

09:31:41 1 **THE TRIBUNAL COMMENCED AS FOLLOWS ON FRIDAY**

2 **17TH FEBRUARY 2006 AT 10.30 AM:**

3  
4 CHAIRMAN: Good morning Ms. Dillon and Ms. Dalton.

10:42:08 5  
6 MS. DALTON: Ms. Collins please.

7  
8 **SINEAD COLLINS, HAVING BEEN SWORN, WAS EXAMINED**

9 **AS FOLLOWS BY MS. DALTON:**

10:42:42 10  
11 CHAIRMAN: Morning Ms. Collins

12 A. Good morning.

13 Q. 1 Ms. Collins I am going to take you through your planning statements in relation  
14 to the Ballycullen and Beechill lands this morning. If we can start with the  
15 Ballycullen Farm lands please.

16  
17 From June 1982 to December 1993 I was employed as administrative officer in the  
18 Planning Department of Dublin County Council. During the period of 1987 to  
19 1993 I worked on the review of the 1983 Dublin County Development Plan. An  
10:43:14 20 outline summary of the Development Plan review process and the format of the  
21 Development Plan are attached here with at appendix 1 and that's at page 92  
22 please.

23  
24 Included among my duties in relation to the very view of the Development Plan  
10:43:28 25 were the following:

26  
27 A: To receive and record representations and circulate same to council staff  
28 and the elected members of the council.

29  
10:43:35 30 B: To receive motions, which had been submitted by councillors,

10:43:39 1 C: To prepare and circulate the agenda for each special meeting of the council  
2 to review the Development Plan.  
3 D: to circulate the manager's reports to the councillors prior to the meeting.  
4 E: To record the attendances and voting records of councillors at such special  
10:43:54 5 meetings.  
6 F: To prepare the minutes of each meeting "Is that correct Ms. Collins?  
7 A. It is.  
8 Q. 2 "Motions tabled by councillors in relation to land zoning were dealt with by  
9 written reply in the form of the manager's report. Such reports were usually  
10:44:10 10 circulated to the members some days before the relevant meeting. As each  
11 motion came for decision the report was presented and discussed. The  
12 presentation was usually accompanied by specifically prepared maps projected on  
13 a screen in the council chamber.  
14  
10:44:24 15 Voting was conducted in accordance with the council standing orders.  
16 Frequently a roll call vote was held and when this happened the minutes of the  
17 meeting recorded the votes of the individual councillors" is that right  
18 Ms. Collins?  
19 A. That's right.  
10:44:36 20 Q. 3 "3. 1983 Dublin County Development Plan, hereinafter referred to as 1983  
21 Development Plan. The 1983 Development Plan was adopted on 31st March 1983.  
22 The lands, the subject matter of the present inquiry, by the Tribunal excising  
23 approximately 77.08 hectares of Ballycullen Farm east of Ballycullen road and  
24 southwest of the proposed line of the Southern Cross motorway hereinafter  
10:45:04 25 referred to as Ballycullen Farm lands, were zoned as follows in a 1983  
26 Development Plan:  
27 B. To protect and provide development of agriculture, A1 to provide for new  
28 residential communities in accordance with approved action area plans at five  
29 houses to the acre." if I could have page 95 please?  
10:45:25 30

10:45:25 1 The "The 1983 Development Plan zonings of Ballycullen Farm land are outlined on  
2 map 18 of the 1983 Development Plan, attached here with at appendix 2. Also  
3 attached here with at appendix 2 is part of the 1983 Development Plan written  
4 statement, regarding the land use zonings" and if I could have page 94 please.

10:45:47 5  
6 4. "Review of the 1983 Development Plan. The 1990 Draft Development Plan.  
7 review of the 1983 Development Plan was initiated by Dublin County Council on  
8 the 16th October 1987. A copy of the minutes of the special meeting of the  
9 council held on the 16th October 1987, which also give a summary of the  
10 procedure for the review of the plan, are attached here with at appendix 3.

11 From October 1987 to January 1989 the elected members considered the working  
12 papers presented at special meetings of the council. The elected members then  
13 considered the Draft Development Plan, maps and written statement prepared by  
14 the County Council planners and the motions relating to the draft maps and  
15 draft written statements" is that correct Ms. Collins?

10:46:28 16 A. Yes.

17 Q. 4 "On a number of occasions during the review process the members were advised  
18 that according to standing orders any variations proposed to the draft written  
19 statement on the maps would require the submission of a written motion signed  
20 by and accompanied, where necessary, by a location map for inclusion in the  
21 agenda of the relevant council meeting. See for example minute reference  
22 C/875/89 of the minutes of special meeting held on 20th October 1989 attached  
23 here with at appendix 3" isn't that correct Ms. Collins?

24 A. Yes.

10:47:06 25 Q. 5 5. "1990 Draft Development Plan, map 20." and that's page 106 please.

26  
27 "On map 20 of the 1990 Draft Development Plan a copy of which is attached here  
28 with at appendix four the Ballycullen Farm lands were zoned E to provide for  
29 industrial and related uses. Map 20 of the 1990 Development Plan was dealt  
30 with at the special meetings of the County Council held on the 23rd March 1990

10:47:32 1 and the 6th April 1990.

2

3

6. Minutes of special meeting of the County Council held on 23rd March 1990.

4

The minutes of this meeting are attached herewith at appendix 5. At minute

10:47:46 5

reference C/237/90 the meeting commenced consideration of map number 20 and the

6

proposed changes in zoning were outlined by Mr. Conway. Following a discussion

7

to which Councillors Flood, Fitzgerald, Muldoon, Tipping, Lang, Hannon, McMahon

8

contributed it was agreed to continue consideration of map number 20 at the

9

next special meeting of the council dealing with the Development Plan review",

10:48:09 10

is that correct Ms. Collins?

11

A. Yes.

12

Q. 6 "Minutes of the County Council held on 6th April 1990. The agenda and minutes

13

of this meeting are attached herewith at appendix 6. At minute reference

14

C/252/90 the manager's report entitled recommendation to zone land at

10:48:29 15

Ballycullen for industrial development was read. The report read as follows",

16

and if I have pages 111 and 112 together please?

17

18

"3. At the special liaison meeting in December last, the regional manner

19

referred to the IDA's need for industrially zoned land in the Dublin area as

10:48:50 20

all existing IDA sites had been or were nearly fully allocated. He indicated

21

that in the short-term the IDA would like to concentrate on lands in public

22

ownership as they had a problem in obtaining funding to purchase lands for

23

future industrial development. The possibility of marketing privately owned

24

lands was not however discounted at the meeting and it is interesting to note

10:49:09 25

that a planning application has recently been received for an IDA promoted

26

venture in Swords for Motorola on lands which were privately owned until

27

recently and have apparently been acquired by the IDA.

28

29

A similar situation occurred recently at Rathcoole where the council granted

10:49:26 30

permission for an aircraft engineering project, which again was promoted by the

10:49:30 1 IDA on privately own lands. As far as Tallaght was concerned the IDA stated  
2 that a hundred acres of land was required immediately in the area, while in the  
3 longer term other industrial land would be required.  
4

10:49:41 5 The site or sites chosen must as usual have good access arrangements and have a  
6 degree of insulation from existing development. The Ballycullen land was  
7 specifically discussed at the meeting and was seen by the Dublin Planning  
8 Officer as a longer term proposal with excellent road access being provided as  
9 part of the motorway scheme. Other sites such as Fortunestown were rejected by  
10:50:04 10 the IDA, while the Ballycragh site, which is owned by Dublin Corporation, was  
11 considered by the planning authority as a less suitable site for industrial  
12 use", is that correct Ms. Collins?

13 A. It is, yes.

14 Q. 7 "The draft written statement and draft development plan maps for the Tallaght  
10:50:18 15 area were circulated to members on March 21st 1990. The principal officer of  
16 the planning development was asked to contact the IDA's Regional Manager in  
17 order to get a reaction to proposal to include the Ballycullen lands in the  
18 Draft Development Plan for industrial use, as it had been three months since  
19 the last discussion with the IDA on Tallaght. The Regional Manager then  
10:50:39 20 contacted -- when contacted some days prior to the circulation, indicated that  
21 a member of his staff would ring back with a reaction. This was done. The  
22 reaction was that the proposal was acceptable and it was agreed that the IDA  
23 would confirm this in writing. In a letter dated and received 22nd March 1990,  
24 the IDA stated; 'Further to my conversation with you in relation to the zoning  
10:51:03 25 industrial of council owned lands in Ballycullen, I confirm that the IDA would  
26 support such a zoning, provided an open space corridor was available at the  
27 east and west of the site', as the IDA are aware there are no council owned  
28 lands in Ballycullen and the words 'council owned' had not been used in either  
29 telephone conversation with the Regional Manager or with a member of his  
10:51:23 30 staff." is that the position Ms. Collins?

10:51:25 1 A. Yes of course, yes.

2 Q. 8 "5. The draft written statement circulated to the Council after the telephone  
3 conversation with the IDA included the following and", and this is page 113  
4 please. "It will be the policy of the council to cooperate with the authority  
10:51:41 5 in the development of industry in the area and to that end it is proposed to  
6 zone an area of lands at Ballycullen for industrial development to provide a  
7 suitable site for high quality manufacturing industry. This land will have  
8 access to the Southern Cross route. As stated at paragraph 3, it was  
9 considered by the Dublin Planning Officer that the lands in question met the  
10:52:02 10 criteria as set out by the IDA.  
11

12 6. In a radio interview on This Week on the 25th March 1990, the Regional  
13 Manager of the IDA did not refer to the fact that various meetings held with  
14 the council -- did not refer to the fact that various meetings were held with  
10:52:21 15 the council, the fact that Dublin County Council owns no lands in the immediate  
16 area. The fact that Dublin Corporation lands at Ballycragh are already zoned  
17 residential, were acquired as part of the Corporation land bank and the Dublin  
18 Planning Officer considered them less suitable for industrial use, the fact  
19 that the written statement did not state that IDA had asked for the lands at  
10:52:41 20 Ballycullen to be rezoned for industrial use and the fact that the IDA has  
21 actively and is actively promoting planning applications on privately  
22 agriculturally zoned land for industrial purposes", is that correct  
23 Ms. Collins?

24 A. Yes.

10:52:54 25 Q. 9 And at page 114 please. "In conclusion, recommendations to the Council for the  
26 zoning of lands were made on the basis of land use not land ownership. In the  
27 light of the need expressed by the IDA for a large amount of high quality  
28 easily accessible and relatively insulated lands in the Tallaght area, the  
29 Dublin Planning Officer considered that the lands in question were the most  
10:53:20 30 suitable for zoning as industrial land. The adoption of the Development Plan

10:53:24 1 is a reserved function of the Council and the decision by the Council on any  
2 zoning proposal is made following the statutory procedure of display,  
3 consideration of objections, observations re display and consideration of  
4 further objections and observations.

