

APPROVED



**AN ARD-CHÚIRT
THE HIGH COURT**

[2026] IEHC 642

Record No. 2026/3944P

BETWEEN:

FINGAL COUNTY COUNCIL

Plaintiff

-and-

ANGELA HEAVEY

Defendant

**Ex Tempore Ruling of Mr. Justice Michael Conlon, delivered on the 22nd day of
September 2026**

INTRODUCTION

1. In these proceedings, the plaintiff (“Fingal County Council” or “the Council”) seeks injunctive relief designed to secure possession of the lands owned by the defendant (“Ms. Heavey”), which have been the subject of a compulsory purchase order (“CPO”).
2. This is my judgment on Ms. Heavey’s motion, seeking orders transferring these proceedings from the Planning and Environment List to the Chancery List; staying the plaintiff’s application for interlocutory injunctive relief pending determination of the transfer application and/or trial of the action; directing that the proceedings continue by way of plenary summons, including provision for the delivery of pleadings, particulars and interrogatories; together with such further or other relief as the Court considers appropriate.

Background

3. Ms. Heavey is, and was at all material times, the owner of certain lands at 17 and 17A North Street, Swords (“the lands”). The lands, which adjoin the eastern wall of Swords Castle, were the subject of a CPO made by the Council on 3 November 2022. The purpose of the CPO was, *inter alia*, to facilitate the protection, conservation and enhancement of the historic site and setting of Swords Castle and its development as an amenity and tourist attraction.
4. The CPO was confirmed by An Bord Pleanála (sometimes “the Board” or “the Commission”) on 28 May 2024. These proceedings were commenced on 28 July 2026. The principal relief sought by Fingal County Council is an injunction requiring Ms.

Heavey to deliver up possession of the lands and restraining her from entering upon or trespassing on them. It should be noted that Ms. Heavey separately challenged the confirmation of the CPO by way of judicial review proceedings commenced in 2024.

Proceedings Bearing Record Number 919/2024JR

5. Ms. Heavey sought to challenge the confirmation of the CPO by the Board by way of judicial review proceedings bearing record number 919/2024 JR (also referred to as “the 919 proceedings”). Leave to apply for judicial review was refused by Holland J. in a judgment delivered on 2 August 2024: *Heavey v. An Bord Pleanála* [2024] IEHC 480. In essence, he held that the statement of grounds could not support the grant of leave because Ms. Heavey had failed to establish the “substantial grounds” required by ss. 50 and 50A of the Planning and Development Act 2000, as amended. The Court noted that Ms. Heavey had consciously elected not to exhibit the inspector’s report and had advanced only generalised criticisms of its contents and of the oral hearing process. Several of her submissions were rejected on the basis that they amounted to challenges to the merits of the decision rather than to its legality. The Court found that no procedural unfairness on the part of the Board had been established. Allegations of improper motive on the part of Fingal County Council, or of collusion between the Council and the Board, were unsupported by evidence and were accordingly rejected. He noted that she had not mounted a constitutional challenge to the underlying legislation but rather challenged its application in her case (paragraph 44).
6. Ms. Heavey subsequently sought leave to appeal to the Court of Appeal. The application was heard by Humphreys J., who delivered judgment on 30 May 2025, granting leave to

appeal on certain certified questions: *Heavey v. An Bord Pleanála (No. 2)* [2025] IEHC 311.

7. The appeal was heard by the Court of Appeal, which, in a judgment delivered by Allen J. on 20 February 2026, dismissed the appeal against the refusal of leave to apply for judicial review: *Heavey v. An Coimisiún Pleanála & Anor* [2026] IECA 17.
8. In the meantime, and prior to the judgment of Allen J., Ms. Heavey had made two separate applications to the Supreme Court for leave to appeal. The first application was directed against the decision of Humphreys J. It appears that she wished to broaden the scope of the appeal beyond the questions certified by him. The Supreme Court refused leave to appeal, holding that she had failed to formulate any proposition of law of general public importance or to demonstrate, in specific terms, how the interests of justice required an appeal. The Court further considered that the grant of leave would be inappropriate where the High Court had already certified questions for appeal and the appeal was due to be heard in the near future: *Heavey v. An Bord Pleanála & Ors* [2025] IESCDT 128.
9. The second application sought leave to appeal from an interlocutory order made by Allen J. on 3 November 2025. The issues raised were essentially procedural and concerned an order permitting the appeal to proceed within the applicable statutory framework: *Heavey v. An Bord Pleanála & Ors* [2026] IESCDT 29.
10. At paragraph 21 of its determination, dated 9 March 2026, the Supreme Court stated:

