

10:32:40 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY, 30TH NOVEMBER,**
2 **2005, AT 10:30 a.m.:**
3
4 CHAIRMAN: Good morning, Ms. Dillon.

10:34:54 5
6 MS. DILLON: Good morning, Sir, I understand that there are a number of
7 applications today for representation.
8
9 CHAIRMAN: Very good. Who is first?

10:35:02 10
11 MR. MARTIN KENNEDY: Good morning, Martin Kennedy, I am here on behalf of
12 Thomas A. Wright, GV Wright.
13
14 CHAIRMAN: Yes.

10:35:05 15
16 MR. MARTIN KENNEDY: I was granted representation in a previous module and I am
17 here to apply for limited representation in this particular module.
18
19 CHAIRMAN: All right. Granted.

10:35:14 20
21 MR. MARTIN KENNEDY: Thank you.
22
23 CHAIRMAN: Any other applications? All right.
24

10:35:20 25 MS. DILLON: Resumption of the opening statement.
26
27 The utilisation of false invoices by Mr. Frank Dunlop and the late Mr. Liam
28 Lawlor to generate funds.
29
10:35:32 30 The late Mr. Liam Lawlor had told the Tribunal in evidence previously that he

10:35:35 1 had on occasion provided invoices which were false or fictitious and that he
2 had received payments on foot of same.

3
4 It appears that Mr. Dunlop also provided invoices, albeit to a party
10:35:48 5 unconnected to Quarryvale, in the name of an individual other than himself.

6
7 The late Mr. Liam Lawlor received payments from Greene Property PLC, the
8 developer of the Blanchardstown Shopping Centre, and on one occasion used a
9 false invoice or name to generate the payment.

10:36:06 10
11 The payments by Greene Property PLC.

12
13 Greene Property PLC, Greene, was the developer of the Blanchardstown town
14 centre site. The late Mr. Liam Lawlor disclosed that he had received
10:36:21 15 approximately 35,000 pounds from Greene Property. When contacted initially by
16 the Tribunal there was no corporate recollection by Greene of any payments
17 having been made to the late Mr. Lawlor.

18
19 Mr. Lawlor advised that the contributions were made by cheque at meeting with
10:36:39 20 Greene's then managing director, Mr. John Corcoran. Mr. Corcoran has already
21 given evidence in the first part of the module.

22
23 In correspondence with the Tribunal Greene initially advised the Tribunal that
24 it could not find any records of payments at any time to Mr. Lawlor. Greene
10:36:57 25 further advised that Mr. Corcoran had advised them that he did not make
26 payments by cheque to Mr. Lawlor as had been stated by Mr. Lawlor. And had
27 only made contributions on foot of an invoice in relation to printing costs in
28 the sum of either 3,600 pounds or 6,300 pounds.

29
10:37:19 30 1. Payment of 13,953.50 pounds by Greene to Mr. Lawlor's company, Economic

10:37:26 1 Reports Limited.
2
3 The late Mr. Lawlor identified a sum of 13,953.50 pounds lodged to the accounts
4 of Economic Reports Limited at Bank of Ireland, Lucan. The account no. was
10:37:42 5 63551061. And the lodgement was on the 3rd of November 1988.
6
7 This was identified as the proceeds of a cheque from Greene, 3875.
8
9 A cheque in the sum of 13,953.50 pounds was debited from Greene's current
10:38:03 10 account on the 7th of November, 1988.
11
12 Mr. Lawlor was the beneficial owner of Economic Reports Limited and he used it
13 as a vehicle to receive funds. Mr. John Corcoran and Mr. James McKenna signed
14 the cheque from Greene. Mr. McKenna will say that he did not know that the
10:38:22 15 late Mr. Lawlor was connected to Economic Reports Limited, and that he is
16 unaware of the consideration provided by Economic Reports to Greene Property
17 and he has no knowledge of the manner in which the fee was agreed.
18
19 Mr. Corcoran, who cannot recollect the payment, assumes that it was for
10:38:39 20 services rendered as a planning consultant. Mr. Corcoran will tell the
21 Tribunal that Mr. Lawlor advised Greene on planning and land acquisition at
22 Blanchardstown and provided advice on planning matters and how to deal with
23 local authorities.
24
10:38:55 25 It appears Mr. Corcoran did not regard the payment as political. Mr. Lawlor
26 describes payments by Greene as political donations.
27
28 The position appears to be that in November 1988, a sum of 13,953.50 pounds was
29 paid by Greene Property PLC to Economic Reports Limited, an entity controlled
10:39:19 30 by Mr. Lawlor. And Greene were the developers of Blanchardstown Town Centre.

10:39:30 1
2 2. Payment of 10,000 pounds by Greene property to Comex Trading
3 Corporation lodged to the account of Mr. Niall Lawlor. In March, 2002 the
4 Tribunal identified to Greene Property entities that had been used by
10:39:41 5 Mr. Lawlor to generate invoices, including one called Comex Trading. A cheque
6 dated the 22nd of February, 1991 drawn on Greene Property in the sum of 10,000
7 pounds, was made payable to Comex Trading Corporation, 4686.
8
9 Now, it will be recollected yesterday that in dealing with other payments it
10:40:09 10 was identified that funds had been lodged to Mr. Dunlop's account which were
11 attributed to Comex and that also a payment of 5,000 pounds to Mr. Lawlor was
12 attributed in Mr. Dunlop's books to Comex.
13
14 This cheque for 10,000 pounds made payable to Comex Trading Corporation was
10:40:29 15 signed on behalf of Greene Properties by Mr. Corcoran and Mr. Mc Dowell.
16 Beneath the cheque that's on screen is the reverse of the cheque which contains
17 the signatures M Quinn for Comex and also Niall Lawlor.
18
19 This sum of 10,000 pounds appears to account for a lodgement to the account of
10:40:49 20 Mr. Niall Lawlor at National Irish Bank in February 1991.
21
22 Mr. Lawlor told the High Court that whilst he understood that Mr. Michael Quinn
23 had an association or involvement with Comex, Mr. Quinn has denied that this is
24 so.
10:41:06 25
26 Mr. Quinn does and did have an involvement as a director with another company
27 called Industrial Consultant International Limited. Mr. Quinn will say that
28 the signature on the back of the cheque, that's at 4686 and is on screen, is
29 not his, and that his company did not carry out any work for Greene.
10:41:27 30 Mr. Quinn did provide the late Mr. Lawlor with separate financial assistance

10:41:31 1 when Mr. Lawlor was in financial difficulty. The late Mr. Lawlor was a friend
2 of his and Mr. Quinn has identified these payments to the Tribunal.

3
4 The position appears to be that in February 1991 a sum of 10,000 pounds was
10:41:46 5 paid by Greene Property PLC to Comex Trading, the proceeds of which were lodged
6 to an account in the name of Niall Lawlor at National Irish Bank. It seems
7 that this was a payment by Greene Property to the late Mr. Liam Lawlor and
8 Greene were the developers of the Blanchardstown Town Centre.

9
10:42:04 10 Payments by Mr. Dunlop to Mr. Lawlor where false or fictitious names may have
11 been used.

12
13 Mr. Lawlor had previously told the Tribunal in evidence that he had on occasion
14 generated invoices which were false or fictitious and that he received payments
10:42:18 15 on foot of same.

16
17 As already outlined yesterday, the following two payments by Mr. Dunlop to
18 Mr. Lawlor may, and one almost certainly does, fall into this category.

19
10:42:29 20 1. 5,000 pounds in January 1991.

21
22 The payment of 5,000 pounds in January 1991 from Frank Dunlop & Associates by
23 way of cheque may have been made out to Comex Trading Corporation, as this is
24 the payee identified in the cheque payments' book of Frank Dunlop & Associates.

10:42:50 25 The proceeds of the cheque were lodged to the account of Mr. Niall Lawlor at
26 National Irish Bank. The payment has been dealt with and it will be
27 recollected that the late Mr. Lawlor had previously accepted that certain
28 transactions on this account of Mr. Niall Lawlor's were his transactions.

29
10:43:08 30 2. 25,000 pounds in March 1997.

10:43:12 1
2 A sum of 25,000 pounds was paid in March 1997 according to Mr. Dunlop on foot
3 of an invoice dated the 19th of February, 1997 in the name of Gangly
4 International Limited provided to him by Mr. Lawlor. This invoice was raised
10:43:28 5 by Mr. Lawlor to Frank Dunlop & Associates following a request for an invoice
6 from Mr. Dunlop. It was paid by Mr. Dunlop. And this has already been dealt
7 with yesterday.

8
9 Other such payments.

10:43:41 10
11 1. Payments to Mr. Liam Lawlor on foot of an invoice in the name of
12 Industrial Consultants International Limited.
13
14 2. Payments to Mr. Frank Dunlop in the name of Barry McCarthy.

10:43:52 15
16
17 1. Payments to Mr. Liam Lawlor on foot of an invoice in the name of
18 Industrial Consultants International Limited.
19

10:44:00 20 Industrial Consultants International Limited was a company with which
21 Mr. Michael Quinn, who will be giving evidence, a friend of Mr. Lawlor's, had
22 an involvement.

23
24 It was also a company name used by Mr. Lawlor in providing false or fictitious
10:44:22 25 invoices. Mr. Lawlor provided an invoice dated the 1st of November, 1990 in
26 the sum of 30,000 pounds to National Toll Roads Plc, stated to be in respect of
27 the Dublin Ring Road project.

28
29 A sum of 30,000 pounds was lodged to Mr. Niall Lawlor's account at National
10:44:32 30 Irish Bank in November 1990. Mr. Quinn denies that his company, Industrial

10:44:38 1 Consultants International Limited, ever carried out any work for this company
2 or issued any invoice to it. In his affidavit of the 22nd of January 2002 to
3 the High Court in proceedings involving this Tribunal, the late Mr. Liam Lawlor
4 swore that he was asked by the late Mr. Roche Senior to make the invoice out to
10:44:59 5 National Toll Roads Plc and, to comply with this request, he generated the
6 invoice using the letterhead referable to Industrial Consultants Association
7 and Industrial Consultants International Limited.

8
9 The position appears to be that in November 1990 a sum of 30,000 pounds was
10:45:17 10 made payable to Industrial Consultants International Limited, the proceeds of
11 which were lodged to an account in the name of Niall Lawlor at National Irish
12 Bank.

13
14 2. Payments to Mr. Frank Dunlop in the name of Barry McCarthy.

10:45:31 15
16 Documents provided to the Tribunal by National Toll Roads show that in 1989,
17 1990 and 1991 certain payments were made to Mr. Frank Dunlop and Shefran
18 Limited. These are as follows:

19
10:45:45 20 8th of September, 1989 payee Frank Dunlop, amount 5,000 pounds.

21
22 9th of February, 1990 payee Barry McCarthy, 20,000 pounds.

23
24 9th of November, 1990 cash, 5,000 pounds.

10:46:02 25
26 24th of May, 1990 Barry McCarthy, 20,000 pounds.

27
28 1 August, 1990 Shefran Limited, 20,000 pounds.

29
10:46:12 30 10th of October, 1990 Shefran Jersey Limited, 60,000 pounds.

10:46:18 1
2 30 May, 1991 Shefran, 20,000 pounds.
3
4 From the foregoing it can be seen that Mr. Dunlop received two payments of
10:46:28 5 20,000 pounds each in which the cheques were made payable to Barry McCarthy.
6 These cheques were endorsed Barry McCarthy on the reverse. The cheque in
7 favour of Shefran Limited dated the 1st of August, 1990 was similarly endorsed
8 on the back, Barry McCarthy Shefran Limited, in what appears to be the same
9 handwriting.

10:46:51 10
11 Arising from the foregoing the following issues arise:
12
13 1. The use of false or fictitious invoices as outlined by the late Mr. Liam
14 Lawlor in securing funds from the above entities.

10:47:04 15
16 2. The utilisation by Mr. Frank Dunlop of the name Barry McCarthy to secure
17 funds and whether this was a once-off event or method employed by Mr. Dunlop or
18 whether on a more regular basis he used this method for the receipt of funds.
19

10:47:22 20 3. The treatment of these funds in the hands of Mr. Dunlop.
21
22 4. The beneficial ownership of Comex and whether and to what extent, if any,
23 the following parties had an interest in Comex, namely, Mr. Frank Dunlop, Mr.
24 Michael Quinn and/or the late Mr. Liam Lawlor.

10:47:38 25
26 The next heading is "The events concerning Mr. Tom Gilmartin, Barkhill,
27 Mr. O'Callaghan, Mr. Deane and Allied Irish Bank in the period February 1991 to
28 -- " February -- sorry, to 1996.
29

10:48:00 30 The Riga subordinated loan account.

10:48:02 1
2 After the second heads of agreement were signed on the 15th of February, 1991
3 the first heads of agreement having been signed on the 14th of December, 1990
4 and prior to the 31st of May, 1991 when the third heads of agreement were
10:48:17 5 signed, Riga made six payments on behalf of Barkhill out of its current account
6 held with AIB.

7
8 So between the 15th of February and the 31st of May the following payments were
9 made by Riga on behalf of Barkhill out of its current account.

10:48:35 10
11 The current account of Riga was account No. 45176023. And is sometimes
12 referred to as the 023 account.

13
14 This was an account held with Allied Irish Bank at South Mall Cork. The
10:48:49 15 payments are as follows:

16
17 28th of February 1991, 26,192.52 pounds to Mr. Gilmartin.
18
19 5th March 1991 - 10,028 pounds to Mr. Gilmartin.

10:49:05 20
21 24th of April 1991, 55,656.36 pounds to Mr. Gilmartin.

22
23 16th of May 1991, 25,000 pounds to Shefran.

24
10:49:20 25 27th of May 1991, 58,407.50 pounds to deposit on the Murray lands.

26
27 On the 30th of May 1991, 40,000 pounds to Shefran.

28
29 The total paid out, therefore, in the period 15th February 1991 to the 31st of
10:49:38 30 May 1991 by Riga on behalf of Barkhill was 215,284.38 pounds.

10:49:46 1
2 On the 31st of May 1991, the third heads of agreement were signed between the
3 Gilmartins, Riga and AIB, and this can be found at the documents at 5184 to
4 5188. By the 31st of May 1991 Barkhill owed Riga 215,284.38 pounds as
10:50:09 5 outlined. Barkhill needed funds and no new investor had been found. AIB
6 agreed to lend an additional three million pounds to purchase or complete the
7 purchase of outstanding lands. Riga, which had already spent 215,284.38
8 pounds on behalf of Barkhill, agreed to make a loan of one million pounds to
9 Barkhill.

10:50:32 10
11 This loan was to be subordinate to the loans to Barkhill by Allied Irish Bank.
12 It became known as the `Riga subordinated loan`. Mr. Gilmartin's loans to
13 Barkhill, in other words, his original investment in Barkhill, were also to be
14 subordinated to the Allied Irish Bank loans. Riga and the bank were to get a
10:50:55 15 shareholding in Barkhill, with a consequent reduction in the Gilmartin
16 shareholding. The Gilmartins were to have one-third of Barkhill with Riga and
17 Allied Irish Bank holding two-thirds between them.

18
19 Riga was to have a 44 and four ninths share and Allied Irish Bank a 22 and two
10:51:16 20 ninth share. Riga was to be appointed project manager at the Quarryvale
21 project.

22
23 On the 6th of June 1991 Allied Irish Bank offered a one million pound term loan
24 to Riga for the stated purpose of "to fund inter company loan or equity in
10:51:33 25 Barkhill limited". Mr. O'Callaghan and Mr. Deane accepted the offer on the
26 same date. On foot of this agreement Riga opened a new loan account with
27 Allied Irish Bank, Account No. 45176536. And that can be seen at 4827. This
28 was sometimes referred to as the 536 account.

29
10:51:58 30 There were a very limited number of transactions on this account which used up,

10:52:06 1 in effect, the 1 million pounds in the account which I will go through in a
2 moment.
3
4 On the 13th of June, 1991 Riga made a further payment from its own current
10:52:18 5 account, the 023 account, on behalf of Barkhill. This payment was not made
6 from this loan account that's on screen, which is the 536 account. It was
7 made from Riga's own current account. This was a payment of 15,000 pounds to
8 Shefran, bringing the total indebtedness of Barkhill to Riga to 230,284.38
9 pounds. And that's a significant figure. Because one of the debits on the
10:52:47 10 536 account that's on screen is sum of 230,000 which is, in effect, the
11 repayment internally of the monies that had been expended by Riga on behalf of
12 Barkhill.
13
14 Included in the figure of 230,284.38 pounds were three payments to Shefran
10:53:06 15 totalling 80,000 pounds as follows:
16
17 The 16th of May 1991, payment to Shefran 25,000 pounds.
18
19 30th May 1991, payment to Shefran 40,000 pounds.
10:53:18 20
21 13 June 1991, payment to Shefran 15,000 pounds.
22
23 The total was 80, 000 pounds.
24
10:53:25 25 As we've seen, by the 31st of May Riga had made payments totalling 215,284.38
26 pounds on behalf of Barkhill, including 91,876.88 paid to or for the benefit of
27 Mr. Gilmartin himself. Of the balance of the sum only 58,407.50 was paid in
28 respect of the Murray lands. And this was the only sum that was applied
29 towards the cost of lands in Barkhill.

10:53:54 30

10:53:54 1 On the 19th of June 1991, Mr. Aidan Lucey on behalf of Riga transferred from
2 its newly opened term loan account the Riga's subordinated loan, a sum of
3 230,000 pounds to its own current account 45176023. What was happening here
4 was a transfer of 230,000 pounds from effectively the Riga subordinated loan to
10:54:19 5 the Riga current account. And what that was doing was repaying internally the
6 money that Riga to that date had spent on behalf of Barkhill.

7
8 This did not affect the indebtedness of Barkhill to Riga. Barkhill had not
9 yet repaid any of this money. Riga was utilising the monies it had borrowed
10:54:39 10 from AIB to repay its own current account for the outlay on behalf of Barkhill,
11 and it was perfectly entitled to do this. Barkhill was still indebted to Riga
12 for the money spent, including the Shefran payments on its behalf. The Riga
13 subordinated loan account was, on the 6th of June, debited with the sum of
14 660,000 pounds which was used for the purchase of the O'Rahilly lands. And
10:55:01 15 that's the debit that's on screen of 660,000 pounds. There were no other
16 transactions on the account up to the withdrawal of 230,000 pounds on the 19th
17 of June other than an interest debit.

18
19 There were two further withdrawals from this account on the 9th of July 1991,
10:55:18 20 45,000 pounds was withdrawn for fees due to Mr. Seamus Maguire. And on the
21 1st of August 1991, 58,407.50 pounds was withdrawn towards the cost of the
22 Murray land purchase.

23
24 The total amount debited from the Riga subordinated loan account, the 536
10:55:35 25 account, between the 6th of June 1991 and 1st of August 1991 was 995,703.93
26 pounds. This effectively used up the Riga subordinated loan account of one
27 million pounds.

28
29 After the 1st of September 1991 Riga made additional payments from its own
10:55:58 30 current account on behalf of Barkhill as follows:

10:56:00 1
2 Expenses of 10,000 pounds. A payment to Mr. Frank Dunlop of 8,484.29 pounds.
3
4 Further expenses of 10,000 pounds. A payment to Mr. Ambrose Kelly of 26,195
10:56:18 5 pounds. And a payment to Frank Dunlop of 8,228.42 which, when added together
6 and taken with the sum of 284.38 pounds, which was the overspill of the 230,000
7 pounds repayment, meant the total paid after September was 63,192.09 pounds.
8
9 I will get the dates for those payments in a moment.

10:56:43 10
11 The payment of 15,000 pounds in June 1991 from the Riga account in the sum of
12 15,000 pounds was paid on the -- was drawn on the 7th of June 1991 and not the
13 13th of June, as I had said.
14

10:57:17 15 I just mentioned two payments of 10,000 pounds that were made by Riga after the
16 1st of September 1991, one of those in fact was the payment to Mr. Colm McGrath
17 by Mr. O'Callaghan. The recipient of the other 10,000 pounds is not known.
18 Both of those payments will be dealt with in the module.
19

10:57:37 20 The total expended by Riga on behalf of Barkhill was over one million pounds --
21 it was in fact 1,056,598 pounds.
22

23 Barkhill made a payment from its no. 2 loan account with AIB of 56,598 pounds,
24 leaving a balance outstanding of one million pounds by February 1993 when
10:57:56 25 Ms. Mary Basquille on behalf of AIB faxed through to Mr. Gilmartin a breakdown
26 of the account.
27

28 In his statement to the Tribunal on 3rd of May 2000 at page 3155 and following,
29 Mr. Owen O'Callaghan said that he was aware that suggestions had been made that
10:58:12 30 it had been alleged by Mr. Gilmartin that one million pounds was given by

10:58:17 1 Allied Irish Bank to Mr. O'Callaghan for politicians to secure their votes.
2 This, Mr. O'Callaghan says, was absolutely untrue and incorrect.
3 Mr. O'Callaghan in his statement goes on to say that this allegation would
4 appear to be based on the fact that Allied Irish Bank did lend, not give, one
10:58:36 5 million pounds to Riga on security of Riga's assets, which sum was to be
6 invested in Barkhill or used for Barkhill's benefit. Mr. O'Callaghan says
7 that it may well be that this money, being a facility granted by AIB to Riga
8 was drawn down on the signatures of the appropriate Riga signatories and
9 without Mr. Gilmartin's express knowledge.

