

Tuesday the 3rd day of June 2014

BEFORE MR JUSTICE O'NEILL

BETWEEN:

MAURA HARRINGTON

APPLICANT

-AND-

AN BORD PLEANÁLA

RESPONDENT

AND

**INVER COMMUNITY DEVELOPMENT GROUP
MAYO COUNTY COUNCIL**

NOTICE PARTIES

Upon Motion of Counsel for the Applicant made unto Court pursuant to Notice of Motion dated the 18th day of April 2013 and being at hearing on the 28th 29th and 30th days of January 2014 seeking the following reliefs:

- “1) An order of *certiorari* quashing the decision of the Respondent which was made on the 20th February 2013 to grant planning permission for the first named Notice Party in respect of a development comprising of a sports hall, playing pitch, dugouts, floodlights, ballstop netting, electronic scoreboard, covered viewing stand, maintenance shed, play area, community facilities, new roadway, carpark and all associated site works at Inver, Barnatra, Ballina, County Mayo
- 2) An order of *mandamus* compelling the Respondent to commission an independent assessment and evaluation as to whether the proposed development site is in fact an active blanket bog habitat and, therefore, an Annex I priority natural habitat within the meaning of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna or, in the alternative, an order compelling the Respondent to carry out its own assessment and evaluation thereof.
- 3) Further or other orders.
- 4) Liberty to apply.
- 5) The costs of the within proceedings.”

Whereupon on reading the said Notice of Motion the Order herein dated the 15th day of April 2013 giving leave to the Applicant to apply for the said relief by way of application for judicial review the Statement filed on the 17th day of April 2013 the Affidavit of Maura Harrington filed on the 17th day of April 2013 the exhibits therein referred to the Statement of Opposition filed on the 22nd July 2013 on behalf of the Respondent the Affidavit of Chris Clarke filed on the 22nd July 2013 the exhibits therein referred to the Affidavit of Maura Harrington filed on the 17th October 2013 the exhibits therein referred to the Affidavit of Aoife O'Connell filed in Court on the 28th day of January 2014 the written legal submissions filed on the 23rd day of January 2014 on behalf of the Applicant the written legal submissions filed on the 27th day of January 2014 on behalf of the Respondent the written submissions filed in Court on the 30th day of January 2014 on behalf of the Respondent and the written submissions filed in Court on the 30th day of January 2014 on behalf of the Applicant

And on hearing what is offered by the said Counsel for the Applicant and Counsel for the Respondent

The Court doth reserve judgment herein

And the same coming on accordingly for judgment on the 9th day of May 2014 in the presence of said Counsel and having been adjourned for mention to the 30th day of May 2014 and standing adjourned to this day for the question of costs

And on reading written submissions on behalf of the Applicant and on behalf of the Respondent filed in Court on the this day and on hearing said respective Counsel

IT IS ORDERED that the Applicant's application herein do stand refused

AND IT IS FURTHER ORDERED that the Applicant do pay to the Respondent its costs (to include all or any reserved costs herein) of the within proceedings said costs to be taxed in default of agreement

AND THE COURT DOTH CERTIFY pursuant to section 50A(7) of the Planning and Development Act 2000 as amended that there is a point of law of exceptional public importance in respect of which it is desirable in the public interest that an appeal should be taken to the Supreme Court in the following terms:

“Whether or not section 50B of the Planning and Development Act 2000 as amended properly construed applies to all proceedings that arise under the Planning and Development Act 2000 as amended or merely those proceedings that arise pursuant to a law of the State that gives effect to the European Directives listed at section 50B(1)(a)?”

AND IT IS ORDERED that execution on foot of the within Order for costs be stayed for a period of twenty one days from the date of perfection of this Order and in the event of the Applicant serving Notice of Appeal within that period and duly entering same that execution be further stayed for a period of four months and in the event of the Applicant filing books of appeal with Office of the Supreme Court and serving the said books on the solicitors for the Respondent that execution be further stayed until the final determination of such appeal

PATRICIA TROY
REGISTRAR
Perfected 4th June 2014

O’Connell & Clarke
Solicitors for the Applicant,

Barry Doyle & Company
Solicitors for the Respondent

The Secretary, Inver Community Development Group
The First Notice Party

The Secretary, Mayo County Council
The Second Notice Party