10:53:38 5  
6 Following discussion to which Councillors Dunne, Cass, McMahon, Tipping,  
7 Lawlor, Boland, C Murphy, Riney and Gilbride contributed, the managers report  
8 was noted. The meeting then resumed consideration of map 20. The proposed  
9 road changes were outlined by Mr. E Conway. Following discussion to which  
10 Councillors Muldoon, Lang, Cass, Tipping, Riney, McMahon and Lawlor  
11 contributed, it was agreed that an information paper in relation to industry in  
12 the area of the Belgard committee would be presented to a further meeting of  
13 the Belgard District Committee and map number 20 was noted.  
14

10:54:14 15 The word 'noted' is used to indicate that councillors had discussed the matter,  
16 had generally agreed with and accepted the contents of the document and maps  
17 and passed on to other matters without a vote". Is that correct Ms. Collins?

18 A. Yes.

19 Q. 10 "The Ballycullen Farm lands were zoned Objective E to provide for industrial  
10:54:33 20 and related uses on map 20 of the 1990 Development Plan, a copy of which is  
21 attached here with at appendix 4." And that's page 106 please.

22  
23 "8. Planning application register reference 90A/1965." And that's page 115  
24 please.

10:54:51 25  
26 "On the 2nd November 1990 a planning application, register reference 90A/1965  
27 was submitted by Murray O'Leary Associates on behalf of Ballycullen Farms  
28 Limited, seeking a development comprising a business, light industrial park,  
29 support services and a residential development of 348 houses on that part of  
10:55:13 30 the site, to the northeast of Ballycullen road. By order P/5879/90 dated 10th

10:55:29 1 December 1990, outline permission was refused for this development for nine  
2 reasons as set out in the notification of decision to refuse. Documentation  
3 regarding this planning application is attached herewith". Is that correct  
4 Ms. Collins?

10:55:36 5 A. Yes.

6 Q. 11 "9. Submission of motions prior to the public display of the Dublin County  
7 Draft Development Plan 1991, hereinafter referred to as 1991 Draft Development  
8 Plan. In January 1991 the members were circularised and afforded the  
9 opportunity to submit motions for insertion on a wrap up agenda for  
10:55:57 10 consideration by the Council before putting a draft plan on display. By letter  
11 dated 18th January 1991, a copy of which is attached herewith at appendix A,"  
12 that's page 120 please. "The members of the council were advised by the  
13 principal officer that motions had to be submitted not later than Friday 8th  
14 February 1991, this deadline was later extended to 15th February '91. Motions  
10:56:22 15 received after that date were not included on the agenda.

16  
17 Approximately 160 motions were received and were placed on the agenda in area  
18 order commencing in Balbriggan in north of the county, moving south through  
19 Skerries, Donabate, Swords, Malahide, Sutton, Howth, north suburbs,  
10:56:39 20 Blanchardstown and Lucan/Clondalkin and then in a south easterly direction to  
21 the Wicklow border. A copy of a portion of this agenda is attached herewith at  
22 appendix 9. The handwritten notes on the agenda show that the dates and manner  
23 in which each item was disposed of. Consideration of this agenda commenced on  
24 first of March 1991 and continued on 7th March, 21st March, 18th April, 26th  
10:57:06 25 April, 2nd May, 16th May, 24th May, 30th May, 31st May and 11th June.

26  
27 The first 37 items on the agenda related to the Fingal area and were dealt with  
28 at meetings between 1st of March and 18th April '91. Items 59, 60 and 61 on  
29 agenda were motions regarding the Ballycullen Farm lands."

10:57:29 30 So motions 59, 60 and 61 relating to the Ballycullen Farm lands. Motion 59, if



10:57:35 1 I could have page 124 and 125 together please.

2

3

"On the 8 February 1991, the council received the following motion and accompanying map dated 7th of February 1991, signed by Councillors Breda Cass,

10:57:49 5

Mary Muldoon and Alan Shatter. That Dublin County Council hereby resolves that

6

the lands at Ballycullen outlined in red on the attached map, comprising about

7

32 hectares and which has been signed for identification purposes by the

8

proposer and seconder of this motion, be zoned for agriculture in the draft

9

review of the County Dublin Development Plan.

10:58:10 10

11

This motion was listed as item number 59 on the agenda, a copy of motion 59 is

12

attached herewith at appendix 10.

13

14

Motion 60", if I could have pages 126 and 127 together please.

10:58:25 15

16

"On the 8th February 1991, the Council received the following motion and

17

accompanying map signed by Councillor Eithne Fitzgerald. That Dublin County

18

Council hereby resolves that the lands at Ballycullen, map 20, outlined in

19

green on the attached map, which is being signed for identification purposes by

10:58:44 20

21

the proposer of this motion be zoned B, to protect and provide for the

22

development of agriculture in the draft review of the County Dublin Development Plan.

23

24

This motion was listed as item 60 on the agenda. A copy of motion 60 is

10:58:59 25

26

attached herewith at appendix 11.

27

Motion 61," that's page 128 and 129.

28

29

"On the 15th February 1991, the Council received the following motion and

10:59:10 30

accompanying map signed by Councillors John Hannon, James Barry and Padraig

10:59:14 1 Lynch, that the zoning on lands 30 hectares, shown on attached map at  
2 Ballycullen, be altered from E to B. This motion was listed as item 61 on the  
3 agenda, a copy of motion 61 is attached herewith at appendix 12". Is the above  
4 correct Ms. Collins?

10:59:33 5 A. Yes.

6 Q. 12 "11. Special meeting of the County Council held on 30th May 1991. A copy of  
7 the minutes of this meeting are attached herewith at appendix 13." And that's  
8 page 131 and 132 please. "A minute reference C/463/90, the meeting considered  
9 motions 59, 60 and 61. A report by the manager which had been circulated was  
10 considered. The report suggested, as indicated in the circular letters to  
11 members of the Council dated 20th of May 1991, that the motions which it was  
12 believed could be passed without objection might, if the members present at the  
13 meeting so agreed to be passed without discussion, the motions considered to be  
14 in this category were motions 54, 55, 59, 60, 61, 65, 66, 67, 69 and 79. It  
11:00:25 15 was proposed by Councillor McMahon, seconded by Councillor Ridge and agreed  
16 that the manager's report be adopted and the Chairman then declared motions 59,  
17 60 and 61 passed with the other motions referred to.

18  
19 The passing of motions 59, 60 and 61 resulted in the Ballycullen Farm lands  
11:00:44 20 being zoned B to protect and provide for development of agriculture in the 1991  
21 Draft Development Plan." Is that correct Ms. Collins?

22 A. Yes.

23 Q. 13 "In June 1991 a new council was elected at the end of June 1991.

24  
11:01:02 25 13. 1991 Draft Development Plan on display from September '91 to December '91"  
26 and that's at page 136 please.

27  
28 "The 1991 Draft Development Plan was on public display for the statutory three  
29 month period between 2nd of September 1991 to 3rd of December '91. Due to the  
11:01:23 30 passing of motions 59, 60 and 61 at the special meeting of the County Council

11:01:28 1 held on the 30th May '91, the Ballycullen Farm lands were zoned B to protect  
2 and provide for the development of agriculture on map 20 of the 1991  
3 Development Plan. A copy of which is attached herewith at appendix 14.  
4

11:01:43 5 Also attached at appendix 14 is part of the 1991 Draft Development Plan written  
6 statement regarding the land use zonings."  
7

8 Moving to objections and representations of the 1991 Draft Development Plan,  
9 that's page 141 please.

11:02:00 10  
11 "During the period of public display from 2nd of September to 3rd December '91,  
12 23,866 objections and representations were received and 487 requests for oral  
13 hearings were facilitated. Attached herewith, at appendix 15, is a document  
14 outlining the number of representations received for the 1991 Draft Development  
11:02:23 15 Plan. The following representations were received relating to the Ballycullen  
16 Farm lands. Representation number 693," and that's page 142 please.  
17

18 "Submission dated 3rd December 1991, from Murray O'Leary Associates on behalf  
19 of Ballycullen Farms Limited which advocated rezoning the site from B  
11:02:46 20 agriculture zoning to part A1 zoning to provide for new residential communities  
21 in accordance with approved area action plans and suggesting that such an  
22 action plan could provide for medium to low private residential development and  
23 part F zoning, to preserve and provide for open space and recreational  
24 amenities. A copy of representation number 693 is attached herewith at  
11:03:13 25 appendix 16". Is that correct Ms. Collins?

26 A. Yes.

27 Q. 14 "Representation number 557." That's page 148. "Submission dated 1st December  
28 1991 by the Labour Party, Dublin South Constituency Council, regarding various  
29 lands, which at paragraph 3, supported the decision of the Council not to  
11:03:35 30 proceed with the suggested industrial zoning on Ballycullen farm at Firhouse

11:03:40 1 and agreed with the agriculture zoning of the lands. A copy of representation  
2 number 557 is attached herewith at appendix 17."

3

4

If we can deal with circulation of objections and representations.

11:03:55 5

6

"Copies of all objections and representations were circulated to the members

7

for their consideration at a series of special meetings that commenced in April

8

1992. The council considered representations on an area basis commencing from

9

the northern most part of the county to the north, working from map 28 to map

11:04:13 10

1. Map 20, Tallaght/Firhouse, was dealt with under item 7 of the agenda, a

11

copy of a portion of this agenda is attached herewith at appendix 18," that's

12

page 151.

13

14

"The Ballycullen Farm lands were item 7.3 on the agenda and was dealt with at

11:04:34 15

the special meeting of the County Council held on 29th October 1992." is that

16

correct Ms. Collins?

17

A. Yes.

18

Q. 15 "Motions received relating to the Ballycullen farm lands. Motion 7.3A

19

Councillor Donal Lydon and Councillor Tom Hand (deceased) signed the following

11:04:51 20

motion dated 28th September 1992", that's page 152.

21

22

"The Dublin County Council hereby resolves that the land at Ballycullen be

23

zoned A1 and F as identified on the attached map. The A1 area comprising 24.3

24

hectares and the area to be zoned F comprising 52.78 hectares. It is proposed

11:05:14 25

to preserve Ballycullen House for heritage centre purposes. The attached map

26

has been signed for identification purposes by the proposer and seconder of

27

this motion. This motion was listed as item 7.3A on the agenda. A copy of

28

motion 7.3A is attached herewith at appendix 19." And we can see the area

29

marked on this map at page 153 please. Is that correct Ms. Collins?