10:58:59 10
11 Over 860,000 pounds of this sum was used to fund land purchases for Barkhill
12 and make payments to Mr. Gilmartin himself. The monies came from Riga's
13 accounts and not from Barkhill's and were not taken from Mr. Gilmartin's
14 accounts. Riga would have appeared in Barkhill's books, he said, as being due
10:59:19 15 a reimbursement of these funds. Mr. O'Callaghan goes on to say that he is
16 certain that Mr. Gilmartin would have been supplied with details on an ongoing
17 basis as he would have wanted to make sure that Riga had paid up its million
18 pounds. It would appear from a letter dated 4th of February 1993 that
19 Ms. Mary Basquille of Allied Irish Bank wrote to Mr. O'Callaghan confirming
10:59:48 20 that a copy of this list of payments from the Riga subordinated loan account
21 had been furnished to Mr. Gilmartin at his request. That's at 9187.
22
23 In early 1991 Mr. O'Callaghan and Mr. Deane had a beneficial interest in the
24 Quarryvale lands which derive from the heads of agreement entered into between
11:00:02 25 them, Allied Irish Bank and Mr. Gilmartin, originally in December 1990 and
26 later in February 1991.
27
28 By September 1991 they were 40% shareholders in Barkhill. Mr. O'Callaghan
29 retained the services of Mr. Dunlop. Mr. Dunlop was introduced to
11:00:21 30 Mr. O'Callaghan by Mr. Lawlor as a person familiar with political lobbying and

11:00:26 1 someone who could help guide him through the process. Mr. O'Callaghan will
2 tell the Tribunal that Mr. Gilmartin totally rejected any involvement with Mr.
3 Dunlop and that at a meeting with Mr. Dunlop in the absence of Mr. Gilmartin,
4 Mr. Dunlop indicated that he would be prepared to undertake the entire
11:00:42 5 political lobbying which would involve three or four days work per week.
6

7 Mr. O'Callaghan has equally advised the Tribunal that, in view of Mr.
8 Gilmartin's opposition to using Mr. Dunlop, he agreed with Mr. Dunlop that he,
9 Mr. Dunlop, could invoice using his company Shefran Limited in order to keep
11:01:01 10 Mr. Dunlop's involvement from Mr. Gilmartin.
11

12 Mr. O'Callaghan was co-signatory on the following Riga cheques to Shefran.
13 Page 5000 please. The 16th of May 1991, 25,000 pounds. The 7th of June 1991
14 15,000 pounds. And 17th of February 1993, 25,000 pounds.

11:01:25 15
16 They are all, as can be seen from the screen at 5000, cheques drawn on the
17 account of Riga Limited. They're not drawn on a Barkhill account and these
18 amounts were repaid out of the one million pound subordinated loan. The
19 cheques are payments to Shefran Limited. They are signed by Mr. Lucey, who was
11:01:43 20 the in-house accountant, and Mr. Owen O'Callaghan. And they come to an amount
21 of 65,000 pounds.
22

23 In addition, Mr. O'Callaghan on the 10th of April 1992, requested Allied Irish
24 Bank to debit the Barkhill account in the amount of 40,000 pounds and draw a
11:02:01 25 draft to Shefran in that amount. 6944.
26

27 This is the bank draft. Payments out of the Barkhill bank account were not
28 made by cheque. They were made by bank draft authorised by the appropriate
29 person. And authorised by Allied Irish Bank. So, unlike payments that were
11:02:25 30 being made from the Riga account which were by cheque book, the payments that

11:02:28 1 came out of the Barkhill loan account was effectively only by way of draft and
2 there had to be an application for a requisition of a draft signed by an
3 appropriate person and then Allied Irish Bank would make a draft available to
4 that person.

11:02:42 5
6 So this sum of 40,000 pounds that was paid to Shefran was done on foot of a
7 request made by Mr. O'Callaghan on the 10th of April, 1992.

8
9 On the 4th of June 1992 Mr. O'Callaghan requested Allied Irish Bank to drawdown
11:02:56 10 30,000 pounds from the Barkhill No. two loan account and issue a draft to
11 Shefran. 3284.

12
13 And this is the request by Mr. O'Callaghan on the 4th of June 1992 for the
14 drawdown of a draft from the loan from Barkhill to be paid to Shefran Limited.

11:03:19 15
16 Now, both of these drafts were paid from the loan account of Barkhill. So
17 these are direct payments by Barkhill to Shefran. The previous payments had
18 been payments by Riga on behalf of Barkhill to Shefran.

11:03:32 20 Now, it should be stressed that Mr. Eddie Kay of Allied Irish Bank at least was
21 under the impression that Mr. Gilmartin had sanctioned this payment in a
22 telephone conversation of the 5th of June 1992. 3283. Mr. Kay wrote to Mr.
23 Gilmartin on the 10th of June 1992 enclosing a copy of the invoice which he
24 said Mr. Gilmartin had agreed to have paid.

11:04:00 25
26 And the letter says " Dear Tom, I refer to our telephone conversations on
27 Friday and enclose a copy of an invoice for 30,000 pounds payable to Shefran
28 Limited which, as agreed, we have paid.

11:04:10 30 I should be grateful if you would confirm your authorisation for this payment

11:04:14 1 to be made to keep my records correct "signed Eddie Kay.
2
3 Accordingly, certainly by at least the 5th or 10th of June 1992 Mr. Gilmartin
4 must have been aware of the existence of, if not the identity of, Shefran
11:04:28 5 Limited. And as a shareholder Mr. Gilmartin benefited from the rezoning of
6 Quarryvale. Documents provided to the Tribunal by Allied Irish Bank record
7 ongoing discussions between representatives of the bank and Mr. O'Callaghan and
8 Mr. Deane about fees and expenses. Mr. Michael O'Farrell of Allied Irish Bank
9 had a discussion with Mr. O'Callaghan on the 16th of September 1992 about fees
11:04:52 10 that have been paid and Mr. O'Farrell records Mr. O'Callaghan as providing
11 explanations where he could for the various items. If we could have 8042,
12 please.
13
14 Now, I think it's towards the end of this. I think it's the second last
11:05:12 15 paragraph in fact. Yes. Under the heading fees "I gave Owen O'Callaghan a
16 copy of the attached pages outlining the breakdown of the loans and a breakdown
17 of the fees paid and the fees outstanding. We went through the various fees
18 that have been paid and he provided explanations where he could for the various
19 items. See attached."
11:05:30 20
21 It is understood that what was being discussed there included some of the
22 Shefran payments, that can be clarified in evidence.
23
24 On the 15th of December 1992 Mr. Leo Flemming of De Loitte & Touche, auditors
11:05:47 25 to Barkhill, wrote to Mr. Aidan Lucey, secretary of O'Callaghan Properties
26 Limited, in connection with Deloitte's audit of Barkhill for the three and a
27 half year period to the 30th of April 1992. 9197. Mr. Flemming provided a
28 schedule entitled "payments transactions for which De Loitte & Touche have
29 received no supporting documentation, " and it detailed 10 such items. 9205.
11:06:16 30

11:06:16 1 Now if we look, first of all, at the heading on this document. This document
2 is entitled "payments or transactions which De Loitte & Touche have received no
3 supporting documentation." So what they have identified at this stage are
4 payments attributed to Barkhill for which they haven't been given any
11:06:41 5 documentation to indicate what the payments were for.

6
7 Item No. 6 on that list relates to three amounts paid to Shefran Limited from
8 the Riga subordinated loan on the following dates. They are 16th of May 1991.
9 30th of May 1991 and 13th of June 1991. And that's 25,000, 40,000 and 15,000,
11:07:05 10 which is the 80,000 pounds that had been paid from the Riga subordinated loan.

11
12 And that means that on the 15th of December 1992 the auditor of Barkhill was
13 seeking an explanation for these payments, as well as the other payments that
14 are outlined on the list.

11:07:22 15
16 Mr. Lucey responded on the 8th of February 1993 and said of items 1 to 10,
17 including item No. 6, as follows at page 9195.

18
19 Now Mr. Lucey, as I understand it, and I will be corrected immediately if I'm
11:07:48 20 incorrect in relation to this, is and was the accountant for Riga. The
21 in-house accountant for Riga, as well as the accountant for O'Callaghan
22 Properties, and is the person who generally dealt with the books and accounts
23 of the O'Callaghan companies. He now tells on the 8th of February 1993, Mr.
24 Leo Flemming, who is Barkhill's auditor in relation to items 1 to 10 which we
11:08:11 25 have just seen on screen, and item 6 of which contains the three Shefran
26 payments -- I do not have any further supporting documentation for items 1 to
27 10 and maybe you would check with AIB as they paid out most of these items. So
28 that would appear to suggest that Mr. Lucey is saying, as of this date, that he
29 didn't have the back-up documentation for items 1 to 10, and included in that
11:08:32 30 were the three Shefran payments.

11:08:34 1
2 Mr. Dunlop discovered to the Tribunal the following invoices, namely, at 4804.
3 An invoice dated 25th of March 1991, which is payable to the accounts payable
4 Riga Limited 21 to 24 Lavits Quay Cork in the sum of 25,000 pounds. He
11:08:58 5 produced a second invoice dated 2nd of April 1991, 4849, which is directed to
6 accounts payable Riga Limited 21 to 24 Lavits Quay Cork in the sum of 40,000
7 pounds, and a third invoice of the 1st of May 1991, 4994, which is accounts
8 payable Riga Limited 21 to 24 Lavits Quay Cork. Now, one would have expected
9 that were these invoices issued, as suggested by the supporting documentation,
11:09:31 10 then Riga ought to have had the original invoices or at least copies.
11
12 Two of the three cheques supporting these payments were signed by
13 Mr. O'Callaghan and Mr. Lucey and were drawn on the accounts of Riga Limited at
14 AIB 97 South Mall Cork. Could I have 5,000, please.
11:09:52 15
16 Now, these are the three cheques. It will be noted that the signatures on the
17 three cheques are Mr. Lucey and Mr. O'Callaghan, and it will be recollected
18 that Mr. Lucey has written back to the auditors saying that he has no back-up
19 documentation for the payments.
11:10:08 20
21 The Tribunal has sought and not been furnished with a copy of the cheque 501006
22 drawn on the Riga current account in respect of the third query payment, 40,000
23 pounds. Further -- and the bank have not been able to produce that cheque.
24 And evidence was heard here, I think quite a long time ago, about that matter
11:10:26 25 and it's not a criticism of any person. Simply the bank have never been able
26 to produce a copy of that. Further, if as stated in correspondence by Mr.
27 Lucey AIB had paid out most of the sums on the list of items 1 to 10, then if
28 they had paid out on the three invoices to Shefran, they too should have had
29 copies of the invoices. AIB did not however pay out on those Shefran invoices
11:10:49 30 out of the Barkhill account, in which case one would have expected them to have

11:10:52 1 had copies. The invoices were paid by Riga out of the Riga current account.
2
3 Allied Irish Bank did make later payments out of the Barkhill loan account to
4 Shefran as detailed below and which we have already indicated. The draft on
11:11:06 5 the 13th of April 1992 payable to Shefran in the sum of 40,000 pounds, and
6 that's at 6944, and the draft on the 5th of June 1992 payable to Shefran in the
7 amount of 30,000 pounds.
8
9 In a letter dated the 3rd of May 1993 to Mr. John Deane, Mr. Flemming again
11:11:25 10 attached the schedule of outstanding queries 1 to 10 for which De Loitte &
11 Touche had received no supporting documentation. The transactions recorded in
12 the schedule, he said, had been booked in the accounts of Riga, sorry, in the
13 accounts of Barkhill, on the basis of discussion and explanations received from
14 Mr. Tom Gilmartin, Mr. Aidan Lucey, Mr. Seamus Maguire and Allied Irish Banks.
11:11:48 15 And the Tribunal will inquire into the explanations that were provided by all
16 of these persons for those and the other Shefran invoices.
17
18 On the 10th of February 1993, Mr. John Deane informed Allied Irish Bank that
19 Riga had incurred additional expense in the sum of 400,000 pounds approximately
11:12:05 20 in order to secure the Quarryvale zoning. 9240 please.
21
22 And I think it's at 9241. It's the bottom part of the page of 9241. This is
23 a letter from Deane Enright & Partners, Solicitors, to Michael O'Farrell of
24 AIB bank. And in this letter Mr. Deane informs the bank as follows "In
11:12:32 25 addition to the foregoing, Riga Limited has also incurred additional expense in
26 the sum of 400,000 pounds approximately in order to secure the Quarryvale
27 zoning. This has been spent in two ways as follows:
28
29 A. 150,000 pounds has been paid on various "expenses" directly related to the
11:12:52 30 Quarryvale project and for which invoices have not been produced to the bank

11:12:56 1 nor has the bank been requested to make any payment out of the Barkhill
2 account.

3
4 B. 250,000 pounds has been spent in connection with the stadium project for
11:13:04 5 the old Neilstown site."

6
7 It is not known if the 150,000 pounds referred to by Mr. Deane in this letter
8 was a reference to the payments to Shefran or otherwise. And the Tribunal
9 will inquire into these amounts and what was meant by these amounts by
11:13:21 10 Mr. Deane.

11
12 These queried payments to Shefran referred to in the De Loitte & Touche
13 correspondence were from the bank accounts of Riga. These queried payments
14 were made directly by Riga and, as such, Mr. Gilmartin's consent to the
11:13:35 15 payments would not have been required at the time the payment was actually
16 made. But the payments were made by Riga on behalf of Barkhill and, as such,
17 would have to be authorised or sanctioned at some stage as being properly
18 attributable to the Riga to Barkhill loan account. One would have expected
19 Mr. Gilmartin to be apprised of the payments when they were being posted to the
11:13:57 20 Riga/Barkhill loan account if not when made, as they would be a liability of
21 Barkhill only if the payment had been made by Riga on its behalf.

22
23 Mr. Gilmartin will tell the Tribunal that when he became aware that substantial
24 amounts of money were being paid out of the Barkhill account to various people,
11:14:14 25 including Mr. Frank Dunlop, Ambrose Kelly and a company called Shefran Limited,
26 he recalled querying these payments, particularly those to Mr. Dunlop and
27 Shefran Limited. He will say that he never got a satisfactory explanation as
28 to what services Shefran Limited was providing to Barkhill and that he was
29 sceptical about any payments to Mr. Dunlop.

11:14:36 30

11:14:36 1 As already seen, Mr. Gilmartin appears to have known of at least one further
2 payment to Shefran since Mr. Eddie Kay wrote to him following a phone call on
3 5th of June 1992, enclosing a copy of an invoice for 30,000 pounds made payable
4 to Shefran, which the correspondence suggests had been paid with his, Mr.
11:14:54 5 Gilmartin's, agreement.
6

7 Mr. Gilmartin will tell the Tribunal that he received this copy invoice after
8 he had persistently raised the issue with Allied Irish Bank and in particular
9 with Mr. McGrath and Mr. Kay. He queried them about the nature of the services
11:15:10 10 being provided to Barkhill by Shefran as he was concerned about what he saw
11 appearing in draft accounts which he received for the year end 30 April 1992 in
12 mid June 1992.
13

14 Mr. Gilmartin alleges that he never got a satisfactory explanation from Allied
11:15:25 15 Irish Bank personnel as to why Barkhill was paying such large sums of money to
16 Mr. Dunlop and Shefran. Mr. Aidan Lucey, on the other hand, was unable to
17 provide further documentation in relation to the first three Shefran payments
18 when requested by DeLoitte & Touche in December 1992 as per his letter of
19 February.
20

11:15:45 20 He had suggested that Mr. Flemming contact AIB as they had made most of the
21 payments.
22
23

24 The Tribunal will inquire into all of these payments to Shefran and all of the
11:15:56 25 circumstances surrounding the same, including the purpose of the payments and
26 the extent to which the promoters of Barkhill, including Mr. Gilmartin, Allied
27 Irish Bank, Messrs. O'Callaghan and Deane were aware of the ultimate
28 destination of these payments. The inquiry into all of the payments by Riga
29 and Barkhill to Shefran will also include, but will not be limited to, the
11:16:17 30 following specific matters:

- 11:16:19 1
- 2 1. The date of issue of each Shefran invoice.
- 3
- 4 2. The party or parties who were furnished with the invoices or copies of the
- 11:16:25 5 invoices.
- 6
- 7 3. When did each of the beneficial owners of Barkhill discover the payments
- 8 to Shefran?
- 9
- 11:16:32 10 4. The information available to the parties involved in or connected to the
- 11 Shefran payments and the information provided by them and others to the
- 12 auditors of Barkhill.
- 13
- 14 5. The explanations for the Shefran payments provided by the parties involved
- 11:16:48 15 in making the Shefran payments.
- 16
- 17 Revised heads of agreement, but not a concluded formal agreement, were entered
- 18 into between Mr. Gilmartin and Mr. O'Callaghan on the 31st of May 1991. This
- 19 was because of the failure to find an additional investor who was prepared to
- 11:17:07 20 take a one-third interest in Barkhill for 4 million pounds. The bank and Riga
- 21 were now to get a bigger shareholding in Barkhill with the bank advancing more
- 22 money and deferring interest on the existing loan. It was envisaged at that
- 23 time that a formal agreement incorporating these provisions would be entered
- 24 into between the parties by the 31st of June 1991. Yet again this did not
- 11:17:29 25 happen.
- 26
- 27 Notwithstanding having signed a second head of agreement, Mr. Gilmartin in his
- 28 statement to the Tribunal says he avoided signing any formal agreement to give
- 29 effect to its terms. He said that while Allied Irish Bank and Mr. O'Callaghan
- 11:17:44 30 were anxious to bind him to a deal which would mean handing over majority

11:17:47 1 control of Barkhill to a combination of AIB and Mr. O'Callaghan's company Riga,
2 he was doing everything in his power to try and find an alternative investor.
3
4 No such formal agreement was entered into by 31st of June 1991, and Mr. Eddie
11:18:03 5 Kay of Allied Irish Bank met with Mr. Gilmartin in London in early August.
6 Mr. Gilmartin was at this time refusing to sign such an agreement on the basis
7 that Mr. O'Callaghan was getting a substantial interest in his company without
8 having made any financial contribution. A contemporaneous memorandum of that
9 meeting between Mr. Kay and Mr. Gilmartin records Mr. Gilmartin as being
11:18:26 10 unhappy with the professional appointments made by Mr. O'Callaghan. In any
11 event, Mr. Gilmartin undertook to sign a shareholders' agreement by 9th of
12 August 1991 provided he had an equal percentage shareholding with Mr.
13 O'Callaghan.
14
11:18:39 15 By 5th of September 1991 no shareholders' agreement had been signed and Allied
16 Irish Bank wrote to Mr. Gilmartin advising him that unless a shareholders'
17 agreement was signed not later than 13th of September, the bank would take such
18 action as it might be advised to recover all sums due from Barkhill.
19
11:18:57 20 In his statement to the Tribunal Mr. Gilmartin regarded this letter as a
21 summons to attend Bank Centre to negotiate the formal agreement giving effect
22 to the heads of agreement signed in May 1991.
23
24 A crucial meeting took place on 13th of September 1991 at Bank Centre which led
11:19:14 25 to the formal signing of a shareholders' agreement between Allied Irish Bank,
26 Mr. Gilmartin and Riga. Whereby Riga and Mr. Gilmartin were each given a 40%
27 interest in Barkhill and AIB the remaining 20%.
28
29 Allied Irish Bank capital markets retained this shareholding on behalf of AIB.
11:19:34 30 In addition there was a side agreement entered into between the Gilmartins and

11:19:38 1 Riga that was subsequently revised. This provided that in return for an
2 immediate payment of 100,000 pounds it was agreed that Riga could procure all
3 of the Gilmartin shareholding in Barkhill for a consideration of a further 4.5
4 million in stage payments.

11:19:53 5
6 Merrygrove, which owned the Neilstown lands, became a subsidiary of Barkhill.
7 AIB made additional advances to Barkhill, Riga made a loan of 1 million pounds
8 that was to be subordinated to all sums due to AIB. In essence, the
9 shareholders' agreement concluded the formal arrangements between Mr.
11:20:12 10 O'Callaghan, Mr. Gilmartin and Allied Irish Bank.
11
12 The shareholding of Allied Irish Bank in Barkhill.
13
14 Documentation discovered to the Tribunal suggests that the 20% shareholding in
11:20:30 15 Barkhill held by Allied Irish Bank should have been included in the bank's
16 annual returns to the Companies Office. In December 1993 Allied Irish Bank
17 were concerned that unless their shareholding was reduced to below 20% by 31st
18 of December 1993, it would be included in the return for the first time that
19 year and this might attract attention prior to their annual general meeting.

11:20:53 20
21 Any investigation of the Barkhill file in the Companies Office would confirm
22 that AIB were allotted a 20% shareholding in Barkhill in 1991. The
23 shareholding of AIB in Barkhill was registered in the name of AIB Capital
24 Markets Plc.

11:21:11 25
26 One of the options was to transfer one share each to Mr. and Mrs. Gilmartin.
27 However, when this was proposed to Mr. Gilmartin he was not prepared to
28 cooperate on the issue and suggested that AIB transfer their entire 20%
29 shareholding to him if they wanted to make any transfer. AIB's solution to
11:21:29 30 the problem seems to have been to ask their solicitors to execute two

11:21:34 1 declarations of trust in favour of Mr. and Mrs. Gilmartin and the other in
2 favour of Riga Limited. They had been advised that any transfer of the
3 beneficial interest in these shares did not involve registration in the
4 Companies Office.

11:21:46 5
6 On 23rd of December 1993 Mr. Michael O'Farrell signed a declaration of trust
7 on behalf of AIB capital markets in respect of one ordinary share in Barkhill.
8 Mr. Gilmartin was never really happy with the shareholders' agreement. In his
9 statement to the Tribunal he refers to this agreement as being one he was
11:22:05 10 forced to conclude with Riga. He maintains from that point on he felt himself
11 excluded from the management control of Barkhill because Mr. O'Callaghan and
12 AIB had a majority on the board of directors and could push through any
13 decisions they wanted, notwithstanding any objections he might wish to raise.
14

11:22:21 15 Throughout the succeeding months and years Riga, who had been appointed
16 project managers, took a more active part in the Quarryvale project and brought
17 in more and more of their professional advisors to deal with the project. Mr.
18 O'Callaghan became a director of Barkhill and began to formally sanction
19 payments.

11:22:40 20
21 Mr. Gilmartin had his own difficulties at this time. He had severe cashflow
22 difficulties, he had been declared a bankrupt in the UK and was eventually
23 discharged from bankruptcy in 1992. He had revenue difficulties. Although
24 there were regular board meetings of Barkhill Mr. Gilmartin, who lived in
11:22:56 25 England, tended not to attend and when he did attend he alleges that he
26 expressed concern about the delay in getting the Quarryvale project off the
27 ground. In his statement to the Tribunal he says his concern was grounded on
28 the fact that Tallaght had obtained a special tax designation and he was
29 concerned that if the Blanchardstown site, which was being developed by Greene
11:23:15 30 Property Company also received tax designation, all available investment would

11:23:22 1 flop to both of these sites.
2
3 Greene Property Plc had plans to development the new town centre at
4 Blanchardstown. This site involved part of 92 acre site zoned for town centre
11:23:33 5 purposes in the Dublin County Development Plan 1983. This project involved
6 construction of 850,000 square feet of retail shopping. Mr. John Corcoran,
7 who gave evidence in the first part of the module, was the managing director
8 of Greene Property Company. Mr. Corcoran on behalf of Green consistently
9 sought tax designation for the Blanchardstown site.

