

**THE HIGH COURT**

**PLANNING AND ENVIRONMENT**

**MCA.2024.0000562**

**FRIDAY THE 8TH DAY OF NOVEMBER 2024**

**BEFORE MR JUSTICE HUMPHREYS**

**BETWEEN**

**Between**

**JOHN HEGARTY**

**and**

**EUGENE AND SYLVIA GLENDON**

**and**

**GEMMA DESMOND**

**Applicants**

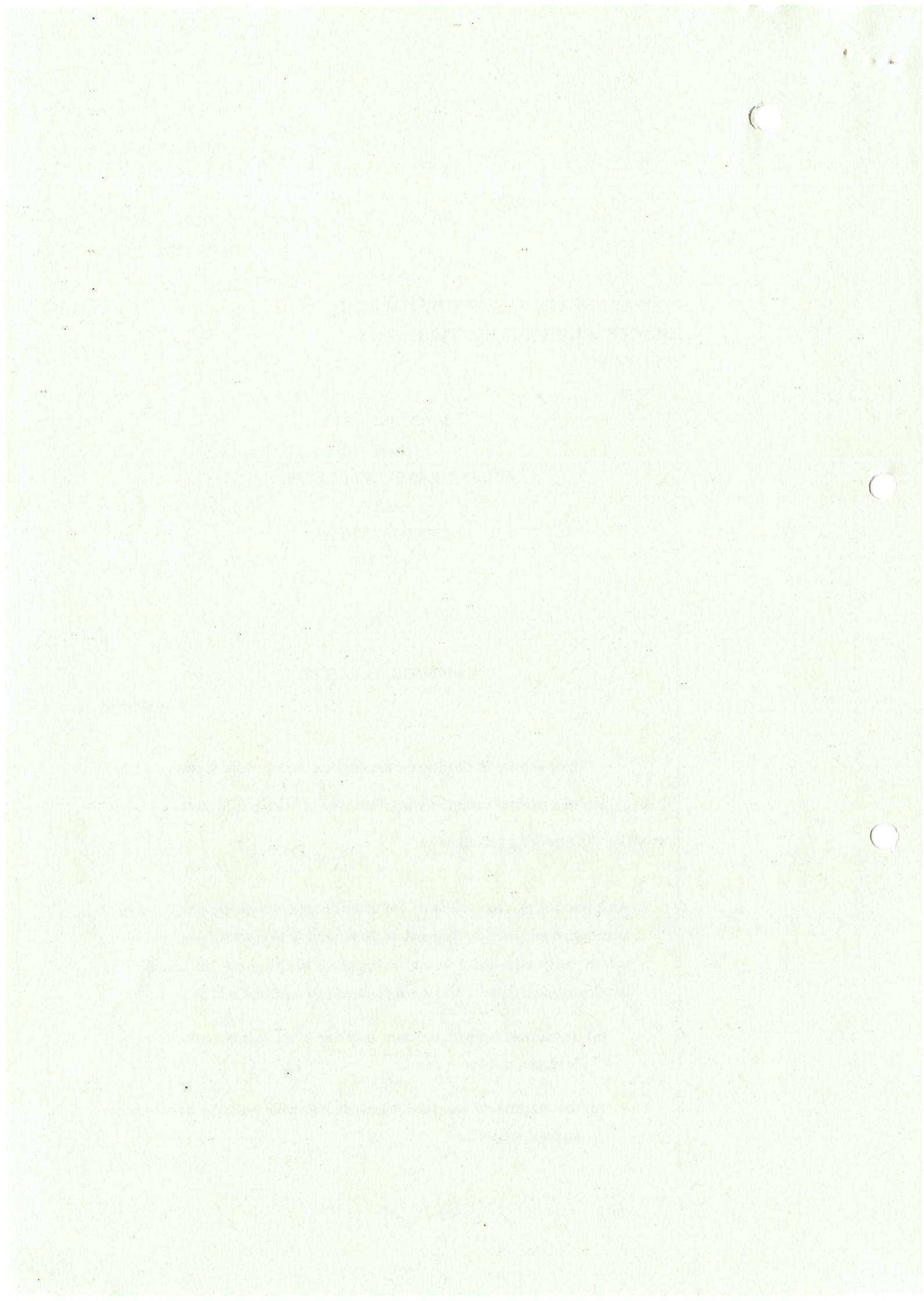