11:05:43 30

A. Yes.

11:05:44 1 Q. 16 "Motion 7.3B" page 154 and 155 together please. "On the 2nd October 1992  
2 Dublin County Council received a motion dated 2nd October '92 signed by  
3 Councillor Mary Muldoon as follows:  
4 That Dublin County Council hereby resolves that the land at Ballycullen Farm,  
11:06:04 5 comprising 77.08 hectares on map 20 and zoned B in the Draft Development Plan,  
6 be retained as agricultural zoning as outlined in red on the attached map which  
7 has been signed by proposer.  
8  
9 This motion was listed as item 7.3B on the agenda. A copy of motion 7.3B is  
11:06:25 10 attached herewith at appendix 20.  
11  
12 16. Minutes of special meeting of the County Council held on 29th October  
13 1992." that's page 156 to 162.  
14  
11:06:38 15 "A copy of the minutes of this meeting is attached herewith at appendix 21. At  
16 minute reference C/879/93, the Ballycullen Farm lands were dealt with. The  
17 manager's report, which had been circulated, was considered. The report gave a  
18 synopsis of representation number 693 and outlined the site history including  
19 the refusal of planning application, register reference 90A/1965, and the  
11:07:04 20 passing of motions 59, 60 and 61 at the County Council meeting held on 30th May  
21 1991 which reversed the proposal to rezone the lands from B agriculture to E  
22 industrial.  
23  
24 The planning officer's report stated the suggested zoning for residential  
11:07:23 25 purposes would be contrary to the proper planning and development of the area  
26 for similar reasons as those outlined in the Council's decision to refuse  
27 permission for register reference for 90A/1965. The report then recommended  
28 the draft plan should not be changed". That's at page 160. Is that correct  
29 Ms. Collins?

11:07:41 30 A. Yes.

11:07:42 1 Q. 17 "Motion 7.3A was proposed by Councillor Hand, seconded by Councillor Lydon as  
2 follows:  
3 Dublin County Council hereby resolves that the land at Ballycullen, as shown  
4 outlined in red on the attached map, which has been signed by the proposer and  
11:07:57 5 seconder of this motion, be zoned A1 and F. The A1 area comprising 24.3  
6 hectares and the area to be zoned F comprising 52.78 hectares. It is proposed  
7 to preserve Ballycullen House for heritage centre purposes." And at page 160  
8 and 161 please, if they can be put up together.  
9

11:08:19 10 "Motion 7.3B was proposed by Councillor Muldoon and seconded by Councillor  
11 Fitzgerald as follows:  
12 That Dublin County Council hereby resolves that the lands at Ballycullen Farm,  
13 comprising 77.08 hectares on map 20, as outlined in red on the attached map,  
14 which has been signed by the proposer and zoned B in the Draft Development  
11:08:41 15 Plan, be retained as agricultural zoning.  
16

17 Councillor Hannon then informed the meeting that he wished to propose an  
18 amendment to Councillor Hand's motion, that is motion 7.3A." That's at page  
19 161.

11:08:55 20  
21 "It was proposed by Councillor Hannon and seconded by Councillor Cass that the  
22 words 'to be developed to a density not exceeding 6 houses per acre or 360  
23 houses in total' be added after the words '24.3 hectares' in line four.  
24 Following discussion to which Councillors Hand, Lydon, Muldoon, Ormonde,  
11:09:20 25 Fitzgerald, Hannon, Gordon, Cass, Buckley and Shatter contributed, the manager  
26 replied to queries raised by members. The amendment was then put and passed  
27 unanimously. The substantive motion was then put as follows:  
28 Dublin County Council hereby resolves that the lands at Ballycullen, as shown  
29 outlined in red on the attached map, which has been signed by the proposer and  
11:09:41 30 seconder of this motion be zoned A1 and F. The A1 area comprising 24.3

11:09:46 1 hectares to be developed to a density not exceeding six houses per acre or 360  
2 houses in total and the area to be zoned F, comprising 52.78 hectares. It is  
3 proposed to preserve Ballycullen House for heritage centre purposes.  
4

11:10:02 5 The substantive motion was passed with 42 councillors voting in favour of the  
6 motion, 14 councillors voting against the motion and no abstentions. The names  
7 of the councillors voting were as follows:  
8

9 For: Councillor Barrett, Billane, Boland, Brady, Brock, Butler, Cass, Coffey,  
11:10:20 10 Conroy, LT Cosgrave, MJ Cosgrave, Creaven, Farrell, Fox, Gallagher, Gilbride,  
11 Greene, Hand, Hannon, Hanrahan, Keane, Keating, Kennedy, Laing, Lohan, Lydon,  
12 Lyons, McGuinness, McGrath, Maron, Matthews, Morrissey, O'Connor, Ormonde,  
13 Quinn, Rabbitte, Ridge, Ryan, Terry, Tipping, Tyndall and Wright.  
14

11:10:41 15 And against: Councillors F Buckley, Fitzgerald, Gordon, Healy, Higgins,  
16 Kelleher, Mitchell, Muldoon, Mullarney, Reeves, Sargent, Shatter, Smith and  
17 Walsh.  
18

19 The Chairman then declared the motion passed.

11:10:59 20  
21 The manager then advised the members that as the above motion was passed, the  
22 motion in the names of councillors Muldoon and Fitzgerald falls." Is that  
23 correct Ms. Collins?

24 A. Yes.

11:11:10 25 Q. 18 "17. Public display from the 1st July to 4 August 1993 at the Dublin County  
26 Draft Development Plan 1993, amendments to the 1991 Draft Development Plan,  
27 that's page 163 please.  
28

29 As stated previously the Ballycullen Farm lands were zoned B agriculture on map  
11:11:31 30 20 of the 1991 Draft Development Plan, a copy of which is attached herewith at

11:11:36 1 Appendix 14. The decision of the council to pass the substantive motion of  
2 councillors Hand and Lydon as amended at the meeting of the 29 October '92 had  
3 the effect of amending the proposed zoning to: 1, 24.3 hectares to A1 to  
4 provide for new residential communities in accordance with an Action Area Plan  
11:11:56 5 to be developed to a density of not exceeding six houses to the acre or 360  
6 houses in total.

7  
8 2. 52.78 hectares to be zoned F to preserve and provide for open spaces and  
9 recreational amenities.

11:12:12 10  
11 3. Preserve Ballycullen House for heritage centre purposes.

12  
13 These zoning changes were put on public display for one month from 1st July to  
14 the 4th August 1993 as the 1993 amendments to the 1991 Draft Development Plan.

11:12:27 15 A copy of the map 20 of the 1993 amendment to the 1992 development plan is  
16 attached herewith Appendix 22 and shows the following changes regarding  
17 Ballycullen Farm lands. Change 6B: 24.3 hectares to be rezoned from B  
18 agriculture to A1 to provide for new residential communities in accordance with  
19 Action Area Plan to be developed to a density not exceeding six houses to the  
11:12:53 20 acre for 360 houses in total with the objective that Ballycullen House be  
21 preserved for heritage centre purposes. Changes 6A, 6C and 6D: 52.78 hectares  
22 to be zoned from B agriculture to F, to preserve and provide for open spaces  
23 and recreational amenities" Is that correct Ms. Collins?

24 A. Yes.

11:13:16 25 Q. 19 If we move to the agenda and motions received regarding proposed changes for  
26 Ballycullen Farm lands: "The proposed amendments to the Tallaght/Firhouse area  
27 were item 23 of the agenda. A copy of the portion of this agenda is attached  
28 herewith at Appendix 23, that's page 166. Changes 6A, 6B, 6C and 6D regarding  
29 Ballycullen Farm Land and motions relating to those changes were listed as item  
11:13:49 30 23.6, 23.7, 23.8 and 23.9 on the agenda as follows.



11:13:52 1  
2 Item 23.6; change 6A. Change of zoning at Ballycullen from D to F, Councillor  
3 M Muldoon. Dublin County Council hereby resolves that the land at Ballycullen  
4 Farm shown as change number 6A on map number 20, revert to B zoning.

11:14:11 5  
6 Item 23.7; change 6B. Change of zoning at Ballycullen from B to A1:  
7 1. To a density not exceeding 15 houses per hectare or 360 houses in total.  
8 2. With an objective that Ballycullen House be preserved for heritage centre  
9 purposes.

11:14:23 10  
11 Councillor A Shatter, Dublin County Council hereby resolves that land referred  
12 to on map number 20, change number 6B be zoned B.  
13 Councillor M Muldoon, Dublin County Council hereby resolves that the land at  
14 Ballycullen Farm, shown as change number 6B on map no. 20 revert to B zoning.

11:14:42 15  
16 Councillors F Buckley and M Doohan, Dublin County Council hereby resolves that  
17 the lands referred to as change 6B on map number 20 of the Dublin County  
18 Council Draft Development Plan review 1993 amendments, be zoned B.

19 Item 23.8; change 6C. Change of zoning at Ballycullen from B to F.

11:15:03 20  
21 Items 23.9; change 6D. Change of zoning at Ballycullen from B to F.  
22  
23 Items 23.6, 23.7, 23.8 and 23.9 were reached at the County Council meeting held  
24 on 28th of October 1993". Is that correct Ms. Collins?

11:15:22 25 A. Yes.  
26 Q. 20 "Special meeting of the County Council on 28th October 1993.  
27  
28 A copy of the minutes of this meeting is attached herewith at appendix 24."  
29 And that's page 169 please. "Change 6A, at minute reference C/1149/93, change  
11:15:45 30 6A, in relation to the zoning of Ballycullen Farm from B to F was considered."

11:15:51 1 On the following page, 170 please. "The following report by the manager, which  
2 had been circulated, was considered. Minute C/879/92, dated 29 of October  
3 1992. 1983 zoning B agriculture, 1991 draft zoning B agriculture, 1993  
4 amendment zoning F open space, 15 representations received, recommendation  
11:16:18 5 delete amendment.

6  
7 It was proposed by Councillor Muldoon, seconded by Councillor Shatter, Dublin  
8 County Council hereby resolves that the land at Ballycullen Farm shown as  
9 change number 6A on map 20 revert to B zoning. Following discussion to which  
11:16:36 10 Councillors Shatter, Muldoon, Hannon and Cass contributed, the manager replied  
11 to queries raised by the members. The motion proposed by Councillor Muldoon  
12 and seconded by Councillor Shatter was lost, with 21 councillors voting in  
13 favour of the motion, 35 councillors voting against the motion and one  
14 abstention.

11:16:53 15  
16 The names of the councillors voting were as follows. For: Councillors  
17 Billane, Breathnach, Connolly, Dillon-Byrne, Doohan, Elliott, Farrell, Gibbons,  
18 Gordon, Healy, Higgins, Kelleher, Maher, Muldoon, Mullarney, O'Connell,  
19 O'Donovan, Shatter, Smith, Tipping and Walsh.