11:23:53 10
11 Mr. Finian Matthews of the Department of the Environment Heritage & Local
12 Government will tell the Tribunal that the records of the Department in
13 connection with the designation of Blanchardstown began with a letter dated
14 19th of October 1987 to Mr. Gerrard Connolly, TD, Minister of State, signed
11:24:11 15 jointly by Mr. Liam Lawlor, Sean Walsh and Chris Flood, TDs and members of
16 Dublin County Council. The letter at 3809 requested designated status for two
17 of the three western towns, namely, Tallaght and Blanchardstown.
18
19 The Department of the Environment recommended that, apart from Tallaght, the
11:24:30 20 idea of designating areas in satellite towns should be abandoned. A
21 memorandum to Government dated 10th of December 1987 was prepared by the
22 Department of the Environment which recommended that the Urban Renewal Scheme
23 be extended by designating Tallaght town centre for urban renewal incentives.
24 There was no suggestion that Blanchardstown or any other town centre be
11:24:53 25 designated. The Government approved this recommendation and the Minister for
26 Finance denounced the designation of Tallaght in his budget speech of January
27 1988. Greene Property continued to lobby for the designation of
28 Blanchardstown but the position of the Department of the Environment on the
29 issue, namely that there were no proposals to designate an area in
11:25:13 30 Blanchardstown for urban renewal at that time, remained the same and this was

11:25:16 1 conveyed to Greene Property in correspondence from the Taoiseach, The
2 Department of the Environment and in a written reply in the Dail.

3
4 Notwithstanding this, Greene Property still continued to ask that the
11:25:28 5 Department and Minister favourably consider their site at Blanchardstown for
6 tax designation.

7
8 There is a note in the handwriting of Mr. Pdraig Flynn, then Minister for the
9 Environment, dated 2nd of September 1988 on a letter received by him from the
11:25:42 10 Tanaiste and Minister for Foreign Affairs, the late Mr. Brian Lenihan, seeking
11 the designation of Blanchardstown, which suggests that a reply be drafted on
12 the basis that he was "considering the matter". 3860.

13
14 A letter written a few days previously to Mr. Corcoran by Mr. Flynn indicated
11:26:02 15 that there were no proposals at present to extend the designated scheme to
16 Blanchardstown. The earlier letter is at 3861.

17
18 Despite this, by the 10th of October 1988 Minister Flynn advised the Tanaiste
19 that there were no plans to extend the scheme to Blanchardstown. In October
11:26:27 20 1988 Dublin County Council requested that the Minister receive a deputation
21 comprising council members from Castleknock and Mulhuddart to discuss the
22 possibility of an extension of the designation scheme to Blanchardstown. On
23 the 1st of November 1988 Greene Property wrote again seeking the designation of
24 the site.

11:26:46 25
26 By the 16th of November 1988 the Department of the Environment were of the view
27 that there ought to be a review of the scheme before the year end 1988, and by
28 December 1988 designation could not be recommended by the Department. The
29 Tanaiste requested Minister Flynn to facilitate a meeting with Mr. Corcoran and
11:27:04 30 a handwritten note on a copy of this letter which appears to have been made on

11:27:09 1 either the 17th or 27th of November 1988 by Minister Flynn asked that the
2 Tanaiste bring Mr. Corcoran along to a meeting with him. 3889.
3
4 Now, this is a letter from the late Mr. Brian Lenihan enclosing a letter from
11:27:27 5 Mr. Corcoran concerning tax designation for Blanchardstown and asking minister
6 Flynn to facilitate the request for a meeting. And it contains a handwritten
7 note that appears to be signed by Mr. Padraig Flynn, acknowledge and ask
8 Tanaiste to bring him along. That appears to be dated either the 17th or 27th
9 of November 1988.
11:27:46 10
11 Minister Flynn wrote to the Tanaiste, Mr. Lenihan, asking that the private
12 secretaries contact each other with a view to arranging a meeting between the
13 minister, the Tanaiste and Mr. Corcoran for a suitable time. That's at 3893.
14 Mr. Finian Matthews, Principal Officer of the Department of the Environment,
11:28:03 15 Heritage and Local Government, in a statement to the Tribunal on 25th of
16 November 2004 has advised that there was no record of any ensuing meeting.
17 The Department again recommended on 24th of November 1988 that the Urban
18 Renewal Scheme should not be extended to Blanchardstown.
19
11:28:21 20 The Tribunal will be anxious to establish with Mr. Flynn and Mr. Corcoran if
21 such a meeting did take place. It does appear that in January 1989 the
22 Minister's private secretary did write to Dublin County Council in response to
23 the resolution about a possible extension of the designation scheme to
24 Blanchardstown in terms which would suggest that the meeting did in fact take
11:28:46 25 place. 3898.
26
27 And the second paragraph of this letter records "the Minister, who has already
28 been in contact with the developer of the proposed town centre in
29 Blanchardstown, has noted your interest in the proposal and will bear this in
11:29:03 30 mind in any proposals to designate further areas under the scheme. I will

11:29:05 1 contact you again if there are any developments in this regard".
2
3 Either way, on the 3rd of January 1989 the Department of the Environment
4 proposed, contrary to what had been its stated position on the matter, that
11:29:21 5 there would be an amplification of the urban renewal programme to include an
6 extension of the designated scheme in Dublin 2 "an area in Blanchardstown in
7 and around the 35 acres for which planning permission for extensive shopping
8 centre has been obtained by the Greene Property Company. This designation will
9 be designed to facilitate the development of a town centre in Blanchardstown".
11:29:48 10 13416.
11
12 It's on the next page.
13
14 And you will see on the fourth internal small paragraph is "an area in
11:30:11 15 Blanchardstown in or around the 35 acres which planning permission for
16 extensive shopping centre has been obtained by the Greene Property Company.
17 This designation will be designed to facilitate the development of a town
18 centre in Blanchardstown".
19
11:30:23 20 The Department of Finance appear to have been very much opposed to this
21 proposed extension to the designation scheme, as appears from a memorandum
22 prepared by a Mr. Pat McBride, Budget Section, on the 31st of January 1989.
23 Greene Property continued to lobby for the extension of the designation to
24 Blanchardstown in March and April 1989. But the departmental and ministerial
11:30:46 25 view was against designation for Blanchardstown. Mr. Corcoran met with
26 Mr. Pádraig Flynn on 10th of May 1989. On 2nd of June 1989 Greene properties
27 paid 25,000 pounds to the Fianna Fail General Election campaign. 3972. Mr.
28 Corcoran has advised the Tribunal that, to the best of his recollection,
29 Mr. Paul Kavanagh came to his office by appointment sometime prior to the 5th
11:31:10 30 of May 1989 and asked him to make a substantial political donation to Fianna

11:31:16 1 Fail at this time.
2
3 In a schedule entitled "Greene Property Plc -- review of political donations
4 1989 to 1998" Greene advised the Tribunal that they made a direct support to
11:31:31 5 Fianna Fail General Election fund of 25,000 pounds on the 5th of July 1989.
6
7 On 21st of July 1989 Mr. Corcoran wrote to both Mr. Reynolds and Mr. Flynn
8 congratulating them on their reappointment as ministers and asking yet again
9 that Blanchardstown be designated. A memorandum was prepared for a further
11:31:49 10 meeting between Mr. Corcoran and Minister Flynn on the 26th of July 1989. By
11 the 14th of August 1989 Mr. Corcoran had also lobbied the Minister for Finance,
12 Mr. Reynolds, about designation for Blanchardstown. A further meeting took
13 place between Minister Flynn and Mr. Corcoran on 5th of October 1989 which was
14 followed by further representations for the designation of Blanchardstown.
11:32:15 15
16 A memorandum of a meeting which took place on 3rd of January 1990 within the
17 Department of the Environment suggests that an aid memoire be finalised for
18 submission to Government dealing with an extension of the Urban Renewal Scheme.
19 It was to be recommended that there would be an extension to Dublin as
11:32:34 20 currently proposed. It is not readily apparent on reading that memorandum
21 that Blanchardstown was proposed as an area for extension of the scheme.
22 However, there is discovered to the Tribunal a document from the Department of
23 Finance headed "Initial comments on proposals from the Minister for the
24 Environment about extensions of urban renewal incentives " dated 13 March 1990,
11:32:58 25 which clearly regards the Department of the Environment or Minister of the
26 Environment as considering an extension of the scheme to include the 35 acres
27 at Blanchardstown encompassing the proposed shopping centre. 4220. 4221.
28
29 You will see there the last paragraph deals with the 38 acres at Blanchardstown
11:33:27 30 and the attitude of the Department of Finance.

11:33:37 1
2 Once again the Department of Finance was opposed to the extension and the
3 opposition was contained in an aid memoire prepared within the Department of
4 Finance dated the 13th of March 1990. Despite continued lobbying by Greene,
11:33:43 5 there was no further reference to a proposed extension of designation to
6 Blanchardstown. On the 1st of May 1990 additional areas in Dublin and other
7 centers were announced, but Blanchardstown was not included. On 20th of May
8 1991 the Dublin Fingal District Committee resolved that the council request the
9 ministers for environment and finance to grant designated status under the
11:34:06 10 Urban Renewal Act to Blanchardstown town centre. A further review of the
11 proposed extension to Blanchardstown was conducted on the 13th of June 1991
12 within the Department of the Environment, but concluded that for the various
13 stated reasons designation of Blanchardstown had not been recommend in the past
14 and, given the current controversy surrounding development, it was strongly
11:34:30 15 recommended that the site should not now be designated. The current
16 controversy surrounding development probably relates to the motion of the 16th
17 of May 1991 in relation to rezoning Quarryvale.
18
19 The Department continued to advise those lobbying for an extension of
11:34:46 20 designation to Blanchardstown, namely Councillor McGrath and Deputy Michael
21 Moynihan, in an oral answer given on the 23rd of October 1991 to a Dail
22 question that there were no proposals at that time to extend the Urban Renewal
23 Scheme to further areas and all representations were responded to on that
24 basis. Greene Properties, however, continued to lobby for the extension of
11:35:07 25 the designation to Blanchardstown throughout 1992. A further report prepared
26 within the Department of the Environment on 13th of May 1992 advised that
27 designation of Blanchardstown had not been recommended for a number of reasons
28 in the past and, given the current controversy surrounding the development, a
29 meeting with the representatives of Greene Property would not be recommended.
11:35:28 30 This continued to be approach of the Department and Government throughout 1992.

11:35:33 1
2 In 1993 the Department again maintained the view that Blanchardstown should not
3 be designated. Notwithstanding this decision, Mr. Corcoran persisted in
4 lobbying for the designation of Blanchardstown. In his statement to the
11:35:46 5 Tribunal Mr. Gilmartin refers to a board meeting of Barkhill attended by
6 Mr. O'Callaghan and himself and others at which Mr. O'Callaghan, having left
7 the meeting, returned and advised that he had heard it "from the horse's mouth"
8 that Blanchardstown was definitely not getting tax designation on their site.
9 When asked by Mr. Gilmartin as to what he meant by "the horse's mouth" he
11:36:11 10 identified Mr. Bertie Ahern, then Minister for Finance, as having given the
11 assurance.
12
13 Mr. Gilmartin alleges that this exchange took place at a meeting at which there
14 were the following present: namely, Michael O'Farrell of Allied Irish Bank;
11:36:25 15 Mary Basquille of Allied Irish Bank, John Deane, Barry Pitcher AIB Capital
16 Markets, Seamus Maguire.
17
18 Mr. Gilmartin was unable to recall the exact date of the meeting. Mr. Bertie
19 Ahern has advised the Tribunal that he met Mr. Corcoran of Greene Properties on
11:36:41 20 the 13th of July 1993 when Mr. Corcoran, to the best of Mr. Ahern's
21 recollection, briefed him about Greene Properties' plans for future investment
22 in the county. Mr. Ahern will tell the Tribunal that he had no specific
23 recollection of discussing designation with Mr. Corcoran.
24
11:36:59 25 Documentation discovered to the Tribunal by the Department of the Environment,
26 not the Department of Finance, disclosed that Mr. Brendan Ward of the
27 Department of Finance, in July 1993, sought from Mr. Rice of the Department of
28 the Environment, his departmental views on the proposals for the designation of
29 Blanchardstown. It appears from correspondence passing between Michael Smith
11:37:22 30 and Ruairi Quinn, then Minister for the Environment and Employment, that there

11:37:26 1 were no proposals to extend the scheme to any additional centre. The
2 Tanaiste, Mr. Lenihan, was advised of the Minister's thinking on the subject in
3 similar terms in July 1993.
4

11:37:38 5 In a statement to the Tribunal Mr. Liam Murphy of the Department of Finance has
6 advised the Tribunal that on 29th of July 1993 Deputy Brian Lenihan wrote to
7 the then Minister for Finance, Mr. Bertie Ahern, on behalf of Mr. John Corcoran
8 recommending designated status for Blanchardstown town centre. An
9 acknowledgement was sent to Deputy Lenihan on the 8th of August 1993, but the
11:38:08 10 departmental files have no record of a final reply.
11

12 In November 1993 Ms. Joan Burton lobbied Mr. Emmet Stag, the Minister for State
13 and the Department of Environment, for the designation of Blanchardstown. On
14 4th of December 1993 the following members of Dublin County Council, namely
11:38:21 15 Councillors John O'Halloran, Colm McGrath, Ridge, Colm Tyndall and Peter Brady,
16 representing both the Lucan and Clondalkin wards, wrote to Mr. Ahern, Minister
17 for Finance, following the making of the Development Plan asking that
18 Clondalkin be designated in order to help put the Quarryvale project and other
19 projects that might come into the area.

11:38:43 20
21 Mr. Ahern replied on 28th of February advising them that the question of tax
22 designation was a matter for his colleague, the Minister for the Environment.
23 The Minister for the Environment advised Mr. O'Halloran on 28th of March 1994
24 that the points raised by him in support of the north Clondalkin area had been
11:39:01 25 noted and would be considered in the context of the selection of areas and that
26 it was hoped to announce detail of the specific areas to be designated under
27 the new scheme shortly.
28

29 A memorandum to Government in January 1994 proposed a revised scheme. And the
11:39:16 30 Government approved in principle such a scheme at its meeting on the 19th of

11:39:20 1 January 1994. On the 4th of February 1994 Mr. S. Vernon of Greene Property Plc
2 wrote to Minister Bertie Ahern attaching a copy of a letter he had sent the
3 same date for his information to the Minister for the Environment about the
4 designation of Blanchardstown. Mr. Liam Murphy of the Department of Finance
11:39:40 5 will tell the Tribunal that there is manuscript note on the letter to Mr. Ahern
6 indicating that no action was required on this and there is no record in the
7 Department's files of an acknowledgement or reply.

8
9 A similar letter to the Minister for the Environment and Mr. Stag, the
11:39:55 10 Minister for State, was sent on the same day. And Mr. Finian Matthews of the
11 Department of the Environment will tell the Tribunal that, while the Minister
12 for State acknowledged the letter on 10th of February 1994, there was no record
13 of any reply issued for the Minister for the Environment.

14
11:40:12 15 It would appear from a telephone attendance dated 2nd of March 1994 between
16 Mr. Michael O'Farrell of AIB and Mr. Owen O'Callaghan that Mr. Owen
17 O'Callaghan was aware that Blanchardstown had been seeking designation, 10805
18 please. The memorandum records Mr. O'Callaghan as telling Mr. O'Farrell that
19 he, Mr. O'Callaghan, had been indicating in political circles that he was not
11:40:39 20 seeking designation for Quarryvale on the basis that it was not forthcoming for
21 Blanchardstown either.

22
23 Mr. O'Callaghan is recorded as believing that he was well ahead of
24 Blanchardstown and designation of both areas would only level the playing pitch
11:40:53 25 and he would lose his advantage. Mr. O'Callaghan is recorded as being happy
26 that the designation of Blanchardstown was not on the agenda.

27
28 Now, the document in the third paragraph of the document that's on screen is a
29 file note by Mr. Michael O'Farrell, Senior Manager Corporate Banking, dated
11:41:10 30 2nd of March 1994. In the third paragraph, the first paragraph notes "I

11:41:14 1 phoned Owen O'Callaghan. " The third paragraph says "I raised the matter of
2 designation with him. He, that's Mr. O'Callaghan, indicated that he is aware
3 that Blanchardstown had been seeking designation. He has indicated in
4 political circles that he is not seeking designation for Quarryvale on the
11:41:30 5 basis that same is not forthcoming for Blanchardstown either. He believes he
6 is well ahead of Blanchardstown in terms of anchor interest and the
7 introduction of designation to both sides would level the playing field and he
8 would lose his advantage. He is happy that designation for Blanchardstown is
9 not on the agenda. A further factor in this regard would be the financial
11:41:50 10 pressure that the various councils are under. Designation would of course
11 reduce revenues available to the councils over the next ten years because of
12 rates remission". And then it goes on then to deal with another matter.
13
14 Now, Mr. Bertie Ahern will tell the Tribunal that he did meet with Mr.
11:42:07 15 O'Callaghan on the 24th of March 1994, some 22 days later. That's after this
16 telephone conversation. Although he did not recall what was discussed, but he
17 had no specific recollection of discussing the designation of either
18 Blanchardstown or Quarryvale with either Mr. Corcoran or Mr. O'Callaghan. A
19 motion in the name of Ms. McGuinness, which was passed at the Fingal County
11:42:31 20 Council meeting of the 17th of January 1994 recommending to the Government the
21 designation of Blanchardstown, was finally brought to the attention of both The
22 Department of Finance on 16th of March and The Department of the Environment on
23 30th of March 1994. The council was advised by the Department of the
24 Environment on the 15th of April 1994 that Blanchardstown would not be included
11:42:51 25 in the new scheme then being considered.
26
27 Mr. Gilmartin will tell the Tribunal that he was told by Mr. O'Callaghan on
28 another occasion that he, Mr. O'Callaghan, had given money to Mr. Bertie Ahern
29 on two separate occasions, being 50,000 pounds and 30,000 pounds. And that
11:43:09 30 Mr. Ahern had been instrumental in blocking Greene Property Plc from getting

11:43:14 1 tax designation on their site at Blanchardstown
2
3 Mr. O'Callaghan has at all times denied any wrong doing in relation to the
4 Quarryvale development and has given detailed particulars of all payments,
11:43:24 5 including political donations made by him to politicians and political parties,
6 and denies any such payment to Mr. Ahern or any other politician.
7
8 3104.
9
11:43:34 10 Mr. Ahern, who was not privy to or present at any of these discussions between
11 Mr. O'Callaghan and Mr. Gilmartin, has also denied that he ever received any
12 money from Mr. O'Callaghan. Mr. Ahern states that he does not believe that he
13 ever discussed tax designation with either Mr. O'Callaghan or indeed
14 Mr. Corcoran. Mr. Ahern has reminded the Tribunal and the Tribunal is aware
11:43:57 15 that he, Mr. Ahern, successfully prosecuted liable proceedings concerning a
16 claim that he had received a cheque in the sum of 50,000 pounds from a
17 Mr. O'Brien on behalf of Mr. Owen O'Callaghan.
18
19 No designated status was ever given to Blanchardstown despite repeated lobbying
11:44:15 20 efforts made on that behalf by Mr. Corcoran and Greene Properties. Mr.
21 O'Callaghan, as indicated above, has denied that he ever paid any monies to
22 Mr. Ahern. It would appear from the documentation furnished to the Tribunal
23 that the Department of Finance were at all times imposed to the designation of
24 Blanchardstown.
11:44:32 25
26 It does appear that in early 1994 Mr. O'Callaghan did not want Blanchardstown
27 to receive tax designation and had let that be known in political circles.
28 Further, if the Allied Irish Bank memorandum of the telephone conversation
29 between Mr. O'Callaghan and Mr. O'Farrell is correct, it appears that for some
11:44:53 30 reason Mr. O'Callaghan was confident that Blanchardstown was not on the agenda.

11:44:58 1 10805.
2
3 The Urban Renewal Scheme was launched on 21st of July 1994. In January 1995
4 the Department of Environment recommended that Blanchardstown and Quarryvale be
11:45:13 5 let battle it out on the basis of market forces without introducing
6 distortions, such as designation. In any event, Blanchardstown had started
7 development and designation it was felt would only enhance profits. The
8 Department of Finance did not support the designation of Blanchardstown
9 according to the memorandum of the 20th of January 1995.
11:45:33 10
11 Greene Property's interest in designation was pursued by Minister for State,
12 Ms. Joan Burton, who met with the Minister for the Environment on the issue on
13 the 27th of July 1995. The Tribunal will inquire into this matter so as to
14 establish if that be the case whether (A), Mr. O'Callaghan made these
11:45:52 15 statements or similar statements as alleged by Mr. Gilmartin.
16
17 And, (B) the consideration, if any, for the designation of Blanchardstown.
18
19 I have finished that topic now so ...
11:46:06 20
21 CHAIRMAN: All right. We'll take a break of about ten minutes.
22
23 MS. DILLON: Obligated, Sir.
24
11:46:26 25 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**
26 **AND RESUMED AS FOLLOWS:**
27
28
29
12:00:12 30 MS. DILLON: Now, may it please you.

12:00:15 1
2 In 1993 Mr. Gilmartin had his friend and former bank manager, Mr. Sheeran, who
3 gave evidence in the first part of the module, appointed as a director of
4 Barkhill. When Mr. Gilmartin did attend meetings of the company he was
12:00:28 5 generally critical of the way the company was being run and the manner in which
6 he saw he was being excluded from the Quarryvale Project. He was particularly
7 critical of any attempt to cap the size of Quarryvale, something deemed
8 necessary by Mr. O'Callaghan in order to achieve support for its rezonings at
9 the council meetings. The Tribunal has circulated an extract from a minute of
12:00:56 10 one of the meetings of the company which possibly took place sometime in late
11 May or late June 1995 at which Mr. Gilmartin sets out his dissatisfaction
12 generally with the way things had gone.
13
14 By 1995 efforts were being made to bring investors on board for the site. The
12:01:04 15 site had been finally zoned in the 1993 Development Plan and had by now the
16 benefit of planning. A number of anchor tenants had expressed an interest in
17 the site as developed and discussions with a large UK company, Hammersons, were
18 at an advanced stage.
19
12:01:17 20 In late 1995 discussions on an investor had switched to Grosvenor Estates
21 Limited, a large United Kingdom Property company. Heads of agreement had been
22 signed between O'Callaghan Properties and Grosvenor in September 1995 as a
23 precursor to a more formal agreement to be executed later that year or early
24 1996.
12:01:38 25
26 Since Mr. Gilmartin held a 40 % interest in Barkhill, any agreement with
27 Grosvenor would almost certainly require his consent. In late 1995 Mr.
28 Gilmartin and Mr. O'Callaghan entered into an agreement for the acquisition by
29 Riga of his interest in Barkhill following on Grosvenor's investment in the
12:01:55 30 company.

