



THE SUPREME COURT

[Appeal No: 10/20]

**Clarke C.J.
O'Donnell J.
Charleton J.
O'Malley J.
Baker J.**

BETWEEN/

KRIKKE & ORS

PLAINTIFFS/RESPONDENTS

AND

BARRANAFADDOCK SUSTAINABILITY ELECTRICITY LTD

DEFENDANTS/APPELLANTS

Ruling of the Court delivered the 18th day of June, 2020.

1. At the close of the hearing in this case the parties were told that, while judgment was reserved, they would be notified of the outcome in early course.
2. The Court is now in a position to rule that, for the reasons which will be set out in a judgment to be delivered in early course, it has come to the view that the Court of Appeal erred in its assessment of the weight to be attributed to the various factors in the case. To that extent, the Court proposes to allow the appeal in principle.
3. However, the Court does not propose to lift the stay imposed by the Court of Appeal on the High Court order. The principal reasons for this are that the Court of Appeal has been able to hear the substantive appeal in early course and that there has been a significant change in circumstances since the making of the High Court order. As noted in the statement of case circulated to the parties, Simons J. was not aware, when he considered the question of a stay, that An Bórd Pleanála would undertake, in associated judicial review proceedings, not to process the application of the respondent for substitute consent pending the outcome of an appeal to this Court in connected proceedings in which separately An Taisce and a Mr. Sweetman had challenged aspects of the substitute consent process.
4. While it is the Court's view that Simons J. was correct in the approach which he took having regard to the circumstances as they appeared at the relevant time, the Court feels that, having regard to the significant change in circumstances, the interests of justice would best be served by not interfering with the stay imposed by the Court of Appeal and leaving it to that court to determine the position in the light both of the judgment which it gives on the substantive issue on the appeal before it and, should it arise, the possibility that planning regularisation may be required.