11:17:11 20  
21 And against", and that's on page 171 please. "Councillors Ardagh, Brady,  
22 Brock, Butler, Cass, Coffey, LT Cosgrave, MJ Cosgrave, Creaven, Farrell, Fox,  
23 Gallagher, Gilbride, Green, Hand, Hannon, Hanrahan, Keane, Keating, Kennedy,  
24 Larkin, Lohan, Lydon, McGuinness, McGrath, Maron, Matthews, O'Connor,  
11:17:34 25 O'Halloran, Ormonde, Quinn, Ridge, Ryan, Terry and Wright.

26  
27 Abstentions: Councillor S Laing.

28  
29 The proposed amendment, change number 6A map number 20, was then declared  
11:17:49 30 confirmed.

11:17:49 1  
2 Change 6B, at minute reference C/1150/93. Change 6B was considered regarding  
3 the zoning of Ballycullen from B to A1 to a density not exceeding 15 houses per  
4 hectare or 360 houses in total and two, with an objective that Ballycullen  
11:18:07 5 House be preserved for heritage centre purposes. The following report by the  
6 manager, which had been circulated, was considered. Minute C/879/92 dated 29th  
7 of October 1992, 1983 zoning B agriculture, 1991 draft zoning B agriculture,  
8 1993 amendment zoning A1 residential, density not exceeding 15 houses per  
9 hectare or 360 houses in total with objective to preserve Ballycullen House for  
11:18:48 10 heritage centre purposes. 15 representations received, recommendation delete  
11 amendment." And that's at page 172.  
12  
13 "It was proposed by Councillor Shatter, seconded by Councillor Muldoon. Dublin  
14 County Council hereby resolves that land referred to at map number 20, change  
11:18:56 15 number 6B be zoned B. It was proposed by Councillor Muldoon and seconded by  
16 Councillor Shatter. Dublin County Council hereby resolves that the land at  
17 Ballycullen Farm shown as change number 6B on map number 20 revert to B zoning.  
18  
19 Motion in the names of Councillors Buckley and Doohan. It was proposed by  
11:19:17 20 Councillor Doohan and seconded by Councillor Gibbons, Dublin County Council  
21 hereby resolves that the lands referred to as change 6B on map number 20 of the  
22 Dublin County Council Draft Development Plan review 1993 amendments, be zoned  
23 B. Following discussion to which Councillors Shatter, Muldoon, Hannon and Cass  
24 contributed, the manager replied to queries raised by members.  
11:19:41 25  
26 The motion proposed by Councillor Shatter and seconded by Councillor Muldoon  
27 was lost with 19 councillors voting in favour of the motion, 35 councillors  
28 voting against the motion and one abstention.  
29  
11:19:53 30 The names of the councillors voting were as follows:" This is page 173 please:

11:19:58 1 "For: Councillor Billane, Connelly, Dillon-Byrne, Elliott, Farrell, Gibbons,  
2 Gordon, Healy, Higgins, Kelleher, Maher, Muldoon, Mullarney, O'Connell,  
3 O'Donovan, Shatter, Smith, Tipping and Walsh.

11:20:13 5 Against: Ardagh, Brady, Brock, Butler, Cass, Coffey, LT Cosgrave, MJ Cosgrave,  
6 Creaven, Farrell, Fox, Gallagher, Gilbride, Green, Hand, Hannon, Hanrahan,  
7 Keane, Kennedy, Keating, Larkin, Lohan, Lydon, McGuinness, McGrath, Maron,  
8 Matthews, O'Connor, O'Halloran, Ormonde, Quinn, Ridge, Ryan, Terry and Wright.

11:20:36 10 Abstentions: One. Councillor Laing. The Chairman declared the motion lost.

11 11  
12 Motion proposed by Councillor Muldoon seconded by Councillor Shatter was not  
13 put. Motion proposed by Councillor Doohan seconded by Councillor Gibbons was  
14 not put. The proposed amendment, change 6B map number 20, was then declared  
11:20:57 15 confirmed". Is that correct Ms. Collins?

16 A. Yes.

17 Q. 21 "Change 6C, at minute reference C/1151/93. Change C, in relation to the zoning  
18 of Ballycullen Farm from B to F was considered." This is at page 174.

11:21:13 20 "The following report by the manager, which had been circulated, was  
21 considered. Minute C/879/912 dated 23 of October 1992, 1983 zoning B  
22 agriculture, 91 draft zoning B agriculture, 1993 amendment zoning F open space.  
23 15 representations received. Recommendation delete amendment.

11:21:36 25 Following discussion the proposed amendment, change number 6C map number 20,  
26 was declared confirmed.

27  
28 Change 6D, at minute reference V/1152/93. Change 6D in relation to the zoning  
29 of Ballycullen Farm from B to F was considered.

11:21:54 30

11:21:54 1 The following report by the manager, which had been circulated, was considered.  
2 Minute C/879/92 dated 29th of October 1992, 1983 zoning B agriculture, 1991  
3 draft zoning B agriculture, 1993 amendment zoning F open space, 15  
4 representations received. Recommendation delete amendment.

11:22:21 5  
6 Following discussion the proposed amendment, change number 6D on map 20, was  
7 declared confirmed". Is that correct Ms. Collins?

8 A. Yes.

9 Q. 22 "20. Dublin County Development Plan 1993. The Dublin County Development Plan  
11:22:34 10 1993 was adopted by the council at a special meeting on the 10th December 1993.  
11 A copy of a portion of the minutes of this meeting is attached herewith at  
12 appendix 25," and that's page 177 please.

13  
14 "In summary, as the amendments in respect of the Ballycullen Farm lands were  
11:22:52 15 confirmed at the meeting of the Council on 28th of October 1993, the Council  
16 zoned the Ballycullen Farm lands as follows in the 1993 Development Plan." If  
17 we can see the map on page 187 please?

18  
19 "Objective A1. To provide for new residential communities in accordance with  
11:23:10 20 approved Area Action Plans, to a density not exceeding 15 houses per hectare or  
21 360 houses in total.

22 Objective F. To preserve and provide for open space and recreational amenities  
23 and number 9 of paragraph 4.9.20 of the 1993 written statement, specific local  
24 objectives for Tallaght/Firhouse states that Ballycullen House be preserved for  
11:23:38 25 heritage centre purposes.

26  
27 A copy of map 20 of the Dublin County Development Plan 1993 and a portion of  
28 the written statement is attached herewith at appendix 26." Ms. Collins I think  
29 that completes your statement in relation to the Ballycullen Farm lands is that  
11:23:53 30 correct?

- 11:23:53 1 A. Yes.
- 2 Q. 23 Thank you, we'll move onto the Beechill lands.
- 3
- 4 "From 1982 to December 1993, I was employed as an administrative officer in the
- 11:24:18 5 Planning Department of Dublin County Council. During the period 1987 to 1993,
- 6 I worked on the review of the 1983 Dublin County Development Plan and outline
- 7 summary of the Development Plan review process on the format of the Development
- 8 Plan are attached herewith at appendix 1." And that's again on page 9 please.
- 9
- 11:24:37 10 "Included among my duties in relation to the review of the Development Plan
- 11 were the following:
- 12
- 13 A. To receive and record representations and circulate same to council staff
- 14 and the elected members of the council.
- 11:24:48 15 B. To receive motions which had been submitted to councillors -- by the
- 16 councillors.
- 17 C. To prepare and circulate the agenda for each special meeting of the council
- 18 to review the Development Plan.
- 19 D. To circulate the manager's reports to the councillors prior to the meeting.
- 11:25:02 20 E. To record the attendances and voting records of councillors at such special
- 21 meetings and F. To prepare the minutes of each meeting". Is that the position
- 22 Ms. Collins?
- 23 A. Yes.
- 24 Q. 24 "Motions tabled by councillors in relation to land zoning were dealt with by
- 11:25:17 25 written reply in the form of the manager's report, such reports were usually
- 26 circulated to the members some days before the relevant meeting, at each
- 27 meeting came for decision, the report was presented and discussed. The
- 28 presentation was usually accompanied by specifically prepared maps projected on
- 29 a screen in the council chamber, voting was conducted in accordance with the
- 11:25:36 30 council standing orders. Frequently a roll call vote was held and when this

- 11:25:41 1 happened the minutes of the meeting recorded the votes of the individual  
2 councillors.  
3  
4 1983 Dublin County Dublin plan, hereinafter referred to as 1983 Development  
11:25:53 5 Plan. The 1983 Development Plan was adopted on the 31st March 1983. The lands  
6 the subject matter of the present inquiry by the Tribunal are located at the  
7 junction of Clonskeagh Road and Beaver Row on the south side of the river  
8 Dodder and referred to interchangeably by the Council and councillors as  
9 Beechill Court." Is that correct?
- 11:26:16 10 A. Yes.
- 11 Q. 25 "Beechill. Beechill herein referred to as the Beechill lands were zoned as  
12 follows in the 1983 Development Plan. F, to preserve and provide for open  
13 spaces and recreational amenities. The 1983 Development Plan zonings of the  
14 Beechill lands are outlined on map 15," and that's at page 11 please "of the  
11:26:38 15 1983 Development Plan attached herewith at appendix 2. Also attached herewith  
16 at appendix 2 is part of the 1983 Development Plan written statement regarding  
17 the land use zonings". Ms. Collins I just want to ask you at this point, is  
18 there a possibility that the zoning on the 1983 plan was in fact E and not F,  
19 that would be to provide for industrial and related uses?
- 11:27:01 20 A. Its very difficult to tell from that map, which is very much reduced from the  
21 scale of the original map, it's possible but it appears to me that it's F, but  
22 without seeing the original large scale map it would be difficult to say.
- 23 Q. 26 Right. Its just solicitors acting for the Jones Group have advised that their  
24 clients applied for and obtained planning permission to significantly increase  
11:27:26 25 office space at Beechill during the 1970's and planning permission was granted  
26 and they believe that its inconceivable that such permission would have been  
27 granted had the area been zoned for amenity and recreational use.
- 28 A. Looking at the map now it does appear to be E, now that you have very much  
29 enlarge it had.
- 11:27:43 30 Q. 27 Thank you.

11:27:46 1  
2 If we move onto the review of the 1983 Development Plan and the 1990 Draft  
3 Development Plan. A review of the 1983 Development Plan was initiated by  
4 Dublin County Council on the 16th October 1987. A copy of the minutes of the  
11:28:01 5 special meeting of the council held on 16 October 1987 which also gives a  
6 summary of the procedure of the review of the plan are attached here with at  
7 appendix 3. From October 1987 to January 1989 the elected members considered  
8 the working papers presented at special meetings of the Council, the elected  
9 members then considered the Draft Development Plan maps, prepared by the County  
11:28:22 10 Planners and written statement and motions relating to the draft maps and draft  
11 written statement.