12:01:56 1
2 In early 1996 Mr. Gilmartin had second thoughts on this agreement and retained
3 the services of Mr. Noel Smyth, solicitor, to assist with the negotiations
4 concerning the release of his shareholding in the company. After a series of
12:02:09 5 meetings and correspondence agreement was reached on 14th of March 1996 for the
6 release of Mr. Gilmartin's shareholding in the company in consideration of
7 stage payments.

8
9 On 21st of March 1996 Barkhill, as vendor, entered into an agreement with two
12:02:28 10 companies, Quarryvale 1 Limited and Quarryvale 2 Limited, for the sale of the
11 property set out in the said agreement in consideration of a payment of
12 16,270,000 pounds. A portion only of the Quarryvale site was sold to
13 Grosvenor at this time. The schedule to the profit and loss account of
14 Barkhill Limited for the year ended 31st of March 1997 under the heading "Gross
12:02:51 15 Profits" show that the profit arising on the disposal of development land to be
16 11,062,722 pounds. This profit appears to have been arrived at by reducing
17 the amount received on foot of the contract by 5,626,078 pounds, being the
18 apportioned cost of land purchase in respect of the amount being sold. As a
19 result of further discussions between Riga, O'Callaghan and Grosvenor it was
12:03:18 20 agreed that with the assistance of AIB Mr. Gilmartin's shareholding and
21 payments would be accelerated.

22
23 Effectively what happened was a part of the site at Quarryvale was sold to
24 Grosvenor Estates and from that more funds were freed up that would allow them
12:03:33 25 to pay Mr. Gilmartin.

26
27 On 30th of May 1996 a demand draft for 7,475,000 made payable to Noel Smyth &
28 Partners was issued by Allied Irish Bank. Barkhill part funded the payment of
29 drawdown of 5,550,000 pounds with Riga making up the balance of 1,925,000.
12:03:52 30 That payment of 7,474,000 pounds ended for the time being the commercial

12:04:02 1 relationship between Mr. Gilmartin, Mr. O'Callaghan, Mr. Deane and Allied Irish
2 Bank.

3
4 I now propose to move -- I just want to make one or two brief corrections in
12:04:14 5 relation to something I said this morning and then I am going to deal with the
6 Quarryvale planning, which I anticipate will certainly take to lunchtime and
7 possibly three quarters of an hour after lunch.

8
9 I mentioned earlier a number of payments, two 10,000 pounds payments that had
12:04:28 10 been made out of -- made by Riga on behalf of Barkhill. And they are a
11 payment on 11th of October 1991 to Mr. Colm McGrath in the sum of 10,000
12 pounds. And a payment on the 23rd of September 1991, payee unknown, 5997
13 please.

14
12:04:48 15 These are cheques paid by Riga Limited to reimburse Mr. O'Callaghan for
16 political subscriptions paid and those two payments, the first one of 11 of the
17 10th 1991 to Mr. Colm McGrath was the first payment of 10,000 pounds. And
18 then the second, which is the last entry on the list which is the 23rd of the
19 ninth, 1991, where the payee is unknown, both of those payments will be
12:05:18 20 inquired into in the course of the current module. And they are political
21 subscriptions paid by Mr. O'Callaghan on behalf of Riga. I referred to them
22 earlier but I didn't have the document.

23
24 The second matter I may have inadvertently referred to Mr. Ruairi Quinn, given
12:05:35 25 him his incorrect ministerial designation, Mr. Ruairi Quinn was the Minister
26 for Enterprise and Employment and Mr. Michael Smith was the Minister for the
27 Environment.

28
29 I am going to move on to deal with the planning now.

12:05:54 30

12:05:54 1 The Quarryvale planning history.
2
3 Quarryvale Liffey Valley is situated south of Blanchardstown, north of
4 Clondalkin and Tallaght, to the south and west of Quarryvale is Neilstown.
12:06:22 5 The site at Neilstown has been known as the Lucan/Clondalkin town centre, the
6 Balgaddy lands, the Neilstown lands. If I could have the map at 828, please.
7
8 Now, this is a location map. It shows to the north of Blanchardstown. This
9 was the property we referred to earlier today that was being developed by
10 Greene Properties and we've seen the, heard of Mr. Corcoran's desire to have
11 tax designation for Blanchardstown. To the immediate south of that is the L
12 shaped site at Quarryvale. And then beneath that and to the west of that is
13 Neilstown. They are the Lucan/Clondalkin town centre lands that were acquired
14 by Merrygrove that have been called the Neilstown lands, the Balgaddy lands.
12:07:15 15 They had the zoning for the town centre. And beneath that again you can see
16 Clondalkin. To the south of that further there is Tallaght. And Tallaght,
17 as we've seen, received tax designation.
18
19 The zoning -- what allows you to develop a piece of land is the zoning that
12:07:32 20 attaches to the land. The zoning that was on Neilstown permitted retail. It
21 had the best zoning. It was called a D zoning major town centre. The zoning
22 on Quarryvale, which was a perfectly adequate zoning, was residential open
23 space and industrial. Under the 1983 Development Plan you couldn't put a
24 sweet shop on Quarryvale with that zoning. In order to put retail on
12:07:55 25 Quarryvale they needed a retail zoning. And what we're going to look at now
26 is the history of how the zoning in Quarryvale moved from a position where it
27 was -- zoning on it was A1 residential open space and industrial to retail.
28
29 The Quarryvale site -- and I think it's common case and I don't think there's
12:08:19 30 any dispute that the access to Quarryvale was far superior to the access to

12:08:24 1 Neilstown. The development of Neilstown was dependent upon the Fonthill Road
2 extension being built. The Fonthill Road extension at the time these events
3 occurred had not been built and there was extremely poor access for the local
4 population into the Neilstown lands. The access on the other hand to the
12:08:40 5 Quarryvale lands which was bounded by the western parkway and the Galway Road
6 was infinitely far superior.

7
8 The Quarryvale site was bounded by the old Lucan road to the north, which is
9 now the Galway Road and the western parkway which is the M50 to the east.

12:08:53 10 Zoning defines what is permitted by way of development. And in the
11 Development Plan of 1983 for Dublin county the zoning on these two connected
12 parcels of land being Quarryvale and Neilstown, were as follows:

13
14 At Quarryvale the zoning was A1 yellow, which was residential. It was E to a
12:09:15 15 portion purple industrial and related uses and F dark green open space to
16 preserve and provide for open space.

17
18 Retail selling is only permitted on lands with a zoning of either D, C or C 1.
19 And Quarryvale in the 1983 Development Plan for Dublin had no such zoning. It
12:09:35 20 was not possible, therefore, to develop Quarryvale for retail with the existing
21 zoning that was on the land. The Neilstown/Balgaddy lands, the
22 Lucan/Clondalkin town centre, which is on the map to the south and to the west,
23 were zoned blue which was D for major town centre activities. And that zoning
24 permitted retail development.

12:10:00 25
26 Retail zoning.

27
28 The only zonings that permitted shopping or retail in the 1983 Development Plan
29 for County Dublin were D, major town centre activities; C, district centre
12:10:14 30 facilities; C 1, neighbourhood centre activities.

12:10:19 1
2 The written statement to the 1983 Development Plan and the above designations
3 acknowledge a hierarchy of shopping centers which permit a series of uses
4 decreasing with the change in the zoning. So if you have a D zoning it's the
12:10:34 5 optimum zoning, you can do the most and largest type of development. And a C1
6 zoning is a neighbourhood centre is a more reduced type of development. For
7 example, D zoning permits a major sales outlet whereas a C1 zoning does not.
8
9 The Myles Wright proposal for the three western towns were continued in the
12:10:51 10 1983 Development Plan for County Dublin. The three Western towns were
11 Tallaght, Blanchardstown and the Lucan/Clondalkin town centre at Neilstown.
12 These were to be "reasonably self-contained towns with a significant element of
13 durable goods-type shopping. The proposed town centre for Lucan/Clondalkin as
14 zoned in the Dublin County Development Plan 1982 was the site at Neilstown/
12:11:23 15 Balgaddy. And that site is coloured blue on map 12 and 13. That's 822.
16 This is the actual Development Plan, the 1983 Development Plan map, and
17 unfortunately, Neilstown/Balgaddy is on two maps. That blue site needs to be
18 turned.
19
12:11:34 20 That is the Neilstown/Balgaddy site. These were the lands. If you put the
21 other map beside it in the same way. Yes. The actual town centre was split
22 on to two maps in the 1983 Development Plan. And that oblong portion coloured
23 blue in the centre of the map is the proper designation, blue is the D zoning.
24 And that is the Neilstown/Balgaddy site. And you can see Quarryvale with its
12:12:18 25 separate zonings to the top of that in the 1983 plan. The lands coloured blue
26 on those maps, which are the Neilstown/Balgaddy lands, were the lands purchased
27 by Merrygrove that we heard about yesterday and this morning.
28
29 These lands had a D zoning for major town centre activity. And lands at
12:12:36 30 Blanchardstown and Tallaght were also zoned D in 1983 Development Plan for

12:12:41 1 County Dublin. The three towns in west Dublin zoned for major town centre
2 activities in the 1983 Dublin County Development Plan were Blanchardstown,
3 which was being developed by Greene Properties; two, Lucan/Clondalkin at
4 Neilstown/Balgaddy originally purchased by Mr. Gubay and then purchased by Mr.
12:12:59 5 O'Callaghan and Tallaght, which was ultimately developed by Monarch Properties.
6

7 In 1983 Dublin County Development Plan Quarryvale had no retail zoning. The
8 Tallaght town centre lands received tax designation in the budget of 1988. 35
9 acres were designated for urban renewal incentives and these lands, or the
12:13:17 10 major portion of these lands, had been acquired by Monarch Properties Limited
11 and after designation were developed in a joint venture with the Guardian Royal
12 Assurance Company.
13

14 The Blanchardstown town centre lands were acquired by Greene Properties Plc in
12:13:30 15 or around 1972 for development as a town centre. In the late 1980s the then
16 Chairman Managing Director of Greene was Mr. John Corcoran. Greene made
17 numerous submissions seeking tax designation for their town centre lands at
18 Blanchardstown, but were unsuccessful in that regard, although at one stage
19 there was a proposal to give tax designation to Blanchardstown but this did not
12:13:55 20 materialise. The Lucan/Clondalkin town centre lands at Balgaddy/Neilstown
21 were owned by Dublin Corporation. An Albert Gubay company, Montrose Holdings
22 Limited, agreed to buy these lands. The price was 3 million pounds including
23 a deposit of 300,000 pounds. The contract was ultimately made between Dublin
24 Corporation and a company called Merrygrove Estates Limited.

12:14:16 25
26 In or around November 1988 Mr. Owen O'Callaghan agreed with Mr. Gubay to
27 purchase Merrygrove and thereby Merrygrove's interests in the contract to buy
28 the Lucan/Clondalkin town centre lands. This agreement was made in or around
29 October 1988 and left Mr. O'Callaghan, through his acquisition of Merrygrove,
12:14:35 30 holding the lands which had the major town centre designation, the D

12:14:40 1 designation. The contract between Merrygrove and Dublin Corporation provided
2 that a planning application would have to be made within two months, but a
3 deferral of that date to 31st of December 1989 was agreed. The contract for
4 the purchase of these lands included a term that the purchaser or developer had
12:14:55 5 to construct the Fonthill Road extension. This was because access to these
6 lands, the designated town centre for Lucan/Clondalkin, was extremely poor and
7 was acknowledged by officials of the local authorities to be extremely poor.
8 The lands at Quarryvale, now Liffey Valley, were either in private ownership or
9 were to a portion of them owned by Dublin Corporation and Dublin County
12:15:18 10 Council.
11
12 In or around early to mid 1988 Mr. Gilmartin identified this site as having the
13 most potential and set about acquiring the lands. It was his intention to
14 develop same to include retail hotel and industrial. Other than the
12:15:34 15 industrial part the zoning on the lands did not permit the developments
16 proposed by Mr. Gilmartin.
17
18 On the 31st of January 1989 Mr. Gilmartin, via Barkhill, entered into an option
19 agreement with Mr. O'Callaghan via Merrygrove in connection with the Neilstown
12:15:50 20 Balgaddy lands. The agreement provided for a payment of 800,000 pounds. And
21 if Mr. Gilmartin wished to exercise the option, two further payments of 1.35
22 million each would have to be made. The total payments would amount to 3.5
23 million including the 800,000 pounds.
24
12:16:05 25 This permitted Mr. Gilmartin to purchase the benefit of the Merrygrove contract
26 with Dublin Corporation, but he would still have had to pay the balance of the
27 contract price to Dublin Corporation of 2.7 million. With this contract Mr.
28 Gilmartin was buying himself an interest in the designated town centre lands
29 for Lucan/Clondalkin.
12:16:25 30

12:16:25 1 Change in zoning.
2
3 Leaving aside any question of a legislative change, the options open to
4 landowner to change the zoning on his lands were either:

12:16:35 5
6 1. A Section 4 Motion pursuant to the City & County Management Amendment Act
7 1955 which permits the elected members to direct the manager to carry out his
8 executive functions in accordance with their wishes. This mechanism could
9 have been used to direct a manager to decide an application for planning
12:16:51 10 permission in a particular manner.
11
12 2. Material contravention of the Development Plan. The material
13 contravention of a Development Plan enables a local authority, subject to
14 certain conditions, including a vote of three quarters of the total number of
12:17:06 15 elected members, to grant planning permission that would materially contravene
16 the Development Plan.
17
18 C. Appeal of a refusal by the planning authority to An Bord Pleanala.
19

12:17:17 20 And finally, a change in the zoning of the lands in the course of a review of
21 the Development Plan for a particular area.
22
23 How to achieve a change in lands zoning in the course of a Development Plan
24 review.

12:17:28 25
26 1. It can be suggested by the officials of the local authority and agreed by
27 the council members that a zoning on lands should be changed.
28
29 2. It can be suggested by the landowner and agreed by the majority of the
12:17:41 30 members or council members that the zoning on the lands should be changed.

12:17:44 1
2 3. It can be suggested by a member, i.e. a councillor, and agreed by a
3 majority of the councillors that zoning on lands should be changed.
4

12:17:53 5 Changing the zoning on lands and the making of a Development Plan are reserved
6 functions. That means that they are reserved to the members of the council,
7 the councillors only.
8

9 A change in the zoning of the Quarryvale lands was sought and obtained in the
12:18:08 10 review of the 1983 Development Plan for County Dublin. This review process
11 commenced on 16th of October 1987 and concluded in December 1993.
12

13 The zoning history of the Quarryvale lands in the review of the 1983
14 Development Plan for County Dublin.

12:18:27 15
16 The first consideration by the council members.
17

18 In 1983 the Quarryvale lands were zoned A1, E and F. That is residential,
19 industrial and open space. The Neilstown/Balgaddy lands were zoned D, major
12:18:43 20 town centre.
21

22 The 1983 plan for Dublin county was adopted on the 31st of March 1983. On
23 16th of October 1987 at a special meeting of Dublin County Council the
24 manager's report to the members outlined the review process to be conducted by
12:18:59 25 the members as follows:
26

27 1. Consider the maps and written statement. That is consider the new maps
28 and the draft written statement.
29

12:19:07 30 2. Make variations and conclude a draft plan.

- 12:19:10 1
- 2 3. Put the draft plan on public display for a minimum of three months.
- 3
- 4 4. Receive objections and representations from the public within that period
- 12:19:18 5 and take same into consideration by the members.
- 6
- 7 5. The members can amend the draft plan and make a variation which, if it is
- 8 a material alteration, must go on public display again but only for period of
- 9 one month. Any representations during that period must be taken into
- 12:19:33 10 consideration before the variation is finally made.
- 11
- 12 6. The plan is then made by the councillors.
- 13
- 14 7. If a councillor wishes to vary the draft written statement or maps as
- 12:19:44 15 circulated, standing orders require the submission of a written motion signed
- 16 by a councillor, one or more and, where appropriate, accompanied by a signed
- 17 map. It is open to any councillor to submit such a motion at either the
- 18 first, second or where applicable third stage of consideration of maps and
- 19 written statements by the council.
- 12:20:04 20
- 21 By March 1989 the members of Dublin County Council came to consider the draft
- 22 written statement and maps, that is the draft written statement and maps
- 23 proposed by the officials. In the normal case where a councillor proposes a
- 24 motion to vary the zoning that's proposed by the officials, the councillor does
- 12:20:22 25 so by submitting a motion to Dublin County Council accompanied by a map
- 26 identifying the lands.
- 27
- 28 The special meeting of Dublin County Council of the 12th of May 1989.
- 29
- 12:20:40 30 According to the minutes, unnamed councillors had raised concerns about the

12:20:40 1 three Western towns Blanchardstown, Tallaght and Lucan/Clondalkin. And the
2 neighbourhood policy, as a result of which the manager circulated a report.
3
4 The report was to clarify a draft written statement and the report noted that
12:20:50 5 there was development at the Tallaght town centre but none at Lucan/Clondalkin
6 town centre. The Neilstown Balgaddy lands. Or at Blanchardstown. The
7 report noted that there was an existing planning permission at Blanchardstown
8 for Greene. The report noted that Dublin County Council were expecting a
9 planning application in connection with the Lucan/Clondalkin town centre lands.
12:21:12 10 And that must be a reference to Merrygrove which had been acquired by Mr.
11 O'Callaghan and who, in January 1989, had entered into an option agreement with
12 Mr. Gilmartin.
13
14 The contract with Dublin Corporation required a planning application would be
12:21:26 15 made within a certain period, but a deferral of that date had been agreed.
16 The architect to Merrygrove, the Ambrose Kelly partnership, submitted a
17 planning application for town centre development on these lands in late
18 December 1989. And permission to develop the town centre, together with 34
19 conditions, was granted on 28th of September 1990.
12:21:48 20
21 Merrygrove appealed that decision to an Bord Pleanala on 13th of November 1990,
22 but withdrew the appeal on the 21st of May 1991. According to Greene Property,
23 the development of the Blanchardstown centre commenced in 1990. The special
24 meeting of Dublin County Council of the 16th of February, 1990.
12:22:06 25
26 This meeting was to consider the draft written statement about the schedule
27 town of Lucan/Clondalkin and map 16, 17 and 18. The Quarryvale lands are on
28 map 16.
29
12:22:18 30 The official proposed changes to map 16 and 17 were the 1983 Development Plan.

12:22:24 1 The minutes record that Councillors Carroll, Laing, Lawlor, Riney, Rabbitte,
2 Ridge, McGrath and Flemming contributed to the discussion. The changes that
3 related to the Quarryvale lands were changes 9 and 10. 863, please.
4

12:22:39 5 If we just have 863, I think. These changes relate -- just to outline that
6 when changes are proposed they are given a number such as eight or nine. And
7 while it's quite difficult to see on this map, the numbers 9 and 10 appear in
8 relation to the Quarryvale lands and they relate to a change that's proposed by
9 the councillors, they're denoted by numbers. The change, while it's in no way
12:23:42 10 a significant or a material change, change nine proposed that an area to the
11 west of Quarryvale be rezoned from F, that's open space, to A1 residential.
12 And change 10 proposed that the Quarryvale lands adjoining the Western parkway
13 be rezoned from F, open space, to industrial. Those changes were noted by the
14 members of Dublin County Council.

12:24:03 15
16 According to Ms. Sinead Collins, noted means that councillors discussed the
17 matter, have agreed with and accepted the contents of the document and passed
18 on to other matters without a vote. The effect of the proposed changes if
19 ultimately implemented would be that the Quarryvale lands were zoned industrial
12:24:19 20 and residential, which zoning did not permit retail development. The meeting
21 also agreed that a report on the general policy of the Lucan/Clondalkin area
22 should be submitted to the next special meeting. The special meetings of
23 Dublin County Council mean meetings to do with the review plan. There are
24 other meetings of Dublin County Council, but the special ones relate to the
12:24:41 25 review plan. The special meeting of Dublin County council of the 8th of March
26 1990.
27

28 At this meeting Mr. William Murray, then Dublin Planning Officer, presented a
29 report on the development options for Lucan/Clondalkin. This report set out
12:24:54 30 the history of the development at the town centre for Lucan/Clondalkin, albeit

12:24:59 1 under the name of Ronanstown in this and subsequent official reports.

2

3 The report set out the negative and positive factors associated with the area
4 and identified a serious problem with access to the site as first major

12:25:13 5 problem. The Fonthill Road had to be completed. This road would connect
6 with the Lucan road, Lucan bypass at one end and the Naas Road at the other.
7 821, please.

8

9 Now we just need to turn that map on its side, as it were. The road that's

12:25:40 10 running to the side of the Neilstown Balgaddy lands where it's coloured blue at
11 the centre, the square portion at the centre, that road was not built. And on
12 that map, though it's quite hard to see it, it's done by way of a dotted line.

13 In order to get access to that site, if you could even increase it slightly

14 more, to the blue corner. That is the Fonthill Road. That road at the

12:26:07 15 corner was not built. And the person who developed the Neilstown site was
16 going to be conditioned by the local authority to complete the building of that
17 road. That was the road that would allow for access into the Lucan/Clondalkin
18 town centre. And it was accepted and the official position was, the Tribunal
19 will hear evidence, that that was a major stumbling block to the development of
12:26:27 20 the Lucan/Clondalkin town centre.

21

22 The report of Mr. Murray outlined two possible options for the area:

23

24 1. Abandon the 1972 and '83 Development Plan, new town policy for Ronanstown,

12:26:43 25 which is the Lucan/Clondalkin town centre, in favour of two smaller centres at

26 Lucan and Clondalkin separated by either a green belt, which was option A1, or

27 a major industrial zone, option A2. And neither option was recommended by the

28 officials.