**AND**

**TOWERCOM LIMITED**

**Respondent**

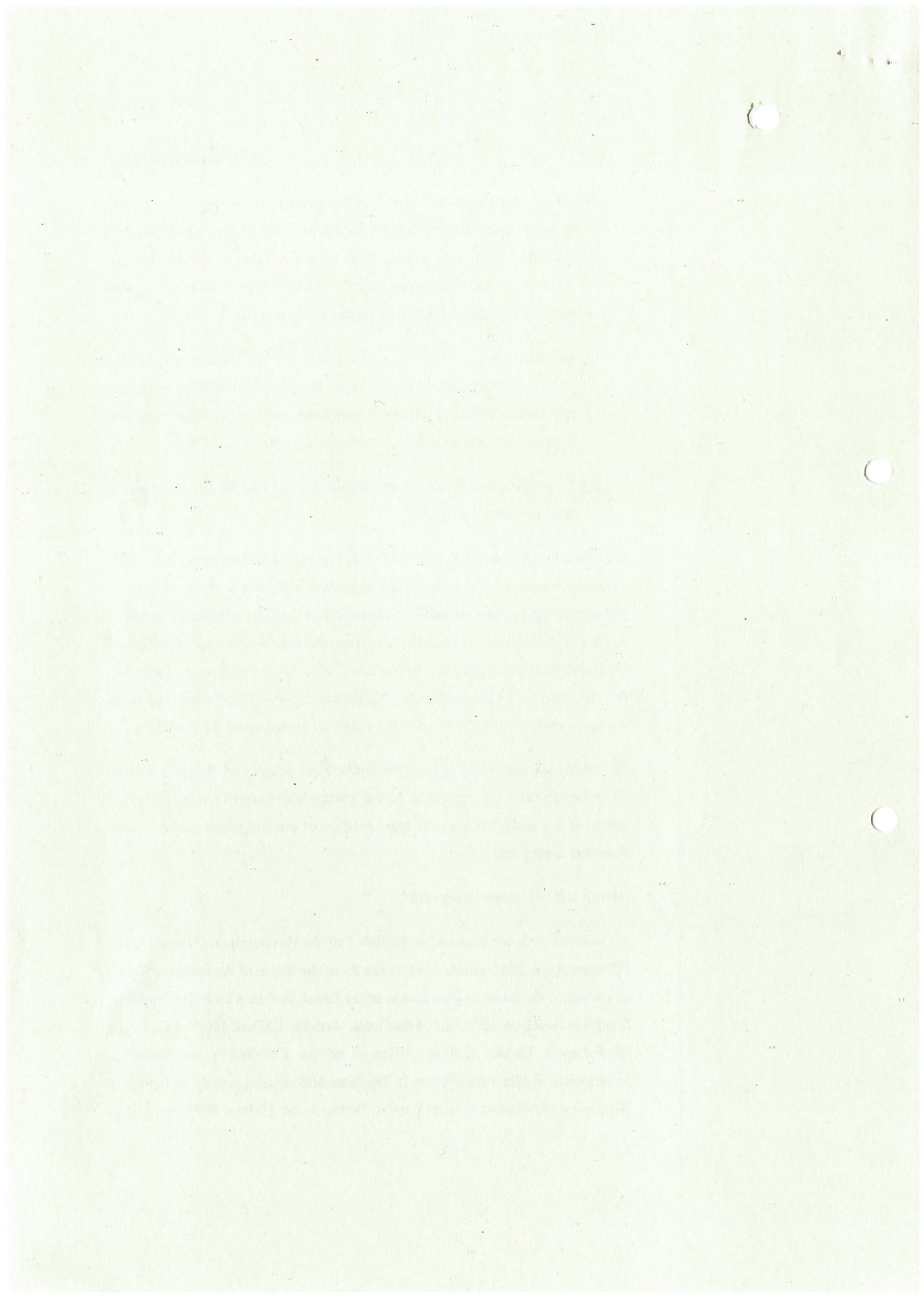
Upon Motion of Counsel for the Applicant being made ex parte unto the Court by way of a remote hearing by way of a Notice of Motion filed on the 8<sup>th</sup> day of November 2024 seeking the following “