12  
13 On a number of occasions during the review process the members were advised  
14 that according to standing orders any variations proposed to the draft written  
11:28:39 15 statement and maps would require the submission of a written motion signed by  
16 and accompanied, where necessary, by a location map from inclusion on the  
17 agenda of the relevant council meetings, see for example minute reference  
18 C/875/ 89 of the minutes of special meeting of the County Council held on 20  
19 October 1989 attached here with at appendix 3," is that correct Ms. Collins?

11:29:03 20 A. Yes.

21 Q. 28 "5. 1990 Draft Development Plan, map 23" and that's page 22 please "On map 23  
22 of the 1990 Draft Development Plan a copy of which is attached herewith at  
23 appendix 4 the Beechill lands were zoned E. Map 23 of the 1990 Development  
24 Plan was dealt with at the special meetings of the County Council held on the  
11:29:27 25 25th April 1990 and the 10th of May 1990.

26  
27 Special meeting of the County Council held on the 25th April 1990. A copy of  
28 the agenda and minutes of this meeting are attached here with at appendix 5, at  
29 minute reference C/305/90 it was agreed defer consideration of map 23 to the  
11:29:49 30 next special meeting of the County Council dealing with the Development Plan



11:29:54 1 review" is that correct Ms. Collins?

2 A. Yes.

3 Q. 29 "7. Special meeting of the County Council held on 10th May 1990. A copy of

4 the agenda and minutes of this meeting are attached herewith at appendix 6. At

11:30:07 5 minute reference C/306/90 Mr. Conway, the senior executive planner, outlined

6 the proposed changes on map 23. Following discussion to which Councillors

7 Mitchell, Buckley, Ormonde, Menzies and Hand, contributed The Chairman advised

8 the member that is he had to leave to attend other business and it was agreed

9 that Councillor Hickey take the chair. The discussion continued and following

11:30:32 10 contributions from councillors Kitt, Fitzgerald, Cass, Riney, Murphy, Hickey

11 and Muldoon, the manager replied to points raised by the members and maps 23

12 and 24 were noted.

13

14 The word noted is used to indicate that the Councillors had discussed the

11:30:47 15 matter and generally agreed with and accepted the contents of the document and

16 maps and passed on to other matters without a vote. Accordingly as a result

17 the proposed zoning of Beechill lands on map 23 of the Draft Development Plan

18 of 1981 was E, to provide for industrial and related uses." is that correct

19 Ms. Collins?

11:31:05 20 A. Yes.

21 Q. 30 "8. 1991 Draft Development Plan on display from September 1991 to December

22 1991. The 1991 draft Development Plan was on display for statutory three month

23 period between the 2nd of September 1991 to the 3rd December 1991 and that's

24 page 29. Beechill lands were zoned E, for industrial and related uses, on map

11:31:29 25 23 of the 1991 Draft Development Plan, a copy of map 23 of the 91 Draft

26 Development Plan and a portion of the draft written statement regarding the

27 land use zonings it attached here with at appendix 7.

28

29 Moving on to objections if and representations to the 1991 Draft Development

11:31:45 30 Plan. During the period of public display, from the 2nd of September to 3rd

11:31:50 1 December '91, 23, 866 objections and representations were received. There were  
2 no representations concerning this site received by the local authority during  
3 this period.  
4

11:32:03 5 Circulation of objections and representations copies of all objections and  
6 representations were circulated to the members for their consideration at a  
7 series of spellings meetings which commenced in April 1992. The council  
8 considered representations on an area basis commencing from the southern most  
9 part of the county to the north, working from maps 28 to map 1" is that right  
10 Ms. Collins?

11 A. Yeah.

12 Q. 31 "10. Motions received regarding Beechill lands. The Council received the  
13 following motion signed by Councillor's Tom Hand and Donal Lydon and dated 28th  
14 September 1992" this is page 38 please. "That Dublin County Council hereby  
15 resolves that the area identified on the attached map be zoned for office, use  
16 to be compatible with the extensive office use on the adjoining properties. A  
17 copy of in motion and map are attached here with at appendix 8. This motion  
18 was dealt with at the special meeting of the County Council held on 16 October  
19 1992.

11:33:09 20  
21 11. Special meeting of The County Council held on 16 October 1992" if I can  
22 have page 44 and 45 together please.  
23

24 "A copy of the minutes of this meeting attached here with at appendix 9. At  
11:33:24 25 minute reference C/848/92 the Beechill lands were considered, it was proposed  
26 by Councillor Hand and seconded by Councillor Lydon, Dublin County Council  
27 hereby resolves that the site at Beechill court, outlined in red on the  
28 attached map, signed by the proposer and seconder of this motion be zoned for  
29 office use to be compatible with the extensive office uses on the adjoining  
11:33:47 30 properties. The following report of the manager was considered.

11:33:53 1  
2 There is no zoning category in the Draft Development Plan for office use, the  
3 motion if passed in its present form cannot therefore be implemented. If it  
4 were proposed to change the zoning to any of the objectives such as C, to  
11:34:08 5 protect, provide for and/or improve town or district centre facilities or C1,  
6 to protect, provide for and/or improve local or neighbourhood centre  
7 facilities, it would permit a wide variety of uses which would not be  
8 appropriate at this location. The site is in an area zoned E, with an  
9 objective to provide for industrial and related uses in the Draft Development  
11:34:31 10 Plan. It is a developed site containing a number of industrial uses.  
11  
12 Offices of a hundred square metres to a thousand square metres and offices over  
13 a thousand square metres are open for consideration in areas zoned to provide  
14 for industrial and related use in the Development Plan.  
11:34:48 15  
16 Permissions have been granted for office development on adjoining sites  
17 amounting to approximately 24,000 square metres existing and a further 18,000  
18 square metres not yet developed. Any further considerable increase in offices  
19 at this location would be detrimental to the Council's policy expressed in  
11:35:05 20 paragraph 2.4.5 as follows:  
21 It is policy to facilitate office development in commercial centres at a scale  
22 compatible with their service function. It is the policy to encourage major  
23 office development in the town centre's of Tallaght, Lucan Clondalkin and  
24 Blanchardstown. Nevertheless, in view of the location and limited area of the  
11:35:28 25 land it is considered that an application for office development could be  
26 considered under the terms of the 1991 Draft Plan when adopted, given the  
27 extent of the development already permitted in the vicinity. In view of this  
28 it is recommended that the motion not be passed, but that a specific objective  
29 be included to facilitate the development of offices at this location.  
11:35:50 30

11:35:50 1 Following discussion to which Councillors Hand, Lydon and Healy contributed, it  
2 was agreed that the manager's recommendation to include a specific objective to  
3 facilitate the development of offices at this location be adopted." Is that  
4 correct Ms. Collins?

11:36:04 5 A. Yes.

6 Q. 32 "12. Public display from 1st July to 4th August 1993 of the Dublin County  
7 Draft Development Plan 1993, amendments to the 1991 Draft Development Plan. As  
8 stated previously, the 1991 Draft Development Plan, map 23, showed the Beechill  
9 lands zoned E, to provide for industrial and related uses. The decision of the  
10 council to adopt the manager's report at the special meeting held on 16th  
11 October '92 in relation to the site, had the effect of leaving the site with an  
12 E zoning but including the specific objective at change number 23, map number  
13 23, on the 1993 draft plan, namely to facilitate the development of offices at  
14 Beechill Court.

11:36:51 15  
16 These zoning changes were put on public display for the statutory period of one  
17 month from 1st July to the 4th August 1993 as the 1993 amendments to 1991 Draft  
18 Development Plan. A copy of map 23 of the '93 Draft Development Plan outlining  
19 the amendments to '91 Draft Development Plan and a document outlining the 1993  
11:37:13 20 amendments to map 23 are attached herewith at appendix 10." That's page 45  
21 please.

22  
23 "The specific objective, change number 23 on map 23, was listed as item 27.18  
24 on the agenda and dealt with at the special meeting of the County Council held  
11:37:32 25 on 2nd November 1993. A copy of a portion of this agenda is attached herewith  
26 at appendix 11". And that's page 52 please. Is that all correct Ms. Collins?

27 A. Yes.

28 Q. 33 "Special meeting of the County Council on 2nd November 1993," that's at page  
29 55. "The minutes of this meeting are attached herewith at appendix 12. The  
11:37:54 30 agenda for this meeting is attached at appendix 11. At minute reference

11:37:58 1 C/1243/93, change 23, to facilitate the development of offices at Jones Group  
2 site, rear of Beechill Court, was considered. The following report by the  
3 manager, which had been circulated, was adopted. The following objective to be  
4 included: To facilitate the development of offices.

11:38:21 5  
6 Minutes C/848/92 dated 16th October '92, 1983 plan proposal not included. 1993  
7 amendment proposal included. No representations refer. Recommendation confirm  
8 amendment.

11:38:40 10 The proposed amendment, change number 23 on map 23, was then declared  
11 confirmed." Isn't that correct Ms. Collins?

12 A. Yes.

13 Q. 34 "Dublin County Development Plan 1993. The Dublin County Development Plan 1993  
14 was adopted by the Council at a special meeting on 10th December '93, a copy of  
11:39:00 15 a portion of the minutes of this meeting are attached herewith at appendix 13.  
16 In summary, the amendments in respect of the Beechill lands were confirmed at  
17 the meeting of the Council on the 2nd November 1993 at appendix 12. The  
18 Council decided to zone the lands E industry, with the inclusion of the  
19 specific objective namely to facilitate the development of offices.

11:39:23 20  
21 A copy of map 23 of the Dublin County Development Plan 1993 and an extract from  
22 the Dublin County Development Plan 1993 written statement showing the land use  
23 zonings and paragraph 4.9.23.1 regarding the specific objective relating to the  
24 Beechill lands are attached herewith at appendix 14". And that's page 67 and  
11:39:47 25 page 68. Ms. Collins, that concludes your statement regarding the Beechill  
26 lands. Thank you very much.

27 A. Okay. Thank you.

28

29 CHAIRMAN: Thank you very much Ms. Collins.

11:39:59 30

11:39:59 1 MS. DILLON: The next witness is Mr. Declan McCulloch.

2

3 CHAIRMAN: All right we might just, rather than interrupt the witness we'll

4 take a ten minute break now.

12:00:53 5

6 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

7 **AND RESUMED AGAIN AS FOLLOWS:**

8

9 MS. DILLON: Mr. Declan McCulloch please.

12:03:21 10

11 **DECLAN MCCULLOCH, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS**

12 **BY MS. DILLON:**

13

14 CHAIRMAN: Good afternoon.

12:03:44 15 Q. 35 Thank you Mr. McCulloch. I think I should state at the outset, Mr. McCulloch  
16 that insofar as your circulated statement is concerned there is an error with  
17 two maps, isn't that right?