29

12:26:58 30 B. Modify the existing, the 1983 plan, by either retaining the existing town

12:27:04 1 centre at Lucan/Clondalkin or splitting the town centre to associate part with
2 Lucan or a part with Clondalkin or to relocate the town centre.
3
4 And that was described, the relocation of the town centre was described in the
12:27:21 5 report as option B3. Option B3, the option of relocating the town centre,
6 refers to "a possible location north of Quarryvale" And there is also
7 reference to "a larger subregional type centre being located to the northeast
8 corner of the area "
9
12:27:40 10 This is clearly a reference at this stage to the Quarryvale or Gilmartin lands
11 which are shown on the same map and which are to the north. So it was being
12 suggested at this stage by the officials that option B3 would be the
13 development of some sort of town centre on the Quarryvale lands.
14
12:27:56 15 The report recommended that the council continue to implement and adhere to the
16 1972 and `83 Development Plan policies for the completion of the new town at
17 Lucan/Clondalkin Neilstown and that the council should adopt certain objectives
18 to achieve this.
19
12:28:11 20 That recommendation that they should stay with the original 72 and 83 plan was,
21 after discussion, emphatically rejected by the full council who unanimously
22 voted in favour of a motion put forward in the name of Councillors Laing,
23 Rabbitte, Fitzgerald, McGrath, Ridge, McMahon, Cass, Maher, Flood, Lawlor,
24 Owen, McGuinness and Hand. This motion rejected the manager's report of the
12:28:38 25 8th of March 1990 and directed that new maps be prepared for the separate
26 development of the greater Lucan area and the greater Clondalkin area.
27
28 In essence, this meeting of the council rejected the 1972 and 1983 plan for a
29 new town centre at Ronanstown, Lucan/Clondalkin town centre, as the motion
12:28:57 30 directed maps for the separate development of Lucan/Clondalkin, not for a

12:29:01 1 single town centre at Lucan/Clondalkin.
2
3 The special meeting of Dublin County Council, 7 September 1990.
4
12:29:10 5 Following on the earlier meeting the manager prepared a report providing for
6 the separate development of the greater Lucan area and the greater Clondalkin
7 area. He did so as a result of the decision that had been taken by the
8 council on the 8th of March 1990 when the councillors had rejected unanimously
9 the recommendation of the planning officer. The manager's report set out the
12:29:29 10 history of the three Western town strategy and described the motion of the 8th
11 of March 1990 as being a "radical departure". The manager considered that the
12 original concept of the new town with its own higher order town centre was the
13 preferred model for the area. But that if it was to be abandoned, then the
14 next best alternative would be to divide the area into three districts served
12:29:55 15 by three separate district centres, Lucan Village, Clondalkin Village and at
16 the site of the original Neilstown town centre. This was illustrated on a map
17 DP 90/97 at 884.
18
19 That's, the areas are divided A, B and C on the map.
12:30:27 20
21 After discussion the meeting agreed to defer a decision on the report and on
22 map 16, 17 and 18 under the next Development Plan review meeting. The next
23 special meeting.
24
12:30:36 25 The area has been divided. What he was suggesting was that if the council was
26 minded not to go with what was being recommended, they could consider three
27 separate district centres that would deal with the three areas that are
28 identified on that map.
29
12:30:49 30 The special meeting of Dublin County Council of the 14th of September 1990.

12:30:53 1
2 At this meeting it was proposed by Councillor Gannon and seconded by
3 Councillors Flemming and Rabbitte that map 16, 17 and 18, as presented to the
4 council in February 1990, be adopted. This was agreed.

12:31:05 5
6 This represented a complete change of heart by the council. They had
7 effectively rejected these maps in March of 1990 when they had called for and
8 obtained new maps and a new report from the officials on Lucan and Clondalkin.
9 Despite that stance in February of 1990 the members were now agreeing that map
10 16, 17 and 18 as presented to them in February of 1990 would become part of the
11 new draft Development Plan for the new public display, as seen on 864.
12
13 Now, these are the original maps that had been put forward. This is Map
14 DP90/96. And the council had reverted back to this map which they had
15 originally been against.

12:32:09 16
17 On 28th of September 1990 Dublin County Council granted permission to
18 Merrygrove for town centre development at Neilstown. Merrygrove appealed this
19 decision on 13th of November 1990 to An Bord Pleanala and that appeal was
20 withdrawn on 21st of May 1991, which was after the rezoning vote on Quarryvale
21 which took place on 16th of May 1991.
22
23 Lodging of the appeal in November 1990 maintained the status quo on the lands
24 at Neilstown in the intervening period. In mid January 1991 the councillors
25 were informed that motions in connection with west Dublin should be submitted
26 by Friday the 8th of February 1991 and if proposing a change in an objective,
27 including zoning, should be accompanied by a signed map.
28
29 This closing date was then extended to the 15th of February 1991, which became
30 the date by which motions proposing the change in the zoning of lands in west

12:33:04 1 Dublin should be lodged with the secretariat of Dublin County Council. This
2 would include the Quarryvale lands and the Lucan/Clondalkin town centre lands
3 at Neilstown.
4

12:33:13 5 The motion to rezone the Quarryvale lands.
6
7 On the 15th of February 1991 a motion to rezone the Quarryvale lands was
8 received by Dublin County Council. The motion and map were signed by
9 Councillor Colm McGrath, 915, please, and sought the rezoning of the Quarryvale
12:33:29 10 lands from their then zoning of A1 residential, E, industrial and F, open space
11 to D, major town centre and E, industrial. And the map, I think, is at 916.
12
13 If we could have the motion and the map.
14

12:33:44 15 Now, I think the map in fact is a Taggart's map. Taggart's were retained by
16 Mr. Gilmartin in the preparation of maps. And what is being proposed here by
17 Councillor McGrath is that -- if we could just have the map on its own please
18 if that's possible and just turn it so that we can see what Councillor McGrath
19 was proposing.

12:34:30 20
21 What Councillor McGrath was proposing is that the central portion would have a
22 D zoning. You can see D written in the centre of the map with major town
23 centre beside it. Beneath that E, business park. To the west of that E,
24 industrial.

12:34:47 25
26 So what he was proposing was that the lands would be rezoned to provide for a
27 major town centre and also for industrial.
28
29 This motion was lodged with Dublin County Council on the 15th of February 1991,
12:35:00 30 the last day for receipt of such motions, and this was also the date on which

12:35:04 1 the heads of agreement were signed between Mr. Gilmartin, Mr. O'Callaghan and
2 Allied Irish Bank, although no formal legal agreement was made on this date.
3 This is also around the time that Mr. Gilmartin says that Mr. Gilbride and
4 Mr. McGrath contacted him about the motion and the respective positions of all
12:35:22 5 the parties in relation to that was outlined yesterday. Councillor McGrath's
6 motion was given the number 38 on the agenda. There were 165 motions in total
7 and the motions were placed on the agenda in area order starting in Balbriggan
8 and moving south and southeasterly to the Wicklow border. Items 1 to 37
9 related to the Fingal area and were dealt with at four special meetings between
12:35:48 10 1st of March 1991 and 18th of April 1991. Motion No. 38, Councillor McGrath's
11 motion about the Quarryvale lands, was listed for the council meeting for the
12 26th of April 1991 and was adjourned on two occasions until it was finally
13 dealt with on the 16th of May 1991.
14

12:36:05 15 The meeting with Greene Property on the 13th of May 1991 and certain members of
16 Dublin County Council.

17
18 Greene Property were the developers of Blanchardstown.
19

12:36:15 20 Prior to the meeting of the 16th of May 1991 another meeting took place,
21 probably on the 13th of May 1991. This meeting involved Mr. John Corcoran of
22 Greene Property, who was concerned at Councillor McGrath's motion to rezone
23 Quarryvale. The meeting was not, by any stretch, a full council meeting but
24 was Chaired by the then Chairman, Councillor Tommy Boland, deceased. Also at
12:36:40 25 the meeting were the late Mr. Liam Lawlor, Ms. Marion McGuinness, Mr. Ned Ryan,
26 Mr. John Corcoran, Mr. Pat McCormack and Mr. Gareth May.
27

28 It was agreed -- sorry 5335. It was agreed that a new or amending motion
29 would be drafted which had as its object the limiting of the size of the
12:37:10 30 proposed shopping centre portion of the Quarryvale lands. Whilst this motion

12:37:15 1 was in fact drafted, as I will outline in a moment, there may have been
2 official involvement in drafting it. The motion was signed by Councillor Colm
3 McGrath, Tom Hand and Finbar Hanrahan and voted on on the 16th of May 1991.
4 Following the meeting with the Chairman, Councillor Tommy Boland, Mr. Corcoran
12:37:34 5 expressed himself happy with the fact that a new motion was being drafted.
6
7 Now in the letter that's on screen which is dated 14th of June 1991 and it's
8 from Greene Properties to Councillor Colm McGrath. In relation to the
9 reference of the meeting he sets out in the first paragraph of the meeting that
12:37:50 10 there was a meeting on the 13th of May and attending at it were Mr. Pat
11 McCormack, Gareth May, Councillor Tommy Boland, Liam Lawlor, T.D, Councillor
12 Marion McGuinness and Councillor Ned Ryan.
13
14 Further down towards the end of that paragraph it says "our concerns were
12:38:07 15 accepted by all present and it was agreed that Motion No. 38 would be amended
16 or replaced as required to secure the Blanchardstown scheme. Liam Lawlor TD
17 offered to discuss the matter with Councillor Colm McGrath and subsequently to
18 draw up an amendment or replacement to Motion 38 which would secure the future
19 of Blanchardstown and be agreed with me before the council meeting of the 16th
12:38:29 20 of May.
21
22 Mr. Al Smith was a principal officer with Dublin County Council in 1991.
23 Mr. Smith will tell the Tribunal that there was strong opposition to the
24 Quarryvale proposal from the professional planners and the roads traffic
12:38:46 25 engineers within Dublin County Council. He will also tell the Tribunal that
26 shortly before the deadline for the submission of motions relating to the
27 zoning of Quarryvale, the closing date for the receipt of the originating
28 motions was February 1991, but for reasons which are outline at the moment it's
29 clear that Mr. Smith had to be talking about the amending motion. He received
12:39:06 30 a fax from Councillor Liam Lawlor enclosing a draft motion in connection with

12:39:10 1 Quarryvale. His comments, that is Mr. Smith's comments, on the motion were
2 sought. Mr. Smith will tell the Tribunal that the message came as a surprise
3 to him as prior to that he had had no contact or discussions with Liam Lawlor
4 on the matter outside the council chamber. Since the draft motion was, in the
12:39:29 5 opinion of Mr. Smith, garbled and incoherent and did not reflect what he
6 understood to be under discussion between the promoters of Quarryvale and
7 Blanchardstown he, Mr. Smith, drafted a motion that reflected his understanding
8 of what had been under discussion.

12:39:42 10 Mr. Smith will tell the Tribunal that the motion subsequently lodged was
11 substantially the same as his draft. Mr. Smith in his statement dates these
12 events "as prior to the council elections of 1991" so the motion being
13 discussed by him could not be the original Colm McGrath motion of February, but
14 the amending motion of 16th of May 1991.

12:40:06 15
16 Mr. Smith will tell the Tribunal that during what he describes as the
17 Quarryvale saga, he met Mr. O'Callaghan on a number of occasions, sometimes
18 alone, and on other occasions accompanied by Mr. Dunlop and at times
19 Mr. Ambrose Kelly. The Tribunal will wish to establish if Mr. Smith's
12:40:22 20 assistance was sought in respect of what is described above as the amending
21 motion and the Tribunal will wish to establish, if that be the case, the reason
22 why Mr. Lawlor sought Mr. Smith's assistance. The Tribunal will wish to
23 explore with Mr. Kelly, Mr. O'Callaghan and Mr. Dunlop their ongoing
24 relationship with council officials in relation to the rezoning and planning of
12:40:48 25 the Quarryvale lands.

26
27 The special meeting of Dublin County Council of the 16th of May 1991.
28
29 This was one of the first two vital meetings and votes on the Quarryvale
12:40:54 30 zoning. The second vital meeting was the 17th of December 1992.

12:40:58 1
2 This meeting of Dublin County Council was to be the last meeting prior to the
3 locally elections. The manager's report on the Development Plan review
4 emphasised the importance and urgency of displaying the draft plan which would
12:41:11 5 include amendments recommended to that date by the council. However, the
6 council voted to reject this report and directed that the draft plan be not put
7 on display until the motions before the council had been considered.

8
9 Councillor Colm McGrath's motion to rezone the Quarryvale lands.

12:41:29 10
11 We have already seen the motion and map at 915 and 916.

12
13 The manager's report was against any change and noted that the present proposal
14 would create a major change in the Lucan/Clondalkin new town strategy. It
12:41:43 15 would move the town centre zoning from its central location to a peripheral
16 location. If the council were disposed to change the zoning then he
17 recommended C zoning as the most appropriate. C is "to protect, provide,
18 improve district centre facilities in order to give a more balanced spread".
19 It was also noted in the manager's report that the developer of the
12:42:10 20 Lucan/Clondalkin town centre might not be proceeding. This, it is assumed,
21 must have been a reference to the Merrygrove planning application and that it
22 was not now proceeding.

23
24 The amendment to the motion.

12:42:23 25
26 The amendment to the motion in the name of Councillors Colm McGrath, Tom Hand
27 and Finbar Hanrahan proposed that an addition be made to Motion 38 and that
28 addition was "a statement be included in the Development Plan to indicate that
29 the total area of commercial development in the area zoned D shall not exceed
12:42:47 30 the total area of commercial development which would be appropriate to the

12:42:51 1 Lucan/Clondalkin town centre site designated in the County Development Plan of
2 1993".
3
4 Now, it will be recollected on 934, which is the map, that the centre portion
12:43:05 5 of the Quarryvale lands -- sorry. I will get the reference to the map in a
6 moment. It's 915. 916.
7
8 Now, what was being proposed here was that in the centre portion which
9 Mr. McGrath was proposing as D major town centre, that effectively there would
10 be a cap on that. And that the extent of the retail development or commercial
11 development that would be permitted would be that that would have been
12 appropriate to the Lucan/Clondalkin town centre site.
13
14 So what was being proposed was a cap on the total area of commercial
12:43:50 15 development. This was proposed by Councillor Colm McGrath and seconded by
16 Councillor Tom Hand. The manager advised that if the motion as amended were
17 passed the effect would be to transfer the town centre D zoning for
18 Lucan/Clondalkin from its central site at north Clondalkin to peripheral site
19 at Palmerston and to confine the scale of the development on the Quarryvale
12:44:11 20 site to that which would be appropriate for the town centre at
21 Lucan/Clondalkin.
22
23 The then current proposal from Merrygrove for planning permission for the town
24 centre at Lucan/Clondalkin provided for a two phase commercial development,
12:44:26 25 each of the order of 250,000 square feet, making a total of 500,000 square
26 feet.
27
28 So when one takes all of those factors together what is now being proposed is
29 that the zoning on the Quarryvale lands be changed, to be given a D zoning
12:44:39 30 which is the highest form of retail, but that it be capped at 500,000 square

12:44:42 1 feet.

2

3 The amendment was put and passed by a vote of 31 to 12 with no abstentions.

4 Following the amendment the substantive motion was put and passed by a vote of

12:44:53 5 29 to 13. For the amendment to the motion as follows were:

6

7 Councillors Barry, Boland, Brock -- these are at 932. Barry, Boland, Brock,

8 Coffey, Creaven, Daly, Dunne, Elliott, Fahy, Fox, Gallagher, Gilbride, Hammond,

9 Hand, Hanrahan, Hickey, Ciaran, Larkin, Lawlor, McDonald, McGuinness, McGrath,

12:45:23 10 McMahon, Mitchell, Mulvihill, Ormonde, Owen, Riney and Ryan.

11

12 Against the amendment were 12. And they were councillors:

13

14 Brady, Buckley, Dillon Byrne, Fitzgerald, Gannon, Laing, Lynch, Malone,

12:45:37 15 Menzies, Muldoon, Ryan and Shatter.

16

17 For the substantive motion were 29 councillors. And this is the motion to

18 effectively change the town centre zoning from Neilstown to Quarryvale. In

19 favour were:

12:45:50 20

21 Councillors Barry, Boland, Brock, Coffey, Creaven, Dunne, Elliott, Fahy, Fox,

22 Gallagher, Gilbride, Hammond, Hand, Hanrahan, Hickey, Larkin, Lawlor, McDonald,

23 McGuinness, McGrath, McMahon, Mitchell, Mulvihill, Murphy, Ormonde and Riney.

24

12:46:11 25 Against the substantive motion were Councillors Brady, Buckley, Dillon Byrne,

26 Fitzgerald, Gannon, Laing, Lynch, Malone, Menzies, Muldoon, Owen, Ryan and

27 Shatter.

28

29 The effect of this motion was to transfer the D zoning for major town centre in

12:46:28 30 the draft plan from Lucan/Clondalkin town centre at Neilstown to the Quarryvale

12:46:31 1 lands.
2
3 This was then put on display in the first public display. On the 21st of May
4 1991 after the council meeting Merrygrove withdrew its appeal from an Bord
12:46:44 5 Pleanala in connection with the planning permission that had been granted to it
6 for the town centre at Lucan/Clondalkin. Councillor Marion McGuinness had
7 also put down a motion of a general nature relevant to western towns Motion
8 160. This proposed that it would be the policy of the council to support any
9 proposals for tax or other financial incentives to promote the development of
12:47:04 10 the town centres in the new western towns. This motion was passed without
11 discussion or objection after a minor amendment on 11th of June 1991.
12

13 The local election was called on 21st of May 1991. And polling was on 27th of
14 June 1991. According to Mr. Dunlop, and there appears to be no great dispute
12:47:23 15 about this, Quarryvale became a very big local election issue with a serious
16 campaign being mounted by Greene Property against the proposed Quarryvale
17 rezoning. And against the councillors who had supported it.
18

19 Several councillors, including Councillors Tommy Boland and Liam Lawlor, lost
12:47:41 20 their seats in the June 1991 Election and when the new council was elected on
21 27th of June 1991 it had new faces in it.
22

23 A Section 4 motion was put down by Councillors Joan Bruton, Frank Buckley,
24 Bernie Malone and Sean Ryan directing that the manager remove from the draft
12:47:59 25 Development Plan going on public display the D and E zoning on 180 acres at
26 Quarryvale. This motion was ruled ultra vires or beyond the power of the
27 council and was not moved.
28

29 The first public display.
12:48:14 30

12:48:14 1 From the 2nd of September 1991 to 3rd of December 1991 the 1991 draft
2 Development Plan for County Dublin was put on public display. The Quarryvale
3 lands were zoned D, major town centre, and E, industrial. The old
4 Lucan/Clondalkin town centre was now zoned E, industrial, on these maps at 944.

12:48:35 5 The draft written statement included this proposal to relocate the
6 Lucan/Clondalkin town centre to the Quarryvale lands, and that's at 961.
7

8 Now, at page 961. This is the draft written statement. If one looks at
9 paragraph 549 headed "town centre" and if one looks at paragraph 5491 it's
10 proposed to relocate the town centre at Quarryvale. The zoning of the
11 original town centre will change from D to E industrial.
12

13 5492. "The council has resolved that the total area of commercial development
14 in the area zoned D shall not exceed the total area of commercial development w
15 which would be appropriate to the Lucan/Clondalkin town centre site designated
16 on the County Development Plan ".
17

18 That is giving effect to the motions that have been passed by the councillors.
19

12:49:34 20 One of the purposes of the public display is to allow for objections and
21 representations by the public to the draft plan to be sent into the council.
22 In total, between the 2nd of September and 3rd of December 1991, 23,866
23 representations and objections were received by Dublin County Council, of which
24 16,826 related to Quarryvale. Of these 16,826 -- page 965 please -- 6,000
12:50:04 25 were deemed to be standard submissions objecting to the proposed rezoning.
26 10,600 were standard submissions supporting the rezoning. And 226 were
27 individual submissions.
28

29 It was by far the greatest number received for any area or any area proposed
12:50:20 30 rezoning. The representations received included:

- 12:50:24 1
2 1. Representations No. 000314 from Greene Properties Limited Blanchardstown,
3 which can be found at pages 966 to 991. I don't want them on the screen.
4 Dated 27th of November 1991.
- 12:50:39 5
6 This argued for the restoration of the status quo to the pre May 1991 zoning
7 situation. In other words, town centre zoning for the Lucan/Clondalkin lands
8 and E industrial for the Quarryvale lands.
9
- 12:50:51 10 This was supplemented by a further submission presented at an oral hearing on
11 the 19th of February 1992 which had the same representation No. 000314. This
12 submission was directed primarily towards traffic implications of a town centre
13 zoning the Quarryvale.
14
- 12:51:08 15 2. Representation No. 000530 from O'Callaghan Properties Limited dated 31st
16 of December 1991. This argued for the retention of the D town centre zoning at
17 Quarryvale. An oral hearing took place on the 6th of March 1992 and at this
18 hearing the council's representatives were told that the provision of a
19 national soccer stadium was being investigated for the original
20 Lucan/Clondalkin town centre lands at Balgaddy. A separate representation was
21 made about this. The zoning definition of E industrial might have had to be
22 changed to permit such use as a soccer stadium on the lands, and this
23 representation from O'Callaghan properties can be found at 992 to 1029.
24
- 12:51:31 25 3. Representation No. 000527 by O'Callaghan Properties Limited dated the 3rd
26 of December 1991 proposed a national soccer stadium on the old Lucan/Clondalkin
27 town centre lands at Neilstown Balgaddy. If necessary, O'Callaghan Properties
28 Limited sought modification of the industrial zoning definition of E in order
29 to allow this.
- 12:52:10 30

12:52:10 1 There was no oral hearing. And the documents are at pages 1030 and 1031.
2
3 4. Representation No. 000159 from PHI Investments dated the 28th of November
4 1991. PHI Investments owned adjoining lands to those owned by Merrygrove
12:52:29 5 Limited on the old Lucan/Clondalkin town centre lands. This representation
6 objected to the change in zoning of the old Lucan/Clondalkin town centre lands
7 from D to E. And the proposed zoning of the Quarryvale lands from E to D.
8 PHI also acknowledged the lack of access to the Lucan/Clondalkin lands as the
9 main obstruction to the development of these lands.

