

Wednesday the 12th day of December 2018

BEFORE

THE CHIEF JUSTICE

MR JUSTICE McKECHNIE

MR JUSTICE MacMENAMIN

MR JUSTICE CHARLETON

MR JUSTICE EDWARDS

2015 No. 302 MCA

**IN THE MATTER OF THE PLANNING AND DEVELOPMENT ACTS 2000 TO
2011 AND IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
160 OF THE PLANNING AND DEVELOPMENT ACT 2000**

BETWEEN

AN TAISCE – THE NATIONAL TRUST FOR IRELAND

APPLICANT

AND

**MCTIGUE QUARRIES LIMITED AND
GARRY MCTIGUE AND CAROLINE MCTIGUE**

RESPONDENTS

The Motion on the part of the Applicant pursuant to Notice of Appeal dated the 17th day of January 2017 by way of appeal from the Judgment of the High Court (Mr Justice Barrett) given and on the 8th day of November 2016 and the Order made on the 6th day of December 2017 refusing the Applicant's motion pursuant to Section 160 of the Planning and Development Act as amended for an Order requiring the Respondents their servants and agents to cease all unauthorised development including all works for the extraction of stone and gravel the carrying out of rock and gravel processing activities the loading of materials and the transportation of the said materials from the quarry and all related and ancillary works on lands located at Cartron Belclare Tuam Co Galway and for an Order

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setting aside the said Judgment and Order on the grounds and as set forth in the said Notice of Appeal coming on for hearing before this Court on the 7th day of March 2018 together with the Motion on the part of the Respondents pursuant to Notice of Appeal dated the 4th day of April 2017 by way of appeal from the said Judgment and Order of the High Court that the said quarry was unauthorised development within the meaning of Section 2(1) of the Planning and Development Act 2000

Whereupon and having read the said Notice of Appeal the said Order the documents therein referred to the judgment of the High Court and the written submissions filed on behalf of the respective parties and having heard Counsel for the Applicant and Counsel for the Respondent

IT WAS ORDERED that the case should stand for judgment

And the matter having been listed on the 24th day of July 2018 and the Court having directed that additional written submissions be filed in respect of a number of issues communicated to the parties

And having read the additional written submissions filed on behalf of the respective parties and having heard further oral argument from respective counsel on the 25th day of October 2018

And the same having been listed for judgment on the 7th day of November 2018 and having been called on accordingly in the presence of said respective Counsel

IT WAS ORDERED AND ADJUDGED that this appeal be allowed and that the said Order of the High Court be set aside on the issue of the grant of the Order pursuant to Section 160 of the Planning and Development Act as amended

And the questions of the final Order and of costs having been adjourned and coming on accordingly this day and having read the written submissions filed on the issue of costs

IT IS ORDERED pursuant to Section 160 of the Planning and Development Act as amended that the Respondents their servants and agents cease all unauthorised development including all works for the extraction of stone and gravel the carrying out of rock and gravel processing activities the loading of materials and the transportation of the

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said materials from the quarry and all related and ancillary works on lands located at Cartron Belclare Tuam Co Galway this Order to be stayed for a period of 6 months from the date hereof

AND IT IS ORDERED that the Order made in the High Court in respect of the application for a protective costs order in the said Order dated the 6th day of December 2016 in favour of the Applicant be affirmed

AND IT IS ORDERED that the Respondents do pay to the Applicant the costs of the Section 160 application in the High Court and in this Court when taxed and ascertained such costs to be limited to 1 day in the High Court and 1 day in this Court.

**JOHN MAHON
REGISTRAR**

Perfected this 20th day of December 2018