18 A. That's correct.

19 Q. 36 You are going to hand in to the Tribunal the correct maps this morning?

12:03:58 20 A. Correct.

21 Q. 37 Right. So if I take you through your statement, page 3244 please? I think you  
22 are a senior executive officer with Dun Laoghaire/Rathdown County Council  
23 Mr. McCulloch, is that correct?

24 A. That's correct.

12:04:12 25 Q. 38 Your duties in relation to the Development Plan include the following.

26 A. To receive and record representations and circulate same to council staff  
27 and elected members of the council.

28 B. To receive motions which had been submitted by the councillors.

29 C. To prepare and circulate the agenda for each special meeting of the council

12:04:27 30 to review the Development Plan.

12:04:28 1 D. To circulate the manager's report to the councillors prior to the meeting.  
2 E. To record the attendances and voting records of councillors at such special  
3 meeting.  
4 And F to prepare the minutes of each meeting.

12:04:38 5  
6 Motions tabled to councillors in relation to land zonings were dealt with by  
7 written reply in the form of managers report. Such reports were usually  
8 circulated to the members some days before the relevant meeting. As each  
9 motion came for decision the report was presented and discussed. Voting was  
12:04:56 10 conducted in accordance with the council standing orders. Frequently a roll  
11 call vote was held and when this happened the minutes of the meeting recorded  
12 the votes of individual councillors.

13  
14 The 1998 Dun Laoghaire/Rathdown County Development Plan." This is the end  
12:05:07 15 result in this paragraph, isn't that right Mr. McCulloch, of what happened in  
16 the Dun Laoghaire/Rathdown 1998 Development Plan and in the next paragraph you  
17 go to deal with the draft plan, isn't that right?

18 A. That's correct.

19 Q. 39 "1998 Dun Laoghaire/Rathdown County Development Plan. The 1998 plan was  
12:05:24 20 adopted on 13 July 1998. The lands the subject matter of the present inquiry  
21 by the Tribunal are located at the junction of Clonskeagh Road and Beaver Road  
22 on the south side of the River Dodder and referred to interchangeably by the  
23 council and councillor as Beechill Court.

12:05:38 25 Beechill and Beech hill hereinafter referred to as the Beechill lands were  
26 zoned as follows in the 1998 Dun Laoghaire/Rathdown County Development Plan.  
27 E, to provide for industrial and related uses. The site was also subject to  
28 specific local objective 1, to facilitate the development of offices at  
29 Beechill Court" and that was the same as it had been in the 1993 plan, isn't  
12:05:59 30 that right?

12:05:59 1 A. That's correct.

2 Q. 40 "The 1998 Development Plan zonings of the Beechill lands were outlined on map 1  
3 of the 1998 Dun Laoghaire/Rathdown County Development Plan, copy of which was  
4 couriered to the Tribunal dated 26 January, 2006. Attached herewith as  
12:06:15 5 Appendix 1 is part of the 1998 Development Plan written statement regarding  
6 land use zonings as well as the specific local objective."  
7 And I think the Development Plan is at 3250 please? And on the northern  
8 portion of that map and coloured orange on that map are the Beechill lands,  
9 isn't that right?

12:06:36 10 A. Yes.

11 Q. 41 And the orange zoning is an industrial zoning?

12 A. Correct.

13 Q. 42 Right. "The review of the 1998 Dun Laoghaire Rathdown County Development Plan.  
14 The council met on the 29th January 1997 to commence consideration of the Draft  
12:06:50 15 Development Plan in respect of the county of Dun Laoghaire/Rathdown. A copy of  
16 the minutes of the special meeting of the council held on the 29 January 1997,  
17 which also give a summary of the procedure for the review of the plan are  
18 attached herewith as Appendix 2.  
19

12:07:04 20 At a meeting of the council held on 10 June 1996 a position paper relating to  
21 review of the Development Plan for the borough of Dun Laoghaire 1991 and Dublin  
22 County Development Plan 1993 was presented to members. The elected members  
23 considered -- page 3245, please. Elected members considered Draft Development  
24 Plan maps prepared by the county planners and written statement and the motions  
12:07:26 25 relating to the draft maps and draft written statement at meetings of the  
26 County Council held from 29 January 1997 to 13 July 1998.  
27

28 On a number occasions during the review process the members were advised that  
29 according to standing orders, any variations proposed to the draft written  
12:07:42 30 statement and maps would require a submission of a written motion signed by and



12:07:46 1 accompanied where necessary by a location map, for inclusion on the agenda of  
2 the relevant council meeting.

3  
4 1998 draft Dun Laoghaire Rath down County Development Plan" Now I think the  
12:07:57 5 map you provided the Tribunal with at this section was in fact the incorrect  
6 map, isn't that right? And I think that the draft plan on which I have written  
7 the words Map A, you have provided to the Tribunal this morning and I am  
8 handing you, through Mr. King, the map. Can you confirm that that in fact is  
9 the 1998 draft Dun Laoghaire/Rathdown County Development Plan map that relates  
12:08:20 10 to the lands at Beechill?

11 A. I can.

12 Q. 43 Thank you. Perhaps if you just hand that back now to Mr. King? Thank you very  
13 much.

14  
12:08:28 15 "On the 1998 draft Dun Laoghaire/Rathdown County Development Plan a copy of  
16 which you have handed in to the Tribunal today, the Beechill lands were zoned  
17 as objective E to provide for economic development and employment. At a  
18 special meeting of the county council date 9 December 1997 members considered  
19 the zoning recommendation in relation to map 1. No matters in relation to the  
12:08:50 20 lands the subject of this query were raised during this meeting.

21  
22 A special objective in relation to the specified lands at Beechill is included  
23 in the 1998 Development Plan, having previously been included in the 1993  
24 Dublin County Development Plan. This objective states: It is an objective of  
12:09:06 25 the council to facilitate the development of the offices at Beechill Court"  
26 Now I think in summary what you are saying there Mr. McCulloch is that there  
27 was no change in essence between the 1993 plan and the 1998 plan either in its  
28 draft stages or final stages?

29 A. That's correct.

12:09:19 30 Q. 44 Right. "Variation number 1 of the Dun Laoghaire/Rathdown County Development

12:09:24 1 Plan 1998 number 1 variation. At a meeting of the County Council held on 13  
2 September '99 the attached variation, variation number 1 to the County  
3 Development Plan was adopted by members, minute number C/330/99 refers.  
4

12:09:38 5 2004 Dun Laoghaire/Rathdown County Development Plan. The 2004-2010 Development  
6 Plan zonings of the Beechill lands were outlined on Map 1 of the 2004-2010 Dun  
7 Laoghaire/Rathdown County Development Plan, copy of which was couriered to the  
8 Tribunal dated 26 January, 2006. The Beechill lands were zoned as objective E  
9 to provide for economic development and employment. Attached herewith as  
12:10:03 10 Appendix 5 is part of the 2004-2010 Development Plan written statement  
11 regarding the lands use zonings". Now I think the map that you provided the  
12 Tribunal with your statement was not in fact the 2004-2010 map, isn't that  
13 correct?

14 A. That's correct.

12:10:17 15 Q. 45 But you have today furnished to the Tribunal the original of this map?

16 A. That's correct.

17 Q. 46 And this has been marked with the letters Map B. So that what you are saying  
18 to the Tribunal is that insofar as the 2004-2010 Development Plan is concerned  
19 that you have now provided the relevant map?

12:10:35 20 A. That's correct.

21 Q. 47 And this shows the subject lands now are zoned objective E?

22 A. That's correct.

23 Q. 48 And the definition of what's objective E has been varied slightly, isn't that  
24 right?

12:10:44 25 A. Yes.

26 Q. 49 Now "At a special meeting of the county council members considered the zoning  
27 recommendations in relation to Map 1. No matters in relation to the lands the  
28 subject of this query were raised during this meeting.  
29

12:10:58 30 No special objective in relation to the specified land at Beechill is included

12:11:02 1 in the 2004-2010 Development Plan. The necessity for such an objective was  
2 addressed by the making of variation number 1 to the 1998 County Development  
3 Plan which expanded the range of office uses permitted under this zoning  
4 objective and the expanded range of office uses committed under zoning  
12:11:17 5 objective E as outlined in chapter 15, page 209, table 15.9 of the County  
6 Development Plan 2004-2010."  
7

8 Now that concludes your statement. But in summary, Mr. McCulloch, the position  
9 is that from the time in 1993 when these lands were zoned E, even though they  
12:11:34 10 were dealt with in the course of two subsequent Development Plans, there were  
11 no motions by councillors and the position effectively remains the same, is  
12 that correct?

13 A. That's correct.

14 Q. 50 Thank you very much Mr. McCulloch.

12:11:44 15  
16 CHAIRMAN: Thank you very much for attending.  
17

18 **THE WITNESS THEN WITHDREW.**  
19

12:11:49 20 MR. QUINN: Mr. Neil O'Byrne please.  
21

22 **NEILL O'BYRNE, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS BY MR. QUINN:**  
23

24 Q. 51 Good afternoon Mr. O'Byrne. Mr. O'Byrne I think you are a senior planner with  
12:12:24 25 South Dublin County Council, is that correct?

26 A. That's correct.

27 Q. 52 And you have provided a statement to the Tribunal which is to be found at brief  
28 pages 3263 to 3362, isn't that correct?

29 A. That's correct.

12:12:37 30 Q. 53 Now I think it was intended to conclude this morning the evidence in relation

12:12:42 1 to the planning evidence of this module with your evidence in relation to the  
2 Ballycullen lands from the period 1st of January 1994 to date, isn't that  
3 right?  
4 A. That's correct.

12:12:51 5 Q. 54 And it's in that context that you have supplied a statement to the Tribunal,  
6 isn't that correct?  
7 A. That is correct.

8 Q. 55 That's 3263, sorry. Now what I propose to do is to read your statement and  
9 also to refer to some documents as I go through it, is that agreeable?  
12:13:11 10 A. That is, yes.

11 Q. 56 Now I think there is a limitation in relation to your statement in that through  
12 a mix-up your statement is more or less confined to that portion of the  
13 Ballycullen lands that were zoned or proposed to be zoned for industrial  
14 purpose in 1990 isn't that right?  
12:13:28 15 A. That is correct.

16 Q. 57 However I think you are in a position to give evidence, save detail, in  
17 relation to planning applications in relation to the entire of the lands isn't  
18 that correct?  
19 A. I am, yes.

12:13:38 20 Q. 58 Now I wonder just by way of background, I think at page 3264 of your statement  
21 you say that you are a senior planner regarding the history of the lands at  
22 Ballycullen from a planning and zoning point of view. I think you yourself,  
23 you are a senior planner with South Dublin County Council and you have occupied  
24 that had post since your appointment in 2001 is that correct?  
12:14:03 25 A. That's correct.

