon and having read the Determination of this Court dated the 14th day of June 2017 granting leave to appeal herein the said Notice of Appeal the said Order of the High Court the judgments of the High Court the documents therein referred to and the written submissions filed on behalf of the respective parties and having heard Counsel for the Respondent Counsel for the Applicant and Counsel for the Second Named Notice Party

IT WAS ORDERED that the case should stand for judgment

And the same having been listed for judgment on the 17th day of July 2018 and having been called on accordingly in the presence of said respective Counsel

IT WAS ORDERED AND ADJUDGED that this appeal be dismissed and that the Order of the High Court granting the said Order of Certiorari do stand affirmed on the grounds identified in the Judgment of this Court related to an Appropriate Assessment but otherwise be set aside

And the question of the further terms of the order and of costs having been adjourned and coming on accordingly this day

And on hearing Counsel for the respective parties

And the Court having ruled

IT IS ORDERED that the matter be remitted to the Respondent to determine the planning application concerned in accordance with law as interpreted in the Judgment of this Court and on the basis set out in the Ruling made by the Court on this day

AND IT IS ORDERED that the Respondent do pay to the Applicant 75% of her costs of the proceedings in the High Court and of this appeal when taxed and ascertained to

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include the costs of her respondent's notice filed in the appeal but not to include her costs of the application for the said certificate for leave to appeal in the High Court

And the Court doth make no order as to the costs of the Notice Parties herein.

**JOHN MAHON
REGISTRAR**

Perfected this 29th day of August 2018

