

**THE HIGH COURT**

**COMMERCIAL**

**2019 No. 318 JR**

**(2019 No. 119 COM)**

**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTIONS 50  
AND 50A OF THE PLANNING AND DEVELOPMENT ACT 2000 (AS  
AMENDED)**

**Friday the 1<sup>st</sup> day of May 2020**

**BEFORE MR JUSTICE McDONALD**

**BETWEEN**

**BARNA WIND ACTION GROUP**

**APPLICANT**

**AND**

**AN BORD PLEANÁLA**

**RESPONDENT**

**AND**

**CORK COUNTY COUNCIL**

**ARRAN WINDFARM LIMITED**

**BARNA WIND ENERGY (B.W.E.) LIMITED**

**NOTICE PARTIES**

This matter coming before the Court on the 10<sup>th</sup> day of March 2020  
for final Orders herein in the presence of Counsel for the Applicant Counsel for the  
Respondent and Counsel for the Second and Third Named Notice Parties

Whereupon and on reading the documents specified in the Schedule  
hereto

And on hearing said respective Counsel

The Court was pleased to reserve judgment herein

And the same coming on accordingly for judgment and judgment  
having been delivered electronically on the 17<sup>th</sup> day of April 2020

And the parties being afforded fourteen days from the delivery of the said Judgment within which to make submissions in relation thereto as to the form of the within Order and the question of Costs

And on this day on reading the terms of the within Consent Order furnished electronically by the solicitors for the Respondent in that regard

**By Consent** the Court doth grant an Order of Certiorari quashing the Decision of the Respondent dated the 2<sup>nd</sup> day of April 2019 (Ref. PL04.248153) granting the Third Notice Party planning permission for the construction of 6 wind turbines and associated development in Lackareagh and Garranereagh, Lissarda and Barnadivane (Kneeves), Terelton, County Cork on the grounds set out at paragraphs E.57, 63 and 64 of the Statement of Grounds dated the 24<sup>th</sup> day of May 2019

And the Court doth grant an Order of Certiorari quashing the Decision of the Respondent dated the 2<sup>nd</sup> day of April 2019 (Ref. PL04.248152) granting the Second Notice Party planning permission for the construction of an electricity substation at Barnadivane (Kneeves), Terelton, County Cork on the basis that the decision was made by the Respondent at the same meeting as its decision on the windfarm planning application (Ref. PL04.248153)

And in lieu of directing that an Order of Certiorari do issue **IT IS ORDERED** that the aforesaid decisions dated the 2<sup>nd</sup> day of April 2019 and all records and entries relating thereto be quashed without further Order

And **IT IS ORDERED** that the subject matter of the Decisions (Refs. PL04.248153 and PL04.248152) be remitted to the Respondent to be determined in accordance with law

And **IT IS FURTHER ORDERED** that the Applicant remains at liberty to raise in respect of any future decision by the Respondent in respect of the

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applications (Ref PL04.245824 and Refs PL04.244439 or any alternate Register References that may be assigned to the relevant planning applications) any of the other grounds set out in the Statement to Ground an Application for Judicial Review dated the 24<sup>th</sup> day of May 2019 whether arising prior to or after the date of this Order

And **By Consent** the Court doth make no Order as to Costs

PAULINE CUSACK  
REGISTRAR  
Perfected 6/5/2020

Noonan Linehan Carroll Coffey  
Solicitors for the Applicant

Philip Lee  
Solicitors for the Respondent

Anne Foley  
Solicitor for the Second and Third Named Notice Party

**Schedule hereinbefore referred to**

1. Order of the High Court dated the 27<sup>th</sup> day of May 2019
2. Statement Required to Ground Application for Judicial Review filed on the 27<sup>th</sup> day of May 2019
3. Affidavit of Denis Buckley filed on the 27<sup>th</sup> day of May 2019 together with the documents and exhibits therein referred to
4. Notice of Motion dated the 29<sup>th</sup> day of May 2019
5. Notice of Motion dated the 8<sup>th</sup> day of August 2019
6. Affidavit of Stephen O'Connor filed on the 8<sup>th</sup> day of August 2019
7. Solicitor's Certificate dated the 2<sup>nd</sup> day of August 2019
8. Order of the High Court dated the 10<sup>th</sup> day of September 2019
9. Statement of Opposition of Respondent filed the 5<sup>th</sup> day of December 2019
10. Affidavit of Gerard Egan filed on the 5<sup>th</sup> day of December 2019 together with the documents and exhibits therein referred to
11. Written submissions on behalf of the Applicant filed on the 9<sup>th</sup> day of March 2020
12. Written submissions on behalf of the Respondent filed on the 9<sup>th</sup> day of March 2020