26 Q. 59 How long have you been a planner with Dublin County Council and more recently  
27 with South Dublin County Council?  
28 A. I have joined Dublin County Council in 1980.

29 Q. 60 And when the councils divided in January 94 did you go with South Dublin County  
12:14:18 30 Council?

- 12:14:18 1 A. I did, yes.
- 2 Q. 61 And I think were you attached in South Dublin County Council to the Planning  
3 Department and are you now the senior planner there?
- 4 A. I am one of four senior planners in the Planning Department.
- 12:14:29 5 Q. 62 Yes. I think there would be an executive in charge of planning or an executive  
6 planner, is that correct?
- 7 A. There is a number of different grades in the Planning Department. Senior  
8 planner, below that senior executive and below that executive planner.
- 9 Q. 63 You would have dealt with at least one planning application in relation to  
10 these lands in your capacity as senior planner in recent times is that correct?
- 11 A. That is correct.
- 12 Q. 64 Okay. Well perhaps we'll start then with the lands as of the 1st of January  
13 1994 and at 3266 of your statement I think you, if I could have on screen  
14 please 187, this is a map of the lands showing the lands as zoned in the 1993  
15 Development Plan and in your statement you say "As of the 1st January 1994 the  
16 lands at Ballycullen were, for the most part, subject to the objective zonings  
17 A1 to provide for new residential communities in accordance with an approved  
18 action area plan. And F to were serve and provide for open space and  
19 recreation use, the A1 area comprising 24.3 hectares was subjects to an  
20 objective that it be developed to density not exceeding 6 houses per acre or  
21 3060 houses in total the area to be zoned F comprising 52.78 hectares. There was  
22 also local specific objective that Ballycullen House be preserved for heritage  
23 purposes" and all of that was to be provided in 1993 plan and that was that  
24 plan you came to in 1994 in South County Dublin is that correct?
- 12:15:38 25 A. That's correct.
- 26 Q. 65 And any application for density in relation to the area zoned A1 or housing in  
27 excess of 360 houses would constitute a material contravention isn't that  
28 correct?
- 29 A. It would yeah.
- 12:16:12 30 Q. 66 I think it was also intended at that time that no development would take place

- 12:16:17 1 that it was an Action Area Plan would have to be prepared in the first instance  
2 before development would take place, is that correct?
- 3 A. That is correct.
- 4 Q. 67 Were you involved in the preparation of an Action Area Plan for that area?
- 12:16:27 5 A. I was.
- 6 Q. 68 If we could have 2257 please, this is a report of, provided to the meeting of  
7 the planning and development committee on the 20th September 1994 item number  
8 30, its a report on the draft Action Area Plan for Ballycullen, Ballycragh area  
9 is that the Action Area Plan we speak about?
- 12:16:48 10 A. That is correct.
- 11 Q. 69 Now can I just ask you in relation to that Action Area Plan, I think that in a  
12 moment we'll see that there was a planning application in accordance with the  
13 then zoning, namely an application for 360 houses on the area zones A1 and then  
14 there was subsequently an application for 600 houses on the same site isn't  
15 that right?
- 12:17:11 16 A. That's correct.
- 17 Q. 70 Have you been able to, in preparing your report, have you had regard to the  
18 files dealing with the Action Area Plan and that material contravention  
19 application?
- 12:17:24 20 A. I have endeavoured to locate the files but I have not been able to.
- 21 Q. 71 Now, just dealing with the first file, that is the action area file, what type  
22 of documentation would one expect to find on that file?
- 23 A. It would have been all the material that the Council would have had at its  
24 disposal in preparing the Action Area Plan and it would perhaps include  
12:17:48 25 discussions with the lands owners at the time, or with service providers,  
26 reference, in the report to discussions with the diocesan authorities with  
27 regard to provision of Schools in the area, that kind of material would  
28 contained in that file.
- 29 Q. 72 We know from the documentation discovered to the Tribunal by the Jones, by  
12:18:10 30 Mr. Jones and Ballycullen Farms Limited, that, there were would appear to have

- 12:18:14 1            been several discussions between representatives, Mr. Chris Jones and other  
2            representatives of the Ballycullen Farms and the Council, are you saying that  
3            the council's memos of those discussions would be on that file?  
4            A.            I would expect those things to be on that file.
- 12:18:35 5            Q. 73        And is it, is it usual for files to go missing within South Dublin County  
6            Council?  
7            A.            I wouldn't say its usual but --  
8            Q. 74        Is this a file that would be available to the public for example?  
9            A.            No.
- 12:18:41 10          Q. 75        Where would one normally expect to find this file?  
11          A.            In the Planning Department offices itself.  
12          Q. 76        And is there a system for signing out files within that department?  
13          A.            There is.  
14          Q. 77        And have you checked that system?  
12:18:54 15          A.            I have.  
16          Q. 78        And does this file appear as if it was signed out to anybody in particular?  
17          A.            No there is no record of it being signed out.  
18          Q. 79        Had it been signed out and gone missing would that have been apparent from the  
19                register that you consulted?  
12:19:10 20          A.            The recording of files being taken out is a manual honour system, a person  
21                taking the files enters their name as having taken the file and if they take  
22                the file without doing that there is no --  
23          Q. 80        Do I understand you to say if the file were signed out to someone and lost  
24                while in that person's custody that would be obvious from the register, but in  
12:19:32 25                this case the file doesn't appear to have been signed out to anybody, but is  
26                nonetheless missing?  
27          A.            That is the position.  
28          Q. 81        And what level of search have you carried out or cause to have been carried out  
29                within South Dublin County Council in relation to the file?  
12:19:44 30          A.            I have asked a number of people to look for the file. A general e-mail was

- 12:19:50 1 sent around to all the staff in the Planning Department to see if they had the  
2 file and I, with a colleague, searched the basement of the building for more  
3 than an hour.
- 4 Q. 82 I think you referred to another file which you say is also missing, is that the  
12:20:04 5 file in relation to the planning application for the material contravention  
6 which I will deal within a moment?  
7 A. That file is also missing.
- 8 Q. 83 And again have you carried out a search for that file?  
9 A. Similar search to one that was carried out for the planning file.
- 12:20:20 10 Q. 84 Now as I indicated there was a, initially a material, sorry there was an Action  
11 Area Plan conducted for this area and brought to Council and noted by Council  
12 isn't that right by the Council on the 20 September 94?  
13 A. That's correct.
- 14 Q. 85 I think on its 8th January 1995 an application was made for planning permission  
12:20:41 15 for 350, 360, houses, if I could have 2288 please, this is a letter from  
16 Fitzgerald Reddy associates on behalf of Ballycullen Farms for the development,  
17 that would have been a development had it been granted in accordance with the  
18 existing zoning for the lands in question, isn't that correct?  
19 A. That is correct.
- 12:21:00 20 Q. 86 And I think that subsequently queries were raised as is normal on the planning  
21 application, on the 23rd of March 1995, if we could have 2295 please. Do you  
22 know anything about the consideration of that planning application at that  
23 time?  
24 A. I'm afraid not, no.
- 12:21:27 25 Q. 87 And I think that those queries were responded to on the 13th April '95 if I  
26 could have 2299 please? And then at a meeting of the planning and development  
27 committee on the 16th May 1995 there was a report presented in relation to that  
28 planning application and if I could have 2304 please, the planning and  
29 development committee of the County Council presumably is a sub-committee of  
12:21:57 30 the councillors who deal with planning and development matters is that correct?



- 12:22:00 1 A. That's correct.
- 2 Q. 88 And is it usual from time to time to bring planning applications to the  
3 attention of the planning and development committee?
- 4 A. If planning applications are brought to the attention of the committee, the  
12:22:13 5 committee itself can request that applications be brought to them for  
6 discussion.
- 7 Q. 89 Is every application brought to the committee or only some applications?
- 8 A. Not every application.
- 9 Q. 90 In any event this application was brought to their attention isn't that right?
- 12:22:26 10 A. That's correct.
- 11 Q. 91 Were you involved in that?
- 12 A. I was not, no.
- 13 Q. 92 Now you will see at the, towards the end of that page is that is page 2304,  
14 that the officials of the Council brought to the attention of the Planning And  
12:22:39 15 Development committee a mapping error which had occurred which had resulted in  
16 a greater acreage of land being zoned for residential purposes than originally  
17 envisaged. Do you know anything of the mapping error or the error which lead  
18 to that?
- 19 A. I know nothing of that error.
- 12:22:58 20 Q. 93 Have you -- I don't know if you ever had sight of this document, that is the  
21 document of the 16th of May '95, which appears to suggest that the, gives an  
22 explanation for the error which is due, apparently to a mapping error within  
23 the counselling having regard to the map accompanying the motion put forward by  
24 Messrs. Lydon and Hand?
- 12:23:26 25 A. I wasn't aware of that, no.
- 26 Q. 94 It would appear that a greater area of land was zoned for residential purposes  
27 than originally envisaged by the map, but again you know nothing of this?
- 28 A. No.
- 29 Q. 95 Now I think that there were discussions between the Ballycullen Farms and the  
12:23:38 30 council in relation to the acquisition and re dedication of a small acreage of

- 12:23:44 1 land in exchange perhaps for an increased zone, or for support of increased  
2 zoning if we can have 2315, this is a letter of the 20th July 1995 from  
3 Ballycullen Farms Limited to the County Manager arising out of a series of  
4 meetings between the Ballycullen Farms representatives and the planning and  
12:24:06 5 management team of South Dublin County Council, are you aware, or do you have  
6 any knowledge of those discussions, or that offer by Ballycullen Farms?  
7 A. I was made aware of that.  
8 Q. 96 Yes. It would appear from this letter that it was the intention of Ballycullen  
9 Farms to purchase the council 8.75 acres of land and re dedicate that land for  
10 playing parks, etcetera and that in consideration of that that the management  
11 might support an application of increasing density, does that accord with what  
12 you understood to have been agreed between the Council officials and  
13 Ballycullen Farms at that time?  
14 A. It does.  
12:24:45 15 Q. 97 And I think that at 2318 the Council gave their permission for the inclusion of  
16 these 8.75 acres in a fresh planning application to the Council, isn't that  
17 right?  
18 A. That's correct.  
19 Q. 98 And I think ultimately then on the 24th August 1995 an application at 2321 an  
12:25:05 20 application was made by Fitzgerald Reddy and associates on behalf of  
21 Ballycullen Farms for planning permission for the erection of 600 houses isn't  
22 that correct?  
23 A. That's correct.  
24 Q. 99 And obviously that planning application, materially contravened the then  
12:25:18 25 existing zoning on the lands, isn't that correct?  
26 A. That's correct.  
27 Q. 100 And I think that that material contravention came before the Council on a  
28 number of occasions but finally came for determination before the Council on  
29 the 12th of February 1996?  
12:25:33 30 A. That's correct.

