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Phelim O'Neill Solicitors
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3 November 2014
By: email
01 6600094

Re: Rathineska Timahoe and Spink (RTS) Substation Action Group & Ors v An Bord Pleanala & Ors
2014 / 340 JR

Dear sirs,

We acknowledge receipt of your motion for order re costs and grounding papers.

Following the decision of Herbert J in McCallig v. Bord Pleanala (14 April 2014), it would appear that S50B would only apply to so much of the application as relates to EIA issues. The decision in Harrington v. Bord Pleanala (O'Neill J, 2014 No 297JR) followed this approach.

Even if S50B applies, an award of costs may still be made against your client (or indeed the Board), so if an order was made at this stage, it would still not determine the matter.

Your client is, in any event, an unincorporated organisation which we accept has standing to bring proceedings (Sandymount Residents) but against which an order for costs cannot be enforced. If an order were to be made, it would have to be against some or all of the members and they would have to be identified. This is a matter which should not be examined in the abstract, as there are various possible permutations, and it may be that none of them arises.

In the circumstances, the application appears premature and misconceived. It would, in our view, be a waste of court time to determine at this stage whether S50B would apply, when this will not be determinative of the costs issues that may arise.

We should therefore call on you to withdraw your motion. If you notify us before 5pm on Thursday 6 November that you will do so, we will not apply for costs in respect of the motion; but if you do not, we are instructed to apply for costs if successful in opposing.

Yours faithfully,

Barry Doyle and Company