

**THE HIGH COURT  
JUDICIAL REVIEW**

**[2011 No. 364 J.R.]**

**BETWEEN**

**ECOLOGICAL DATA CENTRES LIMITED**

**APPLICANT**

**AND**

**AN BORD PLEANÁLA**

**RESPONDENT**

**AND**

**WICKLOW COUNTY COUNCIL, NATIONAL ROADS AUTHORITY, CLAUS MICHEL, IRIS MICHEL, MARC MICHEL, ALAN BUTLER AND  
ÁINE BURKE**

**NOTICE PARTIES**

**Judgment of Mr. Justice Hedigan delivered on 22nd day of January, 2013.**

1. The facts are not in dispute in this case. I have been referred to the decision of MacMenamin J. in the case of *Urrinbridge Limited v. An Bord Pleanála & Ors.* [2011] IEHC 400. This case is indistinguishable from that case in its decisive point, *i.e.* the determination of the application before An Bord Pleanála took effect when notice of the decision was first sent.

2. If that decision is followed in this case, then the applicant must succeed because the appeals of the three Michels were withdrawn on the 16th March, 2011 whilst the appeal had not yet been determined. If *Urrinbridge* is followed, that determination did not occur until at the very earliest the 21st March, 2011. At that time, the appeals having been withdrawn, An Bord Pleanála no longer had jurisdiction to determine the appeals.

3. Two questions arise –

(a) Does this Court agree with the *Urrinbridge* decision?

(b) If it does not, should it nonetheless follow that decision based on the established principles of *stare decisis* between courts of equivalent jurisdiction as set out by Clarke J. in *Kadri v. The Governor of Cloverhill Prison* [2012] IESC 27.

4. I have read the decision of MacMenamin J. carefully and have both read and listened to the very helpful submissions of both sides. I have come to the conclusion that the exhaustive analysis by the learned Judge is a thorough and complete one and that the decision in the judgment is correct. In fact I do not believe there is anything that I can usefully add to that judgment and I am content to gratefully adopt the reasoning contained therein. This being so, the *stare decisis* issue need not be addressed by me.

5. In the result, the decisive point of *Urrinbridge* being dispositive of the issue in this case, I find that the applicant is entitled to orders in accordance with paragraphs 1, 2 and 3 of its notice of motion dated the 12th May, 2012.