“In any event, the order of 3 November 2025 has been overtaken by events. Since the Applicant applied for leave, the Court of Appeal has heard and determined her substantive appeal. The Applicant is entitled to apply to this Court for leave to appeal from the dismissal of her appeal but any such application would, of course, have to be assessed by reference to the constitutional criteria.”

11. No evidence was produced before me of any application for leave to appeal to the Supreme Court from the final judgment or order of the Court of Appeal dismissing the substantive appeal. Accordingly, I proceed on the basis that the judicial review proceedings have been finally determined.

Procedural History since July 2026

12. There was some confusion as to some of the recent procedural history of these proceedings and the 919 proceedings. In order to clarify the sequence of events, I reviewed the Digital Audio Recordings of the hearings on 27 July, 29 July and 31 July 2026.

20 July 2026 Ms. Heavey prepared an *ex parte* docket in the 919 proceedings. In that *ex parte* docket, she stated: *“The applicant to seek further order in light of falsification of computers at An Bord Pleanála”*. The *ex parte* docket purported to rely upon the original grounding affidavit in the 919 proceedings.

27 July 2026 Following the preparation of the *ex parte* docket, the 919 proceedings were listed for mention before Farrell J. When the matter came before Farrell J., Mr. Galligan SC, on behalf of the Council (the Notice Party in the 919 proceedings), informed the Court that enforcement proceedings

were to be brought in the Chancery List. Farrell J. consequently directed that the judicial review proceedings be transferred to the Chancery List and listed for mention on 29 July 2026.

28 July 2026 The enforcement proceedings were issued.

29 July 2026 The 919 proceedings came before the Chancery Division for mention. When the matter was called, Mr. Galligan informed Cregan J. that the enforcement proceedings had been issued and he sought short service of a motion for an interlocutory injunction, returnable for 31 July 2026. Cregan J. granted short service, while making it clear that the purpose of the listing on 31 July 2026 would be to give directions for the delivery of a replying affidavit by Ms. Heavey.

31 July 2026 Both matters - the 919 proceedings and these enforcement proceedings - were mentioned before Cregan J., who adjourned them to the Planning List on 21 September 2026 and directed delivery of an affidavit by Ms. Heavey. The date was subsequently administratively changed to 16 September 2026 when the matters were listed before me.

19 August 2026 Having been served with the enforcement proceedings around the end of July, Ms. Heavey swore and filed a replying affidavit in the enforcement proceedings.

8 September 2026 Ms. Heavey issued her motion seeking, *inter alia*, the transfer of the enforcement proceedings to the Chancery List. The motion was made returnable for 16 September 2026, being the date on which both sets of proceedings were now listed for mention before me.

Ms. Heavey's motion to transfer and her arguments

13. By Notice of Motion dated 8 September 2026, Ms. Heavey seeks orders transferring these proceedings from the Planning and Environment List to the Chancery List; staying the plaintiff's application for interlocutory injunctive relief pending the determination of the transfer application and/or the trial of the action; directing that the proceedings continue by way of plenary summons, including provision for the delivery of pleadings, particulars and interrogatories; together with such further or other relief as the Court considers appropriate.
14. The motion is grounded upon an affidavit sworn by Ms. Heavey on 8 September 2026 which contains some of her main points.
15. In support of the application, Ms. Heavey contends that the proceedings raise issues which extend beyond matters ordinarily determined in the Planning and Environment List. In particular, she alleges fraud, bad faith, abuse of power, trespass and improper motive on the part of Fingal County Council. She maintains that the Council's reliance upon considerations of urgency and infrastructure necessity is misplaced and asserts that contractors involved in works in the vicinity informed her that there was no requirement to construct a public footpath on the lands. She further contends that the compulsory purchase process was affected by *mala fides* and that the true objective of the Council was to acquire a valuable urban property under the guise of advancing a public project.
16. Ms. Heavey submits that these allegations cannot properly be investigated or determined without the procedural mechanisms ordinarily associated with plenary proceedings, including discovery, particulars and interrogatories. She also relies upon allegations of

unlawful entry onto the lands by or on behalf of the Council and argues that the Council does not come before the Court with clean hands. In addition, she submits that the balance of convenience favours the preservation of the status quo, contending that the loss of her home and business premises would constitute irreparable prejudice whereas any prejudice sustained by the Council would be financial in nature and therefore compensable in damages. On that basis, she argues that the Chancery List is the more appropriate forum for the determination of the issues she seeks to raise.