- 12:25:34 1 Q. 101 And I think that in your statement at 3266 you deal with that matter when it  
2 came before the council on the 12th February 1996 you say a motion to  
3 materially contravene the 1993 County Development Plan and grant planning  
4 permission register reference S 95 A/0436 to Ballycullen Farms Limited for the  
12:25:57 5 demolition of two houses and the erection of 600 houses the provision of class  
6 1 open spaces and associate site works were considered. Is that correct?  
7 A. That is correct.
- 8 Q. 102 And I think as is usual in these cases a report would have been prepared by the  
9 planning office in relation to that material contravention, isn't that correct?  
12:26:18 10 A. That's correct.
- 11 Q. 103 And I think in, pages 3266 and 3267, 68, 69 and 70 you set out the various  
12 components of that report at that time isn't that right?  
13 A. That's correct.
- 14 Q. 104 And I think it would be fair to say that by and large the officials were  
12:26:36 15 supportive of the material contravention, isn't that correct?  
16 A. That's correct.
- 17 Q. 105 And I think that representations for and against had been received from some  
18 local interest groups isn't that correct?  
19 A. That's correct.
- 12:26:46 20 Q. 106 And I think that at 3270 we see the Roads Department had no objection to the  
21 proposed development but recommended certain conditions isn't that correct?  
22 A. That is correct.
- 23 Q. 107 And again the Environmental Services Department had no objection but indicated  
24 that additional information was required isn't that correct?  
12:27:04 25 A. That is correct.
- 26 Q. 108 And again the Parks Department had no objection to the development but  
27 recommended certain conditions. And then I think at 3272 we see the motion  
28 being proposed by Councillor Cass, seconded by Councillor Tipping, namely that  
29 a decision be made to grant planning permission in respect of the application  
12:27:24 30 for planning permission register reference S 95 A/0436 for the development

- 12:27:30 1 described here in to Ballycullen Farms Limited, subject to conditions as set  
2 out in the following report. And we see that that motion was put to the floor  
3 of the South Dublin County Council and resulted in being carried with 23  
4 Councillors voting in favour and two against, isn't that correct?
- 12:27:46 5 A. That's correct.
- 6 Q. 109 And those in favour were councillors Ardagh, Billane, Brady, Cass, Farrell,  
7 Gibbons, Hannon, Hanrahan, Haze, Hennessy, Keane, Lang, McGrath, Mullarney,  
8 O'Connor, O'Halloran, Ormonde, Quinn, Ridge, Tipping, Tyndall, Upton and Walsh  
9 and the two opposing Council members were Muldoon and O'Connell is that  
10 correct?
- 11 A. That is correct.
- 12 Q. 110 And I think Councillor Cass who was the Cathaoirleach of the Council declared  
13 the motion passed isn't that correct?
- 14 A. That is correct.
- 12:28:16 15 Q. 111 And I think in accordance with the motion as passed on the 21st February 1996  
16 planning permission issued by South Dublin County Council if we could have 2438  
17 please, subject to a number of conditions is that correct?
- 18 A. That is correct.
- 19 Q. 112 And I think that that planning permission was itself then subsequently appealed  
12:28:34 20 by a third party objectors to Australian An Bord Pleanala including Councillor  
21 Muldoon isn't that correct?
- 22 A. That is correct.
- 23 Q. 113 And I think that An Bord Pleanala held, had an oral hearing into the appeal and  
24 on the 26th of August 1996 it decided grant subjects to conditions permission  
12:28:55 25 for the development as sought is that correct?
- 26 A. That is correct.
- 27 Q. 114 If we could have 2477 please? Now you have identified one condition in  
28 particular namely condition 20, which referred to a neighbourhood centre isn't  
29 that correct?
- 12:29:08 30 A. That is correct.

- 12:29:08 1 Q. 115 It would appear after the planning application was made that a further map was  
2 lodged which showed a proposal for a neighbourhood centre isn't that correct?
- 3 A. That is correct.
- 4 Q. 116 And that's referred to at drawing 95-153-911 to be found at 2482 that was on  
12:29:31 5 lodged on the 25th August '95 and I think it was a condition of the decision of  
6 An Bord Pleanala that that future neighbourhood centre would be developed in  
7 accordance with that drawing is that --
- 8 A. That's correct.
- 9 Q. 117 Now the missing file, the second missing file is the planning file in relation  
12:29:50 10 to that material contravention application is that correct?
- 11 A. That's correct.
- 12 Q. 118 And you have searched for that file and you are unable to locate it and you say  
13 that because you are unable to locate the action area file you are unable to  
14 locate any record of any discussions or meeting between the officials of South  
12:30:07 15 Dublin County Council and representatives of Ballycullen Farms over this period  
16 is that correct?
- 17 A. That is correct.
- 18 Q. 119 I think if I could take you back to your statement then at 2373 you go on to  
19 deal with the review of the 1993 Development Plan which in fact became the 1998  
12:30:23 20 Development Plan is that correct?
- 21 A. That is correct.
- 22 Q. 120 And in that, in your statement you say that in the draft South Dublin County  
23 Development Plan 1998, placed on public display in February 1998, the lands at  
24 Ballycullen were subject for the most part to the zoning objective A to protect  
12:30:37 25 and improve residential amenities and F that is to preserve and provide for  
26 open space and recreational uses a small portion of the land were subject to  
27 zoning objective A1 to provide for new residential communities in accordance  
28 with approved Action Area Plans. You say the 1998 South Dublin County  
29 Development Plan for the area also indicated that the northern boundary of the  
12:30:58 30 land were subject to the specific objectives for a short-term proposals and

12:31:02 1 cycle track and re-alignment of the Ballycullen Road. Provision was also made  
2 for specific local objective to provide for a local centre on the lands at  
3 Ballycullen indicated on the Development Plan as LC.  
4

12:31:14 5 CHAIRMAN: I think that should be 32 Mr. Quinn I think the wrong document is  
6 up.

7 Q. 121 Sorry 3273. Sorry I didn't realise.

8  
9 And then you go on in your statement I think to deal with the specific local  
10 objective which was proposed in relation to the draft 1998 plan which was  
11 proposed by Councillor Hannon and Billane, namely that South Dublin County  
12 Council hereby resolves that in relation to proposed residential development at  
13 Ballycullen Old Court the following specific local objective be included,  
14 namely that access to any such development will not be permitted through the  
15 existing Wood Town Village development. Was that as a result of some local  
16 opposition, was that proposed by the local councillors to facilitate or some  
17 local opposition to the plan

12:31:50 18 A. Representations I would consider.

19 Q. 122 Representations I apologise?

12:32:12 20 A. Representations received on the draft plan yes.

21 Q. 123 And then you say the following report by the manager which had been circulated  
22 was considered namely that the development of these lands would be the subject  
23 of an Action Area Plan which will indicate amongst other details the location  
24 of access and distribution roads to serve the area. The main access for the  
12:32:28 25 rezoned lands will be from the improved Ballycullen Road. Vehicle access  
26 through the Woods Town Village development would be inappropriate, although  
27 linkages of open spaces is likely to be a feature of the development of the  
28 area. And then you say that that recommendation that there was no objection to  
29 the motion and it was passed, isn't that correct? And I think the 1998 draft  
12:32:51 30 plan is at 3341 and I think there is an accompanying map at 3344 and the

- 12:33:01 1 amended written statement to take account of the motion which I have just  
2 referred to is at 3348 is that correct?
- 3 A. That is correct.
- 4 Q. 124 And you say that there were no representations received regarding the inclusion  
12:33:12 5 of specific local objective 73, following the second statutory display of  
6 changes to the draft 1998 Development Plan. At a meeting of the County Council  
7 on the 14th December 1998 the manager recommended that the change in the draft  
8 plan to include specific local objectives 73, be confirmed and this was agreed  
9 unanimously and again at 3349 we see the 1998 plan and at 3352 we see the map  
12:33:37 10 and at 3354 we see the written statement which contains that specific local  
11 objective, is that correct?
- 12 A. That is correct.
- 13 Q. 125 Then you say on the South Dublin County Development Plan 98 adapted on the 12th  
14 December 1998, the lands at Ballycullen were subject for the most part to the  
12:33:54 15 zoning objective A, that is to protect and improve residential amenity and F,  
16 to preserve or provide for open spaces and recreational uses, a small portion  
17 of the lands were subject to the zoning objective A1, to provide for new  
18 residential communities in accordance with approved Action Area Plans. The  
19 lands at Ballycullen were also subject to specific local objective indicated on  
12:34:16 20 the map in chapter 4 of the written statement namely to provide that access to  
21 future residential development at Ballycullen/Old court will not be permitted  
22 through the existing Woods Town Village development. And then you deal with  
23 the draft 2004-2010 Development Plan for South Dublin.  
24
- 12:34:31 25 Were you involved in the preparation of that plan?
- 26 A. I had an involvement in preparation of that plan.
- 27 Q. 126 Yes. I think at paging 3274 you go on to deal with that plan, you say that in  
28 the draft 2004-2010 Development Plan for South Dublin, placed on public display  
29 on 8th December 2003 the lands at Ballycullen were subject, for the most part  
12:34:51 30 to, the zoning objectives A, to protect and/or improve residential amenity and

12:34:57 1 F, that is to preserve and provide for open space and recreational use that's  
2 to be found at 3355 with the map at 3358. You go on to say a portion of the  
3 lands subject to the zoning objective of the 1998 Dublin County Development  
4 Plan A, protect and/or improve residential amenity was rezoned LC, that is to  
12:35:16 5 protect, provide for and/or improve local centre facilities, as a proposal of  
6 the manager to reflect the development of a local centre at the location which  
7 was granted permission by An Bord Pleanala by a decision dated 21st of January  
8 1998, you gave planning permission register reference S 97 A 0061 and appeal 06  
9 S 103253. And you go on say that a small portion of the land were subject to  
12:35:44 10 the zoning objective A1, to provide for new residential community in accordance  
11 with approved Action Area Plans, there is also a specific objective to preserve  
12 views of the north eastern boundary of the lands with the M50. You say the  
13 draft 2004-2010 Development Plan also included reference to recorded sites and  
14 features protected under the National Monuments Act, the lands at Ballycullen  
12:36:08 15 are effected at the north-eastern corner by a site included in the records of  
16 monuments and places for Dublin published by Duchas the heritage service in  
17 1998 you give a reference there, 022020 relating to the Ringfort, Rath/Cashel  
18 and Scholarstown is that correct?