1. An Injunction pursuant to Section 160 of the Planning and Development Act 2000 as amended requiring the Respondent, its servants or agents to cease carrying out, not to carry out, and / or not to continue carrying out, an unauthorised development on a site at Eir Exchange, Wellington Road, Cork, namely:
  - (a) an antenna support structure in place of an existing antenna support structure, and / or
  - (b) the erection of overhead telecommunications poles or other support structures, and / or



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- (c) the attachment to such pole or other support structure of any bracket, clamp or other fixture required for the carrying or support of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing, or required for the carrying or support of any device containing any such cable, wire, tube, pipe, duct or similar thing, and / or
  - (d) the attachment to such fixture of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing (including its casing or coating) or any device containing any of the foregoing, and / or any other equipment or apparatus used for telecommunications purposes, and / or
  - (e) the construction of any or any further foundations for any such pole or other support structure.
2. An injunction pursuant to Section 160 of the Planning and Development Act 2000 as amended requiring the Respondent, its servants or agents to do or not to do, or to cease doing, as the case may be, anything that the Court considers necessary and specifies in the order to ensure, as appropriate, that the aforesaid unauthorised development is not carried out or continued, and / or in so far as is practicable, that the land at at Eir Exchange, Wellington Road, Cork, is restored to its condition prior to the commencement of the said unauthorised development.
  3. 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 Respondents as the court considers appropriate.
  4. Interim and / or interlocutory relief.
  5. A Declaratory Order pursuant to Section 7 of the Environment (Miscellaneous Provisions) Act 2011 as amended, Order 99 of the Rules of the Superior Courts as amended, the inherent jurisdiction of the Court, Article 47 of the Charter on Fundamental Rights of the European Union, Articles 4(3) and 19(1) of the Treaty on European Union, and/ or Article 9 of the Convention on Access to Information, Public Participation In Decision-Making and Access to Justice In Environmental Matters done at Aarhus, Denmark, on 25 June 1998 (the Aarhus



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Convention), confirming that Sections 3 and 4 of the Environment (Miscellaneous Provisions) Act 2011 apply to the present proceedings.

