

THE HIGH COURT

JUDICIAL REVIEW

2022 No 913 JR

MONDAY THE 26th DAY OF JUNE 2023

BEFORE MR JUSTICE HOLLAND

BETWEEN/

ENVIRONMENTAL TRUST IRELAND

APPLICANT

AND

AN BORD PLEANÁLA

RESPONDENT

AND

AUGHINISH ALUMINA LIMITED

LIMERICK ALUMINA REFINING LIMITED

NOTICE PARTIES

Upon Motion of Counsel for the Applicant coming before the Court this day for mention by way of remote hearing pursuant to Notice of Motion of the Applicant filed on the 23rd day of November 2022 seeking the following reliefs

- (i) “An Order of *Certiorari* quashing the decision of the First Respondent, An Bord Pleanála (the Board), dated 31 August 2022 and bearing file reference ABP-312146-21, to grant permission to the Notice Party, Aughinish Alumina Ltd.
- (ii) Such declaration(s) of the legal rights and/or legal position of the applicant and (if and insofar as legally permissible and appropriate) persons similarly situated and/or of the legal duties and/or legal position of the Respondent as the court considers appropriate.
- (iii) A stay pursuant to Order 84 Rule 20(8)(b) of the Rules of the Superior Courts on all development pursuant to the impugned decision by Aughinish Alumina Ltd, its assigns, servants and agents, on lands at

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Aughinish Island, Co. Limerick, pending conclusion of the present proceedings.

- (iv) An Order that Section 50B of the Planning and Development Act 2000 as amended, and/or Sections 3 and 4 of the Environment (Miscellaneous Provisions) Act 2011, and/or Article 9 of the Aarhus Convention apply to the present proceedings.
- (v) If necessary, an extension of time to apply for leave to seek judicial review of the decision of the Board, pursuant to Section 50(8) of the Planning and Development Act 2000 as amended.
- (vi) If required, an order referring a question or questions of law for determination by the Court of Justice of the European Union.
- (vii) Further or other relief.
- (viii) Costs”

In the presence of Counsel for the Applicants and Counsel for the Respondent and Counsel for the Notice Parties

Whereupon and on reading the pleadings in the within proceedings

And on hearing said respective Counsel

And the Court being informed that the parties have agreed final orders in these proceedings

BY CONSENT

The COURT DOTH GRANT

1. An Order of *Certiorari* quashing the decision of the Respondent dated the 31st day of August 2022 and bearing Case Reference ABP-312146-21 granting permission for works to facilitate an expansion of the disposal capacity at the existing Bauxite Residue Disposal Area in the townlands of Aughinish East and Aughinish West and Island Mac Teige and Glenbane West and and

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Fawnamore at or adjacent to Aughinish Island Askeaton in the County of Limerick

2. An Order remitting this matter to the First Named Respondent to be determined in accordance with law such remittal to take effect from the point in time immediately following receipt of the last submission on the application being a submission from Tom Phillips & Associates on behalf of Aughinish Alumina Limited received by the Board on the 6th day of July 2022
3. An Order for the Applicant's costs of the proceedings (including reserved costs) incurred to the date of this Order as against the Respondent such costs to be adjudicated in default of agreement
4. That the Applicant be at liberty to raise in respect of any decision of the Respondent on the remitted application any of the grounds raised in the amended Statement of Grounds filed on the 18th day of November 2022 in these proceedings and that this is without prejudice to any substantive or procedural objection the Respondents or the Notice Parties might otherwise raise

CATRÍONA MCGRATH
REGISTRAR
Perfected: 06/07/2023

Hayes Solicitors
Solicitor for the Applicant

Philip Lee LLP
Solicitor for the Respondent

William Fry Solicitors
Solicitor for the Notice Party