12:52:53 10
11 This representation complains about the conduct of Merrygrove or
12 Mr. O'Callaghan in dealing with the old Lucan/Clondalkin town centre lands at
13 Neilstown. An oral hearing took place on the 20th of February 1992 and those
14 documents are at pages 1032 to 1041 of the brief.

12:53:12 15
16 The second consideration of the Quarryvale lands by members of Dublin County
17 Council.
18

19 The second consideration of the 1991 Draft Development Plan by the members of
12:53:21 20 Dublin County Council commenced in April 1992. Prior to this the members were
21 circulated with copies of all objections and representations received by Dublin
22 County Council. Consideration of map 16, 17 and 18 which contained
23 Lucan/Clondalkin and Palmerston were given the agenda designation 10. The
24 Quarryvale lands were designated as 10 1A and Neilstown lands were designated
12:53:46 25 as 10 1B. Motions in connection with these lands number 12 in all and were
26 circulated as part of the agenda. Therefore all motions to do with Neilstown
27 and Balgaddy and with the Quarryvale lands would contain the designation 10.
28

29 On the 10th of April 1992 at a special meeting of Dublin County Council the
12:54:07 30 programme and procedures for consideration of objections and representations

12:54:10 1 were set out. The manager's report informed the members that representations
2 would be circulated in advance of the meetings at which they would be
3 considered. Any proposal to change a zoning objective in the draft plan must
4 be accompanied by a map signed by the persons making their proposal. Signed
12:54:30 5 motions and maps had to be received nine clear days before the relevant
6 meeting.

7

8

9

12:54:38 10 The manager's report was noted by the members.
11
12 On 19th of October 1992 Merrygrove applied to Dublin Council for planning
13 permission for a stadium on 32.8 acres at Neilstown, the old Lucan/Clondalkin
14 town centre lands. This decision to grant permission was made on 20th of
15 August 1993 and the granted permission was dated the 7th of August 1993. On
12:55:12 16 the 21st of October 1992 MS Limited and PHI Investments Limited applied to
17 Dublin County Council for outline planning permission for a major town centre
18 on the Lucan/Clondalkin area, for a 31 acre site at Neilstown, in other words,
19 on its lands adjoining Merrygrove's lands, all of which originally had had a D
20 town centre zoning.

12:55:28 21 Outline planning permission was granted by Dublin County Council to MS Limited
22 and PHI Investments on the 5th of August 1993. And that decision was appealed
23 by Merrygrove to An Bord Pleanala. But An Bord Pleanala granted outline
24 permission on 20th of December 1993.

12:55:44 25 The special meeting of Dublin County Council of the 17th of December 1992.

26

27 This was the meeting at which the second critical Quarryvale vote took place.

28 This meeting dealt with the Quarryvale and Neilstown lands and proposed changes

29 on map 16, 17 and 18. Prior to that meeting Dublin County Council had

12:56:03 30 received 12 motions seeking amendments and changes to the zoning status of the

12:56:08 1 Neilstown and Quarryvale lands.

2

3 We must remember that the Quarryvale lands had been zoned D, major town centre,
4 on the 16th of May 1991. Motions received at this point would be to change

12:56:22 5 that proposed zoning and the composition of the council had altered radically

6 following the local election in June 1991. These motions all had the

7 reference No. 10 as they related to the same lands and they were as follows:

8

9 1. Motion No. 10.1.1 in the name of Councillors John O'Halloran, Colm

12:56:46 10 McGrath, Therese Ridge and Colm Tyndall.

11

12 This motion was received by Dublin County Council on the 9th of December 1992.

13 This proposed approving the C and E zoning on the Quarryvale lands as

14 recommended by the manager in his report to ensure the provision of a suitable

12:57:05 15 centre to meet the overall needs of the area.

16

17 The motion is at 1125.

18

19 Motion 10.1.1 relied upon the manager's report. The manager's report

12:57:23 20 recommended a C zoning. The manager's report had been circulated in advance

21 of the meeting.

22

23 2. There were three motions all signed by the same people. Motion 10.1.2. ,

24 Motion 10.1.5 -- sorry, I beg your pardon, Motion 10.1.6, and 10.1.10 are all

12:57:47 25 on one page and this page was originally dated 8 December 1992 and stamped

26 received by Dublin County Council on 9 December 1992.

27

28 By letter dated the 10th of December 1992 Dublin County Council was sent

29 reformatted motions as the first submission may not have been technically

12:58:07 30 correct. The motions are in the name of Councillors Joan Bruton, Sean Ryan,

12:58:11 1 Eamonn Walsh.
2
3 Motion 10.1.2 is at 1126. And motion 10.1.2 sought the rezoning of the
4 Quarryvale lands back to E industrial the 1983, position. The map is at 1128.
12:58:40 5 And was signed by all three councillors, Bruton, Ryan and Walsh.
6
7 Motion 10.1.6 by the same people sought the zoning of the old Lucan/Clondalkin
8 town centre lands back to D, major town centre. The map at 1127 is signed by
9 all three.
12:59:01 10
11 Motion 10.1.10 sought in addition to the written statement making it an
12 objective of the council to secure the early release of funds to complete the
13 Fonthill Road and other essential infrastructure.
14
12:59:23 15 It has to be remembered that if one was proposing a change for the Quarryvale
16 lands because the effect of the Neilstown/Balgaddy lands there had to be a
17 positive and negative. So for every proposal to rezone Quarryvale from D to E
18 there had to be a corresponding motion to do something with Neilstown/Balgaddy
19 lands. That's really why there were so many motions.
12:59:44 20
21 The next block of motions were two motions dated 9th of December 1992 and
22 signed by Councillor Finbar Hanrahan. Motions 10.1.3 and 10.1.7.
23
24 Motion 10.1.3 sought the rezoning of the Quarryvale lands back to E,
13:00:01 25 industrial. 1132. And motion 10.1.7 sought the rezoning of the old
26 Lucan/Clondalkin town centre lands back to D, major town centre. 1138.
27
28 Lastly, there were three motions. 10.1.4. 10.1.8. And 10.1.11 all in the
29 names of Councillors Joe Higgins and Gus O'Connell. Motion 10.1.4 sought the
13:00:33 30 rezoning of Quarryvale land back to E industrial. Motion 10.1.8 sought the

13:00:38 1 rezoning of the Lucan/Clondalkin town centre back to D, major town centre.
2 And motion 10.1.11 sought to delete paragraph 5.4.9(i) and (ii) of the draft
3 written statement and replace it with new text locating the town centre at the
4 original Ronanstown site at Lucan/Clondalkin. There is no map with this
13:01:02 5 motion.
6
7 5. Motions 10.1.9 and 10.1.12 were motions in the name of Councillor Sheila
8 Terry and Tom Morrissey. Motion 10.1.9 proposed rezoning the Quarryvale lands
9 back to E and also proposed rezoning Lucan/Clondalkin back to D.
13:01:20 10
11 Motion 10.1.12 proposed the rezoning of Quarryvale lands to E and the
12 Lucan/Clondalkin town centre lands to D and also a further area west of
13 Quarryvale and north of Clondalkin to be zoned A1 residential.
14
15:01:36 15 The final motion was 10.1.5 in the name of Councillors Betty Reeves and David
16 Healy. That proposed the rezoning of the Quarryvale lands back to E,
17 industrial.
18
19 There is a summary of these motions, which is a very summarised format, which I
13:01:59 20 am putting up on screen. Simply because there were so many motions and it
21 appears quite complex. The first motion is Motion 10.1.1. and that is the
22 motion to keep retail on Quarryvale lands. That's proposed by Councillors
23 O'Halloran, McGrath, Ridge and Tyndall.
24
13:02:26 25 In the next section you have the motions that are proposing the rezoning of
26 Quarryvale back from D to E and the corresponding motions to rezone
27 Lucan/Clondalkin town centre from E to D. So where it says motions to rezone
28 QV that's -- that's Quarryvale -- D to E and on the other side you have the
29 opposite of that which is the Lucan/Clondalkin town centre, LCTC from E to D.
13:02:49 30 And then there are motions at the bottom about the written statement.

13:02:53 1
2 And effectively what was happening is there's a stand-alone motion by
3 Councillor McGrath that is being dealt with and then all of the other motions
4 proposed reversing what had been proposed, apart from the written statement.

13:03:05 5
6 CHAIRMAN: All right. It's now one o'clock. I'm sure everybody will want
7 to study that chart over lunch. We'll rise until two o'clock.

8
9 MS. DILLON: May it please you.

13:03:28 10

11 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

12

13

14

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13:03:31 1

2

THE TRIBUNAL RESUMED AS FOLLOWS AT 2:00 P.M.:

3

4

MS. DILLON: If I could just mention. We reviewed yesterday's transcript.

14:05:36 5

There's a few very small errors that should be corrected on the transcript

6

7

CHAIRMAN: All right.

8

9

MS. DILLON: The first relates to -- we made reference yesterday and I think

14:05:46 10

indeed today to invoices from Ganley which are recorded as Gangly in the

11

transcript in their entirety, so if that could be amended to read Ganley.

12

13

And there is one -- there was reference made yesterday to a lodgement to the

14

account of the late Mr. Patrick Dunne and the amount was in the amount of

14:06:20 15

60,500. Now, that is recorded correctly in a number of places but there is

16

also one reference to 65,500 which is incorrect. It should read 60,500.

17

18

CHAIRMAN: Very good.

19

14:06:35 20

MS. DILLON: Yes. Councillor GV Wright is referred to as councillor JB

21

Wright, so if that could be amended just to read Councillor GV Wright.

22

23

Right.

24

14:06:50 25

I made reference yesterday to invoice No. 1847. And the quote is as follows:

26

"document 1847 which was furnished to the Tribunal by Mr. Dunlop as part of the

27

expenses incurred on behalf of Ms. McGuinness contains on it the words Owen,

28

possibly meaning Mr. Owen O'Callaghan, to whom the invoice was presumably

29

addressed." I should have said that the invoice should have been addressed to

14:07:35 30

Mr. Dunlop, to whom it is in fact addressed.

14:07:37 1
2 CHAIRMAN: All right.
3
4 MS. DILLON: Okay. The resumption of the planning.
14:08:00 5
6 At the meeting of the council, the 17th of December 1992, the list of those
7 present is at page 1094. The meeting was to consider map 16, 17 and 18 and
8 all objections and representations had been circulated. Quarryvale was on map
9 16.
14:08:15 10
11 The meeting would have to consider and vote on the Quarryvale motions.
12
13 The manager's report.
14
14:08:21 15 The manager's report included the planning officer's report which set out the
16 history of the Lucan/Clondalkin town centre lands in the Development Plan
17 review as already outlined. Under the heading "Planning Strategy" it was
18 acknowledged that the old Lucan/Clondalkin town centre lands at Neilstown did
19 not have adequate road access and were relatively remote from the then built up
14:08:43 20 areas.
21
22 The report did not approve of the proposed relocation of the town centre to
23 Quarryvale, but did acknowledge that the site, i.e. Quarryvale was, unlike the
24 Lucan/Clondalkin town centre lands, viable in the short-term for commercial
14:08:57 25 development and that such development could be advantageous for the area. The
26 long-term planning view was to adhere to the Development Plan of 1972 and 83.
27 This would support the proposed stadium proposed by O'Callaghan Properties and
28 the recent town centre application by MS Limited and PHI Investments Limited.
29 The planning officer's report acknowledged that a sizeable town centre on the
14:09:22 30 Neilstown lands could take many years. The report acknowledged that the

14:09:26 1 commercial viability of a town centre depended on population and good access.
2 Applying that, the development at Neilstown would have to be phased in over a
3 long period of years. The access at Quarryvale would enable a substantial
4 first phase to be completed in the short-term. The report identified the
14:09:44 5 choices facing the council as:

6
7 A. The strategic concept of the 1972 and 1983 Development Plans which were
8 recommended by the officials.

9
10 B. A variation which would envisage the eventual development of three
11 communities instead of one.

12
13 If the integration of Lucan/Clondalkin into a new town would take too long,
14 then a suggested modified approach could be:

14:10:08 15
16 1. As the time scale for a unified Lucan/Clondalkin town centre was too long
17 three districts could be developed; Lucan a new centre, Clondalkin the mills
18 redevelopment and new facilities for Neilstown at Quarryvale.

19
14:10:23 20 2. Shopping in these district centers should not threaten existing and
21 planned town centres but this should not restrict scale or variety of services
22 available in these centres.

23
24 3. Quarryvale at 180 acres should be jointly zoned C and E to protect,
14:10:39 25 provide and/or improve town/district centre facilities and E, industrial and
26 related uses.

27
28 This was a new zoning, a combined C and E.

29
14:10:50 30 4. There should be a new objective in the written statement for this area to

14:10:54 1 foster the creation of employment opportunities in this area and to facilitate
2 the distribution of a district centre to serve the larger community.

3
4 5. The 160 acres acquired by the IDA west of the Fonthill Road should be
14:11:07 5 zoned for industry.

6
7 6. The old Lucan/Clondalkin town centre at Neilstown should be retained with
8 the same D zoning but should also have the specific objective to encourage the
9 development of specialised commercial, recreational and industrial in
14:11:24 10 residential uses in this area. This would allow for the all-purpose national
11 stadium.

12
13 According to the manager's report, the foregoing would be a radical departure
14 from the 1972 and 1983 Development Plans, but could ease the socio economic
14:11:36 15 problems of the area. In essence, what was being suggested by the officials
16 was adherence to the 1972 and '83 Development Plan, but if that time scale was
17 too long then the council should allow three district centres to develop, with
18 one at Quarryvale, one at Clondalkin and one at Lucan.

19
14:11:54 20 In addition, the council should allow specialised recreational and commercial
21 development at Neilstown, the stadium proposal and develop the lands at
22 Ballyowen as industrial. The report then synthesised the representations No.
23 314 from Greene Property and representation 530 from O'Callaghan Properties and
24 the site history and the planning applications.

14:12:16 25
26 Recommendation.

27
28 Whilst the manager recommended adherence to the long-term plan with some
29 modifications, he stated that if the council found the time scale unacceptably
14:12:27 30 long there could be a modified approach.

14:12:30 1
2 180 acres at Quarryvale should be jointly zoned C and E. C is town district
3 centre, not a major town centre which is the D zoning and E, industry.
4

14:12:40 5 There should be a specific objective, creation of employment opportunities in
6 the areas. Councillors should facilitate the provision of a district service,
7 a district centre to serve the larger community. The old Lucan/Clondalkin
8 town centre lands be zoned D, major town centre, with the specific objective of
9 encouraging the development of specialised commercial, recreational, industrial
10 and residential uses.
11

14:13:03 12 The order of business was varied to take item 10.6 in connection with the lands
13 at Ballyowen, already referred to, which had been sold by Dublin Corporation to
14 the IDA but which had residential zoning. The manager recommended rezoning
15 these lands to industrial and this was agreed unanimously. The meeting was
16 adjourned from 5:15 to 6:30, and the Neilstown and Quarryvale motions were
17 taken thereafter.
18

14:13:20 19 The 12 motions already referred to were all proposed and seconded. These can
20 be seen on pages 1114 through to 1119. The Chair, Councillor Eithne
21 Fitzgerald, proposed that motions 10.1.2 and 10.1.5 be taken first and
22 together. This was agreed. Both of these motions were proposing the rezoning
23 of the Quarryvale lands back to E, industrial. Also affected by this vote
24 would be motions 10.1.3, 10.1.4, part of 10.1.9. And part of 10.1.12.

14:14:04 25
26 Motion 10.1.2 and 10.1.5 were put. The vote was as follows:
27

28 For the motion, in other words, for the proposal to rezone the Quarryvale lands
29 back to E industrial 32? In favour -- Councillors Breathnach, Buckley, Bruton,
14:14:22 30 Farrell, Fitzgerald, Gilmore, Gordon, Hanrahan, Higgins, Keane, Kelleher,

14:14:28 1 Keogh, Laing, McGuinness, Madigan, Maher, Malone, Morrissey, Muldoon,
2 Mullarney, O'Callaghan, Owen, Rabbitte, Reeves, Ryan, Ryan, Sergeant, Taylor,
3 Terry, Tipping, Walsh.

14:14:41 5 Against rezoning the Quarryvale lands back to industrial 37.

6
7 Against. Councillors Ardagh, Barrett, Billane, Brady, Brock, Butler, Cass,
8 Coffey, Conroy, LT Cosgrave, MJ Cosgrave, Creaven, Devitt, Dockrell, Elliott,
9 Farrell, Fox, Gallagher, Gilbride, Green, Hand, Hannon, Keating, Kennedy,
14:15:03 10 Larkin, Lohan, Lydon, McGrath, Marren, Matthews, Mitchell, O'Halloran,
11 Ormonde, Quinn, Ridge, Tyndall, Wright.

12
13 There were no abstentions and the total vote was 69. Therefore the vote was
14 lost.

14:15:17 15
16 The affect of the first vote to rezone Quarryvale back to industrial being lost
17 meant that motions 10.1.3 and 10.1.4 which also proposed the same fell with
18 them.

14:15:32 20 There was then proposed the first amendment to motion No. 10.1.1. Now, 10.1.1
21 is the motion by Councillor Colm McGrath to rezone Quarryvale to C.

22
23 This motion proposed that motion 10.1.1, Councillor McGrath's motion to rezone
24 Quarryvale to C district town centre, be amended to propose a C.1 vote --
14:15:56 25 sorry, a C1 zoning, with a cap of 100,000 square feet. C1 means a
26 neighbourhood centre.

27
28 And the vote was to cap the lands at 100,000 square feet. In favour of the
29 amendment were Councillors Breathnach, Breathnach, Buckley, Bruton, Farrell,
14:16:16 30 Fitzgerald, Gilmore, Gordon, Hanrahan, Higgins, Keane, Kellagher, Keogh, Laing,

14:16:20 1 McGuinness, Madigan, Maher, Malone, Morrissey, Muldoon, Mullarney, O'Callaghan,
2 Owen, Rabbitte, Reeves, Ryan, Ryan, Sergeant, Taylor, Terry, Tipping, Walsh.
3
4 Against the motion, in other words, against rezoning Quarryvale to a
14:16:36 5 neighbourhood centre with a cap at 100,000 square feet were 37.
6
7 They were as follows: Councillors Ardagh, Barrett, Billane, Brady, Brock,
8 Butler, Cass, Coffey, Conroy, LT Cosgrave, MJ Cosgrave, Creaven, Devitt,
9 Dockrell, Elliott, Farrell, Fox, Gallagher, Gilbride, Greene, Hand, Hannon,
14:16:56 10 Keating, Kennedy, Larkin, Lohan, Lydon, McGrath, Marren, Matthews, Mitchell,
11 O'Halloran, Ormonde, Quinn, Ridge, Tyndall and GV Wright.
12
13 The vote therefore to rezone the Quarryvale lands to C1 zoning with a cap at
14 100,000 square feet was lost.
14:17:15 15
16 The same parties voted on that motion in the same way as they voted on the
17 first motion. The amendment No. 1 to 10.1.1 was then declared lost. The
18 second amendment to motion 10.1.1. This was proposed by Councillors Devitt
19 and McGrath. No motion is available. This proposed to amend Motion 10.1.1
14:17:36 20 by adding a paragraph "and to restrict the retail shopping to 250,000 square
21 feet". The original Motion 10.1.1 proposed rezoning Quarryvale to C and E.
22 And this now proposed to add a restriction on the retail shopping of 250,000
23 square feet. The vote -- those in favour of amending the motions to zone
24 Quarryvale capped at 250,000 square feet -- for, 39 and the vote were:
14:18:15 25
26 Councillors Ardagh, Barrett, Billane, Brady, Brock, Butler, Cass, Coffey,
27 Conroy, LT Cosgrave, MJ Cosgrave, Creaven, Devitt, Dockrell, Elliott, Farrell,
28 Fitzgerald, Fox, Gallagher, Gilbride, Gordon, Green, Hand, Hannon, Keating,
29 Kennedy, Larkin, Lohan, Lydon, McGrath, Marron, Matthews, Mitchell,
14:18:23 30 O'Halloran, Ormonde, Quinn, Ridge, Tyndall, and GV Wright.

14:18:27 1
2 Against the Motion:
3
4 Councillors Breathnach, Buckley, Bruton, Farrell, Gilmore, Higgins, Keane,
14:18:33 5 Kelleher, Keogh, Laing, McGuinness, Maher, Malone, Morrissey, Muldoon,
6 Mullarney, O'Callaghan, Owen, Rabbitte, Reeves, Ryan, Ryan, Sergeant, Taylor,
7 Terry, Tipping, Walsh.
8
9 Abstentions:
14:18:46 10
11 Councillors Hanrahan and Madigan. Total vote 69. The vote is at page 1121
12 and the effect of this was to allow the original motion to be amended by adding
13 a restriction or cap on the amount of retail permitted on the Quarryvale lands.
14 The amendment, once passed, became part of the main substantive motion. The
14:19:05 15 substantive motion had yet to be put. But first there was another amendment
16 motion.
17
18 Amendment three to motion 10.1.1. This amendment was in the names of
19 Councillors O'Halloran, McGrath, Ridge and Tyndall. And the proposed
14:19:19 20 amendment was to add the following paragraph:
21
22 To approve the manager's recommendation that the lands at Neilstown zoned for
23 town centre use in the 1983 Development Plan should be zoned D to provide for
24 major town centre activities with the specific objective "it is an objective of
14:19:37 25 the council to encourage the development of specialised commercial recreational
26 industrial and residential uses in this area." The motion is at page 8856.
27
28 The purpose of this motion was to give effect to the manager's recommendations
29 that this new objective would be the appropriate objective for the
14:19:56 30 Lucan/Clondalkin town centre lands if the C zoning was put on the Quarryvale

14:19:59 1 lands.
2
3 In other words, what this was anticipating was if the vote on Quarryvale was
4 successful and the C zoning was placed on the Quarryvale lands, an alternative
14:20:08 5 zoning would go on the Neilstown lands.
6
7 The vote -- For the motion:
8
9 Councillors Ardagh, Barrett, Billane, Brady, Brock, Butler, Cass, Coffey,
14:20:15 10 Conroy, Cosgrave, Creaven, Devitt, Dockrell, Elliott, Farrell, Fitzgerald, Fox,
11 Gallagher, Gilbride, Gordon, Greene, Hand, Hannon, Keating, Kennedy, Larkin,
12 Lohan, Lydon, McGrath, Marren, Matthews, Mitchell, O'Halloran, Ormonde, Quinn,
13 Ridge, Tyndall and GV Wright.
14
14:20:33 15 Against the motion:
16
17 Councillors Breathnach, Buckley, Bruton, Farrell, Gilmore, Higgins, Keane,
18 Kelleher, Keogh, Laing, McGuinness, Maher, Malone, Morrissey, Muldoon,
19 Mullarney, O'Callaghan, Owen, Rabbitte, Reeves, Ryan, Ryan, Sergeant, Taylor,
14:20:47 20 Terry, Tipping, Walsh.
21
22 Abstentions. Councillors Hanrahan and Madigan,.
23
24 The motion was declared passed.
14:20:57 25
26 The substantive motion. The substantive motion at 10.1.1 was put and passed
27 unanimously. The record of those present is at page 1094.
28
29 Motion 10.1.1 as passed now read as follows following the passing of the
14:21:10 30 various amendments:

14:21:12 1
2 "Dublin County Council hereby resolves that the manager's report, reference
3 item no. one regarding Lucan/Clondalkin overall planning strategy be adopted by
4 the council, taking into account the manager's recognition of the recent north
14:21:25 5 Clondalkin task force and interdepartmental group reports and urban crime and
6 disorder. In proposing the adoption of the manager's report we recognise (A)
7 the commitment of the IDA to job creation for north Clondalkin and propose the
8 E zoning of 164 acres transferred from Dublin Corporation to the IDA as
9 recommended on page 4, paragraph 3 of the manager's report.