6. Such further or other Order as may be appropriate to give effect to any finding of the Court herein.
7. Costs."

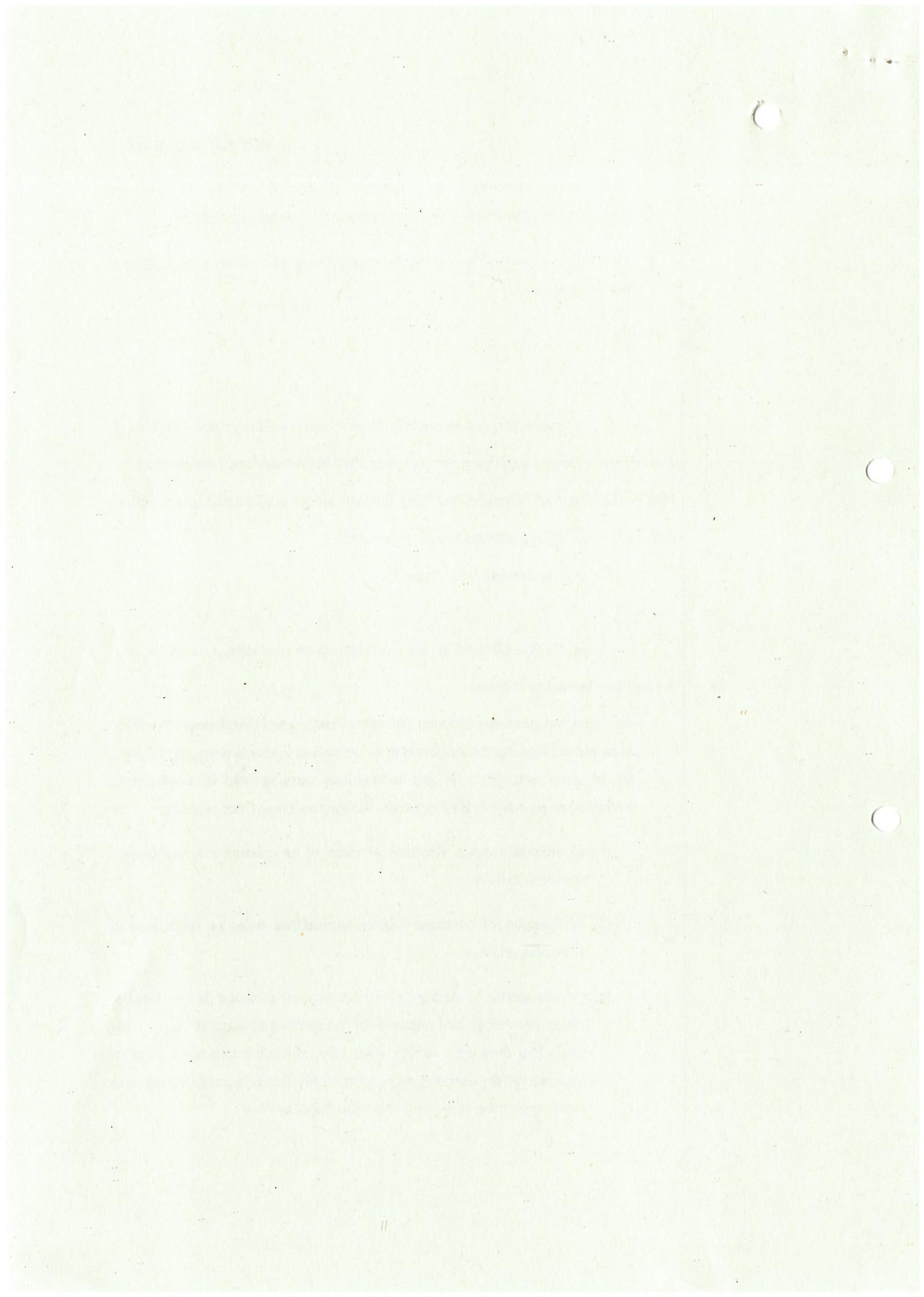
Whereupon and on reading the said Notice of Motion and Affidavit of John Hegarty filed on the 8<sup>th</sup> day of November 2024 the Affidavit of John Hegarty filed on the 8<sup>th</sup> day of November verifying the facts set out in said Statement together with the documents and exhibits therein referred to

And on hearing said Counsel

The Court **DOETH GRANT** an interim Order, in terms of relief 1 as set out in the Ex Parte Docket as follows:

An Injunction pursuant to Section 160 of the Planning and Development Act 2000 as amended requiring the Respondent, its servants or agents to cease carrying out, not to carry out, and / or not to continue carrying out, an unauthorised development on a site at Eir Exchange, Wellington Road, Cork, namely:

- (a) an antenna support structure in place of an existing antenna support structure, and / or
- (b) the erection of overhead telecommunications poles or other support structures, and / or
- (c) the attachment to such pole or other support structure of any bracket, clamp or other fixture required for the carrying or support of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing, or required for the carrying or support of any device containing any such cable, wire, tube, pipe, duct or similar thing, and / or



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- (d) the attachment to such fixture of any cable (including fibre optic cable), wire, tube, pipe, duct or similar thing (including its casing or coating) or any device containing any of the foregoing, and / or any other equipment or apparatus used for telecommunications purposes, and / or
- (e) the construction of any or any further foundations for any such pole or other support structure.

The said order shall continue on an interim basis until further order

The Applicants solicitor is to serve this order on the respondent immediately by email and notify the respondents solicitors

The Applicant is directed to file a Motion seeking an Interlocutory Injunction by close of business on Monday 11<sup>th</sup> November 2024 said Motion to be returnable before this Court on Monday 18<sup>th</sup> November 2024

The Respondents to file any replying affidavit to that Motion by close of business on 15<sup>th</sup> November 2024

Liberty to the parties to apply

Costs Reserved

**GARETH REDMOND  
REGISTRAR**

Perfected 8th day of November 2024

FP Logue Solicitors  
Solicitors for the Applicant

William Fry Solicitors  
Solicitors for the Respondent

**A COPY WHICH I ATTEST**

*[Signature]*  
.....  
**FOR REGISTRAR**