17. In addition to her Affidavit of 8 September 2026 grounding her motion, Ms. Heavey relied on her Affidavit of 19 August 2026. In that Affidavit, Ms. Heavey contends that the proceedings arise from a long history of alleged unlawful conduct by Fingal County Council and associated public bodies in relation to her property at 17 North Street, Swords. She argues that there is no lawful or necessary basis for the compulsory acquisition of her property, which she describes as a long-established family home and business premises. She maintains that the proposed acquisition is not justified by any genuine public necessity and asserts that the acquisition is motivated by a desire on the part of public authorities to obtain control of a valuable privately owned development site.
18. The affidavit places significant emphasis on the judgment of Holland J in *Heavey v An Bord Pleanála* [2024] IEHC 480. Ms. Heavey argues that the hearing before Holland J was conducted unfairly and that her case was not properly understood or considered. She contends that the judgment mischaracterised her claims and failed to engage with what she describes as the true rationale of her case, namely a pattern of abuse of statutory processes by public authorities over an extended period. She further argues that

constitutional property rights and principles of natural justice were not adequately addressed in those proceedings.

19. The affidavit also advances broader criticisms of the planning and compulsory acquisition process. Ms. Heavey alleges that public bodies involved in planning and development exercised powers in a manner that favoured public authorities over private property owners and that significant evidence presented on her behalf, including professional and expert evidence, was disregarded. She maintains that she is entitled to develop the property herself and contends that previous planning proposals for the site were unjustly impeded. She further asserts that the current proposals are inconsistent with earlier planning and development objectives for the area and that public authorities have acted contrary to previous understandings reached with her regarding the future development of the site.
20. Finally, the affidavit seeks to place the present proceedings within a broader historical context. Ms. Heavey refers to previous disputes involving the property, including litigation involving her family and local authorities, and contends that the present proceedings form part of a longstanding pattern of interference with her property rights. She seeks the protection of the courts against what she characterises as continuing unlawful conduct towards her and her property.

THE COUNCIL'S SUBMISSIONS

21. Mr. Keaney, on behalf of Fingal County Council, opposed the application.

22. Mr. Keaney submitted that there was no basis for transferring the proceedings from the Planning and Environment List. He argued that the proceedings arose directly from the compulsory acquisition process and the Council's attempt to obtain possession following confirmation of the CPO and, accordingly, fell squarely within the jurisdiction of the Planning and Environment List under Order 103 of the Rules of the Superior Courts. He further noted that Mr. Justice Cregan had already directed that the proceedings be returned from the Chancery List to the Planning and Environment List.
23. In response to Ms. Heavey's contention that the matter required the procedures and equitable jurisdiction of the Chancery Division, Mr. Keaney argued that she was mistaken in believing that only the Chancery Division could grant equitable relief or provide procedural mechanisms such as discovery, particulars and interrogatories. He submitted that the High Court, including the Planning and Environment List, possesses the same equitable jurisdiction and procedural powers and that Order 103 specifically provides additional case-management procedures, including witness statements and expert reports. He contended that any allegations of fraud, bad faith, trespass, improper motive or misconduct could be fully investigated and adjudicated within the Planning and Environment List and that nothing in Ms. Heavey's affidavits demonstrated that the Court lacked the necessary powers to do so.
24. Mr. Keaney further submitted that the allegations made by Ms. Heavey were unsubstantiated and amounted, in substance, to a collateral attack on the validity of the CPO and the earlier judicial review proceedings, which had already been finally determined. He argued that those matters were spent, that no valid appeal to the Supreme Court had been brought following the final order of the Court of Appeal, and that

principles such as *res judicata* and the rule in *Henderson v Henderson* prevented their re-litigation. He also opposed the application for a stay of the Council's interlocutory injunction application, contending that any arguments against the grant of injunctive relief could be raised in response to the injunction application itself, rather than by preventing that application from being heard.