14:21:46 10
11 B. To approve the C and E zoning on the Quarryvale site as recommended by the
12 manager to ensure the provision of a suitable centre to meet the overall needs
13 of the area and to restrict the retail shopping to 250,000 square feet.
14

14:21:58 15 C. To approve the manager's recommendation that the lands at Neilstown zoned
16 for town centre uses in the 1983 Development Plan should be zoned D to provide
17 for major town centre activities with the specific objective, "It is an
18 objective of the Council to encourage the development of specialised commercial
19 recreational industrial and residential uses in this area".

14:22:19 20
21 The effect of passing Motion 10.1.1 was:
22
23 1. The zoning on the Quarryvale lands was now combined C and E town/district
24 centre and industrial and capped at 250,000 square feet for retail. The
14:22:33 25 previous proposed zoning had been D major town centre and E.
26
27 2. The D zoning on the old Lucan/Clondalkin town centre lands at Neilstown
28 Balgaddy was retained, together with the new specific objective.
29

14:22:50 30 The balance of the motions.

14:22:50 1
2 Motions 10.1.6, 10.1.7 and 10.1.8 fell. Motions 10.1.9 and 10.1.12, the
3 Terry/ Morrissey motions, were not put. Motions 10.1.10, the Bruton/Ryan
4 motion to amend the draft written statement to have an objective of completing
14:23:06 5 the Fonthill Road and other infrastructure in north Clondalkin was put and
6 passed unanimously. Motion 10.1.11, the Higgins/Ryan motion to amend the
7 draft written statement about the Lucan/Clondalkin town centre was proposed and
8 withdrawn with their agreement.

14:23:20 10 It was also agreed that a suitable insertion would have to be made in the
11 written statement. The meeting concluded.

12
13 The meeting of the council of the 18th of December 1992.

14
14:23:29 15 Representation 527 from O'Callaghan Properties concerning the proposed National
16 Soccer Stadium was considered. The manager's report noted that the
17 O'Callaghan Properties' proposal was supported by the Clondalkin Labour Party
18 area representative. The planning application would be dealt with according
19 to the manager in the normal way. The manager's report was noted.

14:23:47 20
21 The amendment to the draft written statement.

22
23 It must be remembered that the making of a Development Plan involves two parts:
24 One is any amendments to the maps and the second is the written statement, and
14:23:58 25 together they make the development plan.

26
27 On the 27th of April 1993 a motion signed by Councillors O'Halloran, Ridge,
28 McGrath and Tyndall proposed an amendment to paragraph 549 of the draft written
29 statement and was lodged with Dublin County Council. This motion was
14:24:15 30 apparently sent by Councillor Therese Ridge to O'Callaghan Properties in Cork

14:24:21 1 who, in turn, on the 10th of May 1993 faxed it to their bankers at AIB.

2

3 The motion is at page 1157. In effect, what was proposed was that the

4 existing paragraph 549 of the draft written statement was to be substituted for

14:24:35 5 the by the following "it is an objective of the council to foster the creation

6 of employment opportunities in the Quarryvale area. And to facilitate the

7 provision of a district town centre to service the larger community. It is

8 proposed to designate a district town centre site at Quarryvale. This

9 district town centre shall be in the order of 250,000 square feet retail floor

14:24:59 10 space". The original town centre site retains its D (to provide for major

11 town centre activities) zoning with the following objective, to encourage the

12 development of specialised commercial, recreational, industrial and residential

13 uses in the area.

14

14:25:14 15 That is the motion at 1157.

16

17 Now, paragraph 549 prior to this suggested amendment read as follows "it is an

18 objective of the council to foster the creation of employment opportunities in

19 the Quarryvale areas and to facilitate the provision of a district centre to

14:25:43 20 serve the larger community. It is proposed to designate a district centre

21 site at Quarryvale. The district centre shall not exceed 250,000 square feet

22 of shopping. The original town centre site retains its D, to provide for

23 major town centre activity zoning with the following objective: To encourage

24 the development of specialised commercial, recreational, industrial and

14:26:05 25 residential uses in the area.

26

27 The essential differences between the two wordings as between the draft written

28 statement and the motion proposed by Councillors O'Halloran, Ridge, McGrath and

29 Tyndall was that in the draft written statement the wording is mandatory. The

14:26:19 30 district centre shall not exceed 250,000 square feet of retail shopping.

14:26:24 1 Whereas the motion proposed, the wording appears to be more discretionary.
2 This district centre shall be in the order of 250,000 square feet retail floor
3 space. There was no vote on this day.
4

14:26:37 5 The meeting of the council of the 3rd of June 1993.
6

7 The motion to amend paragraph 549 of the draft written statement was proposed
8 by Councillor Halloran and seconded by Councillor McGrath. The manager's
9 report.

14:26:50 10
11 The manager reported that this proposal was in conflict with the motion
12 previously passed limiting retail floor space. The written statement as
13 drafted according to the manager, correctly reflected the motion that had been
14 passed by the council on 17th of December 1992. The relevant portion was "to
15 approve the C and E zoning on the Quarryvale site as recommended by the manager
16 to ensure the provision of a suitable centre to meet overall needs of the area
17 and to restrict the retail shopping to 250,000 square feet".
18

19 The 250,000 square feet amendment had been proposed by Councillor McGrath. A
14:27:28 20 discussion ensued and an amendment was proposed by Councillor Terry and
21 seconded by Councillor Quinn.
22

23 1. The written statement should read "this district centre shall not exceed
24 250,000 square feet of retail shopping and;
25

14:27:43 26 2. Deleting the word "town" in line eight and nine of the motion.
27

28 Another amendment was proposed by Councillor Tyndall and seconded by Councillor
29 Kilbride as follows:
30

14:27:53

14:27:53 1 "That the words "but not exceeding" be added after the words "in the order of".
2 The time for this meeting lapsed and no vote was taken.
3
4 The meeting of the council of the 4th of June 1993.

14:28:05 5
6 Dublin County Council resumed consideration of Councillors O'Halloran and
7 McGrath's motion to substitute paragraph 549 of the draft written statement.
8 Following discussion, both proposed amendments to the motion, Councillor
9 Terry's amendment and Councillor Tyndall's amendment, were withdrawn and this
10 was agreed. Councillor Gilbride and Councillor Tyndall then proposed an
11 amendment to Councillor O'Halloran and McGrath's original motion as follows:
12
13 1. Delete the words district town in line 6, 7 and 8 and substitute the words
14 District/Town with capital letters, and the district and the town.

14:28:41 15
16 2. Deleting the words retail floor space in line nine and substituting the
17 words of retail shopping.
18
19 3. Adding the words but not exceeding after the words in the order of in
14:28:53 20 line nine. This amendment was passed unanimously and those present are
21 recorded at 1168.
22
23 The substantive motion to amend the draft written statement following the above
24 amendment now read as follows:

14:29:06 25
26 Dublin County Council hereby resolve to delete paragraph 549 of the draft
27 written statement and to substitute the following.
28
29 It is an objective of the council to foster the creation of employment
14:29:18 30 opportunities in the Quarryvale area and to facilitate provision of the

14:29:22 1 district/town centre to service the larger community. It is proposed to
2 designate a district/town centre site at Quarryvale. This district/town
3 centre shall be of the order of, but not exceeding, 250,000 square feet of
4 retail shopping. The original town centre site retains its D (to provide for
14:29:43 5 major town centre activities) zoning with the following objective "To encourage
6 the development of specialised commercial, recreational and residential uses in
7 the area".
8
9 This was put and passed unanimously. And a list of those present is recorded
14:29:58 10 as 1168.
11
12 The Tribunal will inquire into the reason for the necessity for this amendment
13 to the draft written statement.
14
14:30:06 15 Second public display.
16
17 Following the foregoing amendment and the completion of the consideration of
18 the draft Development Plan and the objections and representations, a second
19 public display took place for a period of one month from the 1st of July 1993
14:30:18 20 to 4th of August 1993. These maps are described as 1993 amendments to the
21 1991 draft Development Plan. Following the May 1991 decision in the 1991
22 draft plan as displayed, Quarryvale had been zoned D and E major town centre
23 and industrial and Neilstown was zoned E, industrial. The decision of the
24 17th of December 1992 changed the Quarryvale zoning from D and E to C and E,
14:30:46 25 district town centre and industrial, subject to a cap of 250,000 square feet on
26 retail shopping.
27
28 And the Neilstown zoning from E industrial to D major town centre. These were
29 the changes put on public display for the statutory one month period from the
14:31:02 30 1st of July to the 4th of August 1993. These proposed changes are on the map

14:31:06 1 at page 1173. This map incorporates the written text of proposed changes
2 which can be found at 1174.

3
4 Just if we look at the map for a moment, at 1173. And this map at 1173
14:31:32 5 incorporates the text of the written changes.

6
7 Now, when one looks at the map and if we zone in very briefly on the Quarryvale
8 portion of the map, which is in the centre, the Quarryvale lands. Now, you
9 will see written on that that there are certain numbers written. And these
14:31:53 10 are 7, 7A, 7B, 7C, 41. They relate to changes. This is a map that deals
11 with changes. And at the bottom of that map if we bring it back to its
12 normal size, we see there's a notation containing what the changes were. So
13 the changes that were proposed in relation to the Quarryvale plan now was
14 changed 7A, change of zoning from the lands at Quarryvale from E to C and E.
14:32:19 15 7B, change of zoning from the west lands from D to C and E. And change 7C,
16 change of zoning of the lands at Quarryvale from E to C and E.

17
18 So that all of the Quarryvale lands were now going to be a combined C and E.
19

14:32:33 20 Change 7 was to restrict the retail shopping to 23,500 metres or 250,000 square
21 feet. Change 41 was to ensure the provision of a suitable centre.

22
23 If one goes down to the Neilstown site on the same map. In the corner there
24 is a portion of the site, we will see that there's change 18 and change 38.

14:32:55 25 Change 18 is changing the zoning of the lands at Neilstown from E to D. And
26 change 38 to encourage the development of specialised commercial recreation and
27 industrial and residential uses in the area.

28
29 If we go back to the full map, this contained the text and the -- the text has
14:33:12 30 been put on by the people in the Tribunal to explain the changes that are

14:33:16 1 referred to by the numbers on the map. Just to make it easier for people to
2 understand the changes that were being proposed. But the effect of this, if
3 adopted, was that the entire of the Quarryvale lands were going to be C and E
4 combined.

14:33:29 5
6 On the 5th of August 1993 a decision to grant planning permission was made for
7 a major town centre development on the Lucan/Clondalkin town centre lands to MS
8 Limited and PHI Investments Limited. On 23rd of August 1993 Dublin County
9 Council granted a permission for a new stadium at Neilstown.

14:33:51 10
11 19th October 1993.

12
13 The meeting of the council. The manager's report outlined the zoning history
14 of the Quarryvale lands and Lucan/Clondalkin town centre lands in the review of
14:34:02 15 this Development Plan and recommended that the overall strategy of the 1993
16 draft plan be confirmed.

17
18 Quarryvale lands.

19
14:34:09 20 Motions had been put down to reverse the proposed zoning and to limit the
21 proposed retail element. But, in the event these motions were either not
22 moved or ruled out of order. The proposed amendments to map 16, 17, 18 at the
23 second public display were considered. Map 16, 17 and 18 relate primarily to
24 the Lucan/Clondalkin area with the Quarryvale lands on map 16 at page 2095.

14:34:33 25
26 Map 16 was considered first after a discussion. Changes 7A, 7B, 7C to change
27 from E and D and E onto C and E, in other words, from major town centre and
28 industrial to district town centre and industrial and change 41, to provide a
29 suitable centre to meet the overall needs with retail shopping restricted to
14:34:54 30 250,000 square feet were considered.

14:34:55 1
2 It was proposed by Councillor Peter Brady and seconded by Councillor McGrath
3 that the manager's report in relation to changes 7A, 7B, 7C and 41 on map 16 be
4 adopted. These changes were then declared confirmed.

14:35:10 5
6 So that from the map that's on screen, all of those changes were now confirmed.

7
8 The Lucan/Clondalkin town centre lands.

9
14:35:19 10 The changes proposed here were changes 18 on map 16 and change 16 on map 17.
11 It's on two maps because the town centre lands are divided onto two maps.
12 Both proposing a change from E industrial to D major town centre and change 38,
13 map 16, to encourage the development of specialised commercial, recreational,
14 industrial and residential uses in this area.

14:35:40 15
16 The manager's report recommended that the changes be confirmed. The report
17 was adopted and the changes confirmed.

18
19 The meeting of the council of the 16th of November 1993.

14:35:50 20
21 The scheduled towns of Lucan and Clondalkin and the changes proposed to
22 paragraph 549.1 and 549.2 of the draft written statement were considered by the
23 council. The proposed changes were recommended by the manager and this
24 amendment was confirmed.

14:36:06 25
26 Adoption of the Dublin County Development Plan 1993.

27
28 At a meeting on the 10th of December 1993 the final plan was adopted. On a
29 vote of 45 for, 21 against, and one abstention. The Quarryvale lands.

14:36:19 30

14:36:19 1 These lands were zoned C and E in the Dublin County Development Plan 1993. C
2 to protect, provide for and/or improve town/district centre facilities. E, to
3 provide for industrial and related uses.
4

14:36:35 5 Specific objective. To ensure the provision of a suitable centre to meet the
6 overall needs of the area and to restrict the retail shopping to 23,500 metres
7 squared. Effectively Quarryvale was given a new zoning that had not
8 previously been assigned, a combined C plus E zoning. 1218.
9

14:36:55 10 The Lucan/Clondalkin town centre retained its D zoning of major town centre.
11 The changes to paragraph 541 and 5492 were included in the written statement of
12 the 1993 Development Plan for County Dublin as published. I'll just repeat
13 that. The changes to paragraph 5491 and 5492 were unincluded in the written
14 statement of the 1993 Development Plan for County Dublin as published. The
14:37:28 15 map on screen is the Dublin County Development Plan of 1993. It is the final
16 map.
17

18 This shows the end result of the Quarryvale zoning. And on the Quarryvale
19 lands which can be seen in the centre of that major junction between the
14:37:41 20 Western parkway and the Galway Road there is a large portion of stripes, which
21 is striped purple and pink. That is the combined C and E zoning. And the
22 numbers on the map relate to objectives that had been stated in connection with
23 those lands. If we go back to the main part of the map. Again, we'll see
24 that at the bottom still coloured blue are the Lucan/Clondalkin town centre
14:38:07 25 lands which now has the D zoning again.
26

27 The end result.
28

29 At the commencement of the Development Plan review process for Dublin, the
14:38:14 30 Quarryvale lands were zoned residential, industrial and open space and had no

14:38:19 1 permitted retail or shopping use. At the conclusion of the review of the 1983
2 Development Plan retail development was permitted on these lands subject to a
3 cap of 250,000 square feet or 23,500 square metres. The Liffey Valley Shopping
4 Centre was subsequently built on the site.

14:38:37 5
6 The changes in the zoning of the Quarryvale lands after the making of the 1993
7 Development Plan.

8
9 I am now moving on to deal with the consideration of this plan in the 1997
14:38:48 10 review by South Dublin County Council.

11
12 And effectively what happened in this review is the retail cap was lifted by
13 South Dublin County Council. And the zoning was changed again by South Dublin
14 County Council in 1997.

14:39:04 15
16 Now, reference will be made in the course of this to Mr. Ciaran Kennedy's
17 statement. Mr. Kennedy will be giving evidence. In his statement he refers
18 to the manager's report. But it appears that on some occasions, albeit not
19 all of them, what is being referred to is the deputy manager's report. And
14:39:24 20 while Mr. Ciaran Kennedy is a non-cross-examination witness, it will be
21 necessary at the outset of his evidence simply to have that clarified with him
22 so that it's clear whether the person who is giving the report to the
23 councillors is the manager or the deputy manager.

14:39:38 25 The Quarryvale planning.

26
27 Dublin County Council ceased to exist on the 1st January 1994 when it was
28 subdivided into three separate County Council's; namely, Fingal County Council,
29 Dunlaoghaire/Rathdown County Council and South Dublin County Council. The
14:39:53 30 review of the 1993 Development Plan for Dublin commenced, insofar as South

14:39:57 1 Dublin County Council was concerned, in 1997. As already stated, the retail
2 element in Quarryvale was capped at 23,500 square metres in the 1993
3 Development Plan for Dublin.
4

14:40:09 5 In the review of specific objectives in connection with Quarryvale, specific
6 local objective No. 7 was to restrict the retail shopping to 23,500 square
7 metres. Planning permission had been granted for a shopping development not to
8 exceed this square footage. The register reference was 93A1161. In the
9 draft County Development Plan for south Dublin county the zoning proposed for
10 the greater portion of the Quarryvale lands was objective D. C. to protect/
11 provide for and/or improve district centre facilities. A significantly
12 smaller area of the lands was proposed for zoning of objective E, to provide
13 for industrial and related uses.
14

14:40:55 15 15122. I'm not sure that that's the correct map. It is the County
16 Development Plan for 1988. Yes, it is. The Quarryvale lands are at the top.
17 There's a square, almost square black portion, yes, and to the north of that
18 they are the Quarryvale lands.
19

14:41:53 20 They were rezoned in the 1998 plan and the bottom part of those lands, which
21 are coloured black on that portion, although in colour it will be easier to see
22 them, they were zoned industrial. And the centre portion was zoned D. C..
23

14:42:18 24 Now, the end result of the 1997 review was that the cap on retail shopping was
25 removed. The cap on retail space on the Quarryvale Liffey Valley centre was
26 removed in the course of the review of the 1993 Dublin County Development Plan
27 conducted by South Dublin County Council in 1998.
28

14:42:37 29 The planning and zoning history of the Quarryvale lands following the adoption
30 in December 1993 of the 1993 Dublin County Development Plan.

14:42:37 1
2 On the 1st of January 1994 pursuant to the provisions of the local Government
3 Dublin Act 1993, by order of the then Minister for the Environment, Mr. Michael
4 Smith, Dublin County Council divided into three local authorities, namely, Dun
14:42:51 5 Laoghaire/Rathdown County Council, Fingal County Council and South Dublin
6 County Council. The Quarryvale and Balgaddy lands fell within the functional
7 area of South Dublin County Council.
8
9 The planning history of the development on the Quarryvale lands now known as
14:43:04 10 Liffey Valley.
11
12 On the 4th of August 1993 Dublin County Council received a planning application
13 on behalf of Barkhill from the Ambrose Kelly Group. This was assigned planning
14 registered reference 93A1161. The application was for planning permission for
14:43:20 15 a large scale commercial development comprising a district town centre
16 development with 157 bedroom hotel with conference and leisure facilities.
17 Public house. Betting office. Take-away restaurants. Petrol filling stations.
18 Motor sales. Computer centre. Leisure centre. Bowling alley. Novelty
19 swimming pool. Recreational hall. Six civic office buildings. Multiplex
14:43:41 20 cinema. Retail shopping of 22 827 square metres. Ancillary space. 34
21 industrial warehouse office units. The development was to be on the
22 Quarryvale lands described as a 177 acre L shaped site located at the junction
23 of the Western Parkway Motorway, the M50 and the Galway Road.
24
14:44:04 25 In November 1993 following a request from Dublin County Council the Ambrose
26 Kelly Group on behalf of Barkhill submitted an Environmental Impact Statement,
27 an EIS, and a retail impact study in connection with the proposed development.
28 Dublin County Council received and considered a number of objections to
29 Barkhill's proposed development at Quarryvale. Objections were lodged by PHI
14:44:26 30 and MS Limited, who were adjoining landowners to the Balgaddy site, and by the

14:44:30 1 Lucan Planning Council and also by Greene Property Plc. The evidence of
2 Ciaran Kennedy former Director of Planning of South Dublin County Council will
3 outline these objections. The planning application by Barkhill for the
4 development of the lands at Quarryvale came to be discussed at planning
14:44:46 5 committee meetings initially of Dublin County Council and after January 1994 by
6 South Dublin County Council. At a South Dublin Planning Committee Meeting at
7 page 14969. On the 14th of December 1993 Councillors John O'Halloran, Stanley
8 Laing and Colm McGrath, Therese Ridge and Catherine Quinn are recorded as
9 recommending that permission be granted for the development at register
14:45:14 10 reference 93A1161. The Quarryvale lands.

11
12 At a further Planning Committee Meeting, this time on the 16th of February 1994
13 at 14970 at South Dublin County Council, Councillors Therese Ridge, Colm
14 McGrath and John O'Halloran are recorded as recommending that permission be
14:45:36 15 granted.