SUBMISSIONS OF THE COMMISSION

25. Mr. Hughes submitted that proceedings 919/2024JR had been finally determined and that there is no legal basis for their continued listing before the High Court. He emphasised that no application for leave to appeal from the Court of Appeal judgment had been brought and submitted that the Commission continued to incur costs in circumstances where those proceedings had come to an end.

DISCUSSION

26. I appreciate that Ms. Heavey feels strongly about the compulsory acquisition of her property and about the history of events which she says preceded it. However, the Court must determine the present application by reference to the applicable legal principles. In that regard, s. 50 of the Planning and Development Act 2000 provides, insofar as relevant, that the validity of decisions and acts falling within the scope of the section may be challenged only by way of judicial review and within the statutory time limits prescribed by that section.

27. It appears to me that s. 50 applies to the compulsory purchase order underlying these proceedings. Accordingly, any challenge to the validity of the making or confirmation of the compulsory purchase order could only be brought by way of judicial review in accordance with that section. Indeed, Ms. Heavey availed of that procedure, and the 919 proceedings which she instituted have now been finally determined. To the extent that the arguments advanced on this motion seek to impugn the validity of the compulsory purchase process, the confirmation of the compulsory purchase order, or the motives said to underlie those decisions, they constitute an impermissible collateral challenge and cannot be entertained in these proceedings. Many of the matters relied upon by Ms. Heavey concern events which pre-date the confirmation of the compulsory purchase order and are advanced for the purpose of attacking the propriety of the compulsory purchase process itself. I emphasise that such matters are not capable of being litigated in the present proceedings.
28. Secondly, even leaving that point aside, I am not satisfied that the material before me provides a sufficient evidential basis for the serious findings which Ms. Heavey invites the Court to make. Many are based upon hearsay, the sources of information are frequently not identified, and the allegations themselves are expressed in terms which are general, speculative and conclusory.
29. Thirdly, the transfer sought by Ms. Heavey would confer no procedural or jurisdictional advantage. I accept Mr. Keaney's submission that the transfer sought is neither necessary nor justified. The High Court sitting in the Planning and Environment List forms part of the High Court and exercises the same jurisdiction, at common law and in equity, as any other division or list of that Court. Thus, discovery, particulars, interrogatories, oral

evidence and any other procedural mechanisms which may properly be required are available in the Planning and Environment List in the same manner as elsewhere in the High Court. Furthermore, these proceedings were transferred to the Planning and Environment List by order of Cregan J. dated 31 July 2026. I see no basis upon which that allocation should now be disturbed.

DISPOSITION

- 30.** In those circumstances, I am satisfied that the proceedings should remain in the Planning and Environment List. The application to transfer the proceedings to the Chancery List is therefore refused.
- 31.** The proceedings have already been commenced by plenary summons. It is therefore unnecessary for me to make any order directing that they continue as plenary proceedings. Ms. Heavey's contention that a plenary trial is required can be advanced and determined in the context of the interlocutory injunction application. The application for a stay of the interlocutory injunction application is refused. Any arguments directed to the grant or refusal of interlocutory relief, or of any stay on any relief which might be granted on any Order made, may be advanced at the hearing of that application for an interlocutory injunction.
- 32.** As to the relief seeking directions concerning the future conduct of the plenary proceedings, I adjourn that aspect of the motion to the hearing of the interlocutory injunction application.

- 33.** I also refuse the application, insofar as it is made, to merge or consolidate these proceedings with proceedings bearing record number 919/2024JR. They are distinct proceedings. Furthermore, in the absence of any appeal from the Court of Appeal to the Supreme Court, I proceed on the basis that proceedings 919/2024JR have come to an end.
- 34.** Accordingly, the application to transfer the proceedings is refused; the application for a stay is refused but a stay may be sought if any interlocutory injunction is granted; the application for merger or consolidation is refused and the balance of the relief sought is adjourned to the hearing of the interlocutory injunction application. These proceedings will be listed for mention on 5 October 2026 to fix a date for the interlocutory injunction hearing. I direct that proceedings 919/2024JR are not to be listed further before the High Court, as I proceed on the basis that they have been concluded.

Michael Conlon

21 September 2026