16
17 Additional information was sought by Dublin County Council and was furnished in
18 February 1994 by the Ambrose Kelly Group. Following receipt of the planning
19 application various departments within Dublin County Council and, subsequently,
14:45:52 20 South Dublin County Council considered the merits and otherwise of the
21 application. The matter was also considered from the point of view of the
22 Environmental Health Officer of the Eastern Health Board. Reports of the
23 various departments of Dublin County Council, South Dublin County Council and
24 the Eastern Health Board are included as appendices to the statement of Ciaran
14:46:11 25 Kennedy former Director of Planning of South Dublin County Council. The
26 Planning Department of south Dublin County Council reported in April 1994 on
27 the application and this report by the County Planning Officer of South Dublin
28 County Council encompassed matters that have been the subject of individual
29 reports from individual departments within the local authorities. The report
14:46:30 30 recommended that a decision to grant permission for the development at

14:46:33 1 Quarryvale be made subject to 45 conditions. This recommendation was accepted
2 by the County Manager, Mr. John Fitzgerald, of South Dublin County Council who
3 decided to grant permission in accordance with the recommendation of the County
4 Planning Officer, subject to 45 conditions.

14:46:48 5
6 This decision was made on 13th of April 1994 and notices were published in the
7 public newspapers on the 19th of April 1994. This decision by South Dublin
8 County Council to grant planning permission to Barkhill in respect of the
9 proposed commercial development on 177 acres at Quarryvale was appealed to An
14:47:06 10 Bord Pleanala by a number of parties, including Barkhill Limited, the
11 Applicant. The appeal of Barkhill was directed primarily towards the
12 conditions attaching to the planning permission granted and in some cases to
13 the conditions dealing with monetary impositions. Appeals were also lodged
14 against the grant of planning permission by PHI, MS Limited, An Taisce and a
14:47:31 15 Mr. Luke Moriarty.

16
17 In September 1994 An Bord Pleanala notified South Dublin County Council that it
18 had considered the appeal and made an order pursuant to the local Government
19 Planning and Development Acts 1963 to 1993 to grant permission subject to
14:47:42 20 revised conditions. The conclusion of the appeal process, therefore, was that
21 Barkhill had a buildable planning permission in respect of the lands at
22 Quarryvale. The Tribunal will hear evidence about the conduct of this appeal
23 through An Bord Pleanala. The zoning of the Quarryvale lands subject to the
24 Dublin County Development Plan 1993.

14:48:04 25
26 As outlined already, in the Dublin County Development Plan 1993, the lands at
27 Quarryvale had a joint combined zoning, namely C and E, which was a combination
28 of to protect, provide or improve town district facilities and industrial.
29 Both of these zonings applied jointly to the entire of the Quarryvale lands and
14:48:25 30 this can be seen from the map No. 16 of the 1993 Development Plan as adopted by

14:48:32 1 Dublin County Council.
2
3 That was the map at 1218. On map 16 of the 1993 Development Plan the numbers
4 6 and 7 appear on the Quarryvale lands, at page 1218, please.
14:48:44 5
6 These numbers, if we could just increase the Quarryvale lands. On the map the
7 number 6 and 7 appear. These numbers relate to specific local objectives
8 which are identified in the written statement of the 1993 Dublin County
9 Development Plan. Chapter, or paragraph 49 of the 1993 Dublin County
14:49:17 10 Development Plan dealt with specific local objectives. Paragraph 49.16 deals
11 with the local objectives applicable to map 16. Paragraph 49.16.6 of the
12 written statement deals with specific objective 6, which is to ensure the
13 provision of a suitable centre to meet the overall needs of the area. And
14 paragraph 49.16.7 deals with specific local objective 7, which is to restrict
14:49:45 15 the retail shopping to 23,500 square metres.
16
17 The zoning and specific local objective that applied to the Quarryvale lands
18 after the making of the 1993 Dublin County Development Plan was a combined
19 zoning of C and E with local objectives including one capping retail at 250,000
14:50:05 20 square feet.
21
22 The review of the Dublin County Development Plan 1993 by South Dublin County
23 Council.
24
14:50:10 25 In 1998 South Dublin County Council came to consider the review of the Dublin
26 County Development Plan 1993. Although the process had commenced sometime
27 earlier. A number of changes were proposed in connection with the Quarryvale
28 lands.
29
14:50:25 30 The zoning.

14:50:26 1
2 The original combined zoning of C and E was removed by the officials of South
3 Dublin County Council in the preparation of the draft maps for public display.
4 The lands were divided in two on the map. If we could have 15122 -- with the
14:50:41 5 greater portion of the lands being contained in the northern portion. The
6 northern lands coloured pink on the map were indicated to be zoned objective D.
7 C.. I apologies that these maps are not in colour. If we could just turn
8 that map around.
9

14:50:57 10 And the Quarryvale lands are to the north of ...
11

12 Now, the southern portion of those lands which look like a black box, they are
13 the industrial lands. So the northern lands which are coloured pink but which
14 are a grey on that, they were to be zoned objective D C to protect, provide for
14:51:21 15 and improve district centre facilities. The southern portion of the lands
16 which are coloured purple on the map, which is black on screen, were indicated
17 to be zoned objective E, to provide for industrial and related uses.
18

19 The Neilstown/Balgaddy lands were proposed to be zoned D C also and were also
14:51:39 20 coloured pink on the map, as were a small portion of lands in the centre of
21 Clondalkin.
22

23 If we go back to the full map on screen we can see that the Lucan/Clondalkin
24 town centre lands are pink, which is the same colour as the northern portion of
14:51:53 25 the Quarryvale lands.
26

27 The town centre designation was called objective T C. And was coloured blue.
28 But there was no such proposed zoning for any lands on map 1 of the South
29 County Dublin Draft Plan. The 1998 South Dublin County Draft Plan, including
14:52:09 30 this map, was placed on public display in February 1998 for the statutory three

14:52:15 1 month period. No objections were made to the changes on the Quarryvale lands
2 and these changes in the zoning, which were put forward by the officials of
3 South Dublin County Council, were adopted by the elected members of South
4 Dublin County Council in making the Development Plan for south Dublin. The
14:52:30 5 end result, therefore, insofar as the zoning of the Quarryvale lands are
6 concerned, is that the principal northern lands were zoned objective D C to
7 protect, provide, improve district centre facilities and the southern smaller
8 portion of the lands were zoned objective E, to provide for industrial and
9 related uses.

14:52:48 10
11 The written statement and the removal of the cap on retail floor space at
12 Quarryvale.

13
14 The written statement of the 1993 Development Plan for County Dublin contained,
14:52:57 15 as already outlined, specific local objectives 4916.6 and 7 which related to
16 the Quarryvale lands. Included in that was a restriction on retail shopping.
17 When the draft Development Plan of south Dublin county was placed on public
18 display on 9th of February 1998 for the statutory three month period, the cap
19 on retail space at Quarryvale had been omitted from the draft plan. The
14:53:22 20 omission of the cap on the draft plan emanated, according to Mr. Ciaran
21 Kennedy, from the view of senior management at South Dublin County Council and
22 the County Planning Officer, that such restriction on retail space was
23 inappropriate. In his statement to the Tribunal of the 16th of May 2003 Mr.
24 O'Callaghan said that at the time the cap was imposed he realised he would have
14:53:44 25 to wait until the next Development Plan before there could be any possible
26 alteration in the size of the cap. And that in view of the difficulties
27 experienced in achieving a zoning for 250,000 square feet for retail space, he
28 thought at the time there would be enormous difficulties in having the cap
29 lifted or extended. After the three new councils replaced the old Dublin
14:54:06 30 County Council, Blanchardstown Shopping Centre became part of a different

14:54:08 1 county. So any concerns that a shopping centre at Quarryvale could affect
2 that shopping centre at Blanchardstown ceased to be material, according to Mr.
3 O'Callaghan. Mr. O'Callaghan will tell the Tribunal that gradually over the
4 years he became aware that the feeling among the south Dublin county
14:54:24 5 councillors was that both Tallaght and Blanchardstown Shopping Centres were
6 double the size of Quarryvale and they saw no good reason why Quarryvale should
7 not be allowed to expand. Likewise he said they, the councillors, felt the
8 cap imposed was a compromise on the day and was no longer appropriate.
9

14:54:41 10 Mr. O'Callaghan says that as he canvassed councillors for their views on the
11 removal of the cap, it became clear to him there was little or no objection to
12 its removal. Mr. O'Callaghan admits the removal of the cap required a change
13 in the Development Plan and would have required the support of a simple
14 majority of councillors. From his discussions with them he felt that the
14:54:59 15 removal of the cap would be supported virtually unanimously.
16

17 Documentation discovered to the Tribunal, primarily by Mr. O'Callaghan,
18 revealed that from about the 31st of January 1997 to 20th of November 1997 Mr.
19 O'Callaghan had a number of meetings and discussions with various officials of
14:55:19 20 South Dublin County Council with a view to removing the cap on retail floor
21 space in the Quarryvale development as contained in the Dublin County
22 Development Plan 1993.
23

24 Prior to the draft plan being put on the statutory three month public display,
14:55:34 25 there had been a review of specific objectives prepared by the Planning
26 Department of South Dublin Council. The Planning Department had reviewed
27 specific local objectives 6 and 7 as contained at paragraphs 4, 9, 16, 6 and 7
28 of the 1993 written statement to the 1993 Dublin County Development Plan.
29 This position was noted in the review without further comment.

14:55:57 30

14:55:57 1 Position papers were prepared in the May of 1997 by the Planning Department of
2 South Dublin County Council as part of the review of the 1993 Dublin County
3 Development Plan. There is no recommendation for or against the cap on retail
4 space on the Quarryvale Liffey Valley Centre in the position papers. These
14:56:15 5 position papers were presented to the elected members in September 1997 and
6 were noted by the council.

7
8 In December 1997 the manager of South Dublin County Council circulated a report
9 on the draft Development Plan to the elected members, but there is no reference
14:56:31 10 in this report to the Quarryvale lands. On the 2nd of December 1997 a list of
11 agreed amendments to be incorporated into the written statement in the maps for
12 public display of the draft plan was outlined by the deputy managers to the
13 elected members. None of these items referred to the Quarryvale lands. It
14 was agreed that the draft plan would be put on public display and it was put on
14:56:53 15 public display on 19th of February 1998 until 11th of May 1998. It did not
16 contain any specific objectives restricting the amount of retail shopping
17 permissible on the Quarryvale lands.

18
19 Representations objecting to the removal of the cap on retail space at
14:57:10 20 Quarryvale were made to South Dublin County Council by:

- 21
22 1. Leixlip town Commissioners.
23
24 2. The Retail Grocery, Dairy and Allied Trades, together with The Square
14:57:20 25 Management Committee through Mr. Fergal McCabe.
26
27 3. Nicola Corrigan.
28
29 4. Paul O'Connell and Associates.

14:57:26 30

14:57:26 1 5. Mid-east Regional Authority.

2

3

The report by the officials of South Dublin County Council on these representations or objections recommended that the removal of the restriction on retail floor space at Quarryvale be confirmed.

14:57:36 5

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The draft written statement, insofar as it related to the Quarryvale lands and development on the Quarryvale lands.

8

9

14:57:46 10

Paragraph 5.2.14.1 of the draft written statement for South Dublin County Council recognised that the function and catchment area of the Quarryvale and Balgaddy town district centres would exceed that normally associated with district centres. Whilst it was not considered appropriate to designate the centres, and this would include Quarryvale, as town centers, paragraph 5, 2, 14, 1 proposed that the development proposals in Quarryvale and Balgaddy would be judged in accordance with the use, classes and categories set out at table 3.7, i.e. town centre level zoning.

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14:58:11 15

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14:58:33 20

Table 3.7 deals with zoning objective T C. And that is defined as to protect, provide for or improve town centre facilities. And it then identifies the developments that are permitted in principle, those open for consideration and those that are not permitted.

21

22

23

24

14:58:49 25

In the section dealing with specific local objectives, specific local objective 43 dealt with the Quarryvale and Balgaddy lands and recorded that, while on map 1 the zoning objective for these lands is D C district centre, the use or classes that would be considered in connection with development proposals would be those at table 3.7 town centre. Mr. O'Callaghan, on behalf of Barkhill, by letter dated the 8th of May 1998, made a submission supporting this proposed policy for Quarryvale.

26

27

28

29

14:59:13 30

14:59:15 1
2 Now what's being suggested here, and that can seem like a lot of legalese, not
3 to understand it, the map on the map, the zoning on the Quarryvale lands was
4 going to be D C, district centre. But in the written statement what was being
14:59:28 5 recommended, that the uses that would be permitted on those lands zoned D C
6 would be those that are permitted under T C, which is town centre. So the map
7 says that the zoning for the northern part of the Quarryvale lands is district
8 centre, but the written statement says that the council would consider uses on
9 those lands that are applicable to town centre.

14:59:51 10
11 So the written statement was of huge significance and the wording that was put
12 in was of huge significance, because the uses that would be permitted on those
13 lands were now vastly increased from those that would be permitted merely on a
14 district centre land.

15:00:06 15
16 The motion to reverse the removal of the cap.

17
18 On 1st of September 1998 Councillor Gus O'Connell lodged a motion with South
19 Dublin County Council which, in effect, sought to reverse the position in
15:00:18 20 relation to the removal of the cap. The motion proposed that the written
21 statement be amended by deleting Section 5.2.14.1 and replacing it with the
22 wording which had previously been contained in Section 5.4.9.1 and 2 of the
23 Dublin County Development Plan 1993. In other words, capping retail space at
24 250,000 square feet.

15:00:37 25
26 This motion came to be considered at a special meeting of South Dublin County
27 Council on the 24th of September 1998. The deputy manager reported to the
28 council and recommended for the various reasons set out in his report that the
29 removal of the restriction on retail floor space at Quarryvale, as contained in
15:00:53 30 the draft plan, be not amended on foot of the motion and that the draft plan be

15:00:58 1 confirmed by the council. As already stated, confirming the draft plan,
2 including the draft written statement, would confirm that the Quarryvale and
3 Balgaddy lands, whilst retaining a district centre zoning designation, would be
4 permitted town centre uses. This was the zoning designation that had
15:01:23 5 originally been sought for the Quarryvale lands in 1991 in the course of the
6 then review of the 1983 Development Plan for County Dublin which resulted in
7 the 1993 Development Plan for Dublin.

8
9 The motion to reverse the removal of the cap on retail space at Quarryvale was
15:01:32 10 put to a vote and was not passed. Four councillors voted for the motion;
11 Councillors Muldoon, Mullarney, O'Connell and Tipping. The balance of the
12 councillors, namely Councillors Billane, Brady, Barrett, Gibbons, Hannon,
13 Hanrahan, Hennessy, Keane, Laing, McGrath, Neville, O'Connor, O'Halloran,
14 Ormonde, Quinn, Ridge, Tyndall and Walsh all voted against the motion, thereby
15:01:53 15 confirming the new zoning on the Quarryvale and Balgaddy sites, namely a
16 district centre designation with permitted town centre uses.

17
18 Whilst amendments were made to the draft plan and these amendments were subject
19 to the statutory one month display, none of these amendments related to
15:02:09 20 Quarryvale. The draft Development Plan for South County Dublin was adopted at
21 a special meeting of South Dublin County Council on the 15th of December 1998.
22 In the final published version of the maps and written statement of the South
23 Dublin County Development Plan 1998 prepared following the adoption of the
24 draft Development Plan by South Dublin County Council, specific local objective
15:02:32 25 No. 43 which had allowed town centre uses on the district centre lands at
26 Quarryvale and Balgaddy was renumbered as specific local objective No. 8 and
27 can be seen on the final map at 15229.

28
29 The end result in the final plan was that the northern portion of the
15:03:02 30 Quarryvale lands which are coloured pink on the map are zoned D C and had the

15:03:08 1 benefit of specific local objective No. 8 which permits town centre uses on
2 these lands. This is the position that presently pertains in relation to the
3 permitted uses of the development on these lands and the Tribunal will inquire
4 into the circumstances in which this final result was achieved.

15:03:27 5
6 That concludes the opening statement in relation to this particular module.

7
8 CHAIRMAN: All right. Thank you, Ms. Dillon. Do any of the parties wish to
9 say anything in reply to the opening statement? As I indicated yesterday,
10 whether parties do or do not do so is a matter completely for themselves. The
11 lack of a reply does not in any way indicate an acknowledgement by that party
12 of the truth or accuracy of anything that was stated by Ms. Dillon.

13
14 MR. GREENE: I wish to make a reply.

15:04:04 15
16 CHAIRMAN: Who are you acting for?

17
18 MR. GREENE: Richard Greene.

19
15:04:09 20 I wish to object to being --

21
22 CHAIRMAN: Sorry.

23
24 MR. GREENE -- tried by the media as a result of this --

15:04:18 25
26 CHAIRMAN: Sorry, wait now, just a second. Are you Councillor Greene?

27
28 MR. GREENE: I am former Councillor Greene.

29
15:04:23 30 CHAIRMAN: All right.

15:04:24 1
2 MR. GREENE: I understand that an opening statement was read at the Tribunal
3 yesterday, a copy of which was not furnished to me. The Irish Times and The
4 Independent only reported what Mr. Dunlop said -- And Mr. Dunlop, an admitted
15:04:37 5 perjurer, said the media did not report my statement which means that my good
6 name has been taken away.

7
8 I do not think that any statement should have been read out in the opening
9 statement of any witness. When Mr. Dunlop gives his evidence I can
15:04:57 10 cross-examine him and put my side.

11
12 I would like to ask the Tribunal that it should forbid the reporting of any
13 matter of a prejudicial nature until the party involved has had an opportunity
14 to reply.

15:05:12 15
16 Lastly. The political donations given by Mr. Dunlop to me in the midst of an
17 election and prolife referendum, for which I fought and which I stood as a
18 candidate, are disputed by me.

19
15:05:30 20 Thank you very much.

21
22 CHAIRMAN: All right. Mr. Greene, thank you.

23
24 MS. DILLON: In fairness to Mr. Greene. I would like to draw to his
15:05:37 25 attention, in fairness to him, what was actually said in the opening statement
26 in relation to Mr. Greene yesterday. The transcript will so reflect.

27
28 What was said about Mr. Greene's position by me yesterday was the following
29 "Mr. Greene utterly refutes any allegation or suggestion that he received money
15:05:52 30 directly or indirectly from Mr. Dunlop which arose or was in any way related to

15:05:57 1 his support for the rezoning of the Quarryvale lands. He emphasises that as a
2 career guidance teacher in the area he was anxious for Quarryvale to be
3 developed for the purpose of providing employment for his students. Mr.
4 Greene emphatically disputes that he requested any support from Mr. Dunlop or
15:06:10 5 that any payment was in connection with his support for Quarryvale".
6

7 So that, in fact, in the opening statement yesterday, in fairness to
8 Mr. Greene, his position was made very, very clear!
9

15:06:24 10 MR. GREENE: But it was not reported in the papers. That's the point. My
11 good name as a result of this Tribunal has been traduced. As a citizen of
12 this State I am entitled to my good name. And I think actually that the
13 procedures of this Tribunal do not actually protect my good name. Because
14 when will this Tribunal end? We know that there's going to be a case. It's
15:06:46 15 been delayed. I have been waiting for five and a half years. I have
16 co-operated fully with this Tribunal for over eight years. For over eight
17 years. Totally fully and absolutely. And the end result, the Tribunal fails
18 to protect my good name which was taken away in the Irish Times and The
19 Independent. If they had actually put side by side, you know, my statement.

15:07:12 20
21 What I am saying is, that because of the prejudicial nature of what Mr. Dunlop
22 said, therefore if you can't actually stop the selective reporting of the media
23 well, therefore, the opening statement, if it involves prejudicial evidence,
24 should have been held in private.

15:07:35 25
26 And I'm amazed that the Supreme Court of the land has actually allowed,
27 actually -- the rights of individuals to be traduced by this, by a Tribunal
28 that has been set up by the executive and should operate under the principles
29 of law that are protected, you know, in the Constitution.

15:07:55 30

15:07:55 1 A person is entitled to their good name. And it should not be traduced. And
2 this Tribunal has failed to project my good name. How many months or years,
3 another five years maybe when this Tribunal finishes? We don't know what the
4 outcome of a judicial review will be, how long that will be, a High Court and
15:08:16 5 Supreme Court or whatever. The damage has been done. The damage to my name
6 has been done.

7
8 CHAIRMAN: The position, Mr. Greene, firstly, is that these sessions have to
9 be held in public. We are not in a position to conduct these hearings in
15:08:33 10 private under current circumstances.

11
12 Secondly. The position, your position was, as Ms. Dillon has indicated, was
13 opened yesterday. The fact that it wasn't reported by the newspapers is
14 regrettable. We have no control over what the newspapers say or don't say.
15:08:49 15 It's a matter for you to take it up with the editor of the newspaper or with
16 the reporter concerned. And you are perfectly free to do that if you wish.

17
18 The position in relation to any allegations that you perceive Mr. Dunlop as
19 making against you, Mr. Dunlop will be, is expected to give evidence possibly
15:09:12 20 on Friday or early of next week. And you will be afforded an opportunity to
21 cross-examine Mr. Dunlop soon after that.

22
23 MR. GREENE: Okay. I thank you for listening to me. Thank you.

24
15:09:26 25 CHAIRMAN: Thanks, Mr. Greene. Is there anyone else who wishes to say
26 anything in reply to Ms. Dillon? All right.

27
28 The position I think then is that

29
15:09:40 30 CORMAC O DULACHAIN: Chairman, I think at the opening there was an indication

15:09:43 1 that applications for representation would also be taken once the statement was
2 delivered.

3
4 I appear for the family of the late Tom Hand and various members, instructed by
15:09:56 5 Vincent -- Vivian Matthews, Solicitor. We have previously been represented at
6 a prior module in relation to Carrickmines. And there are aspects arising
7 within this module averted to in the opening statement. On those grounds we
8 are applying for representation.

9
15:10:13 10 CHAIRMAN: Granted. I think the position is in relation to witnesses, we have
11 two witnesses scheduled for tomorrow. Both, neither of these witnesses, I
12 think, it hasn't been indicated to the Tribunal by any party that they wish to
13 cross-examine these witnesses who will be giving factual background, planning
14 information or evidence.

15:10:36 15
16 MS. DILLON: That's correct.

17
18 CHAIRMAN: They will be called tomorrow?

19
15:10:39 20 MS. DILLON: Yes, but a matter has arisen that I should draw to your
21 attention. I wonder would you consider rising just for five minutes.

22
23 CHAIRMAN: All right. There are no other applications I take it? Well in
24 that event we'll sit tomorrow at half ten.

15:13:40 25
26 MS. DILLON: May it please you.

27
28 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**
29 **THURSDAY 1ST DECEMBER, 2005, AT 10:30 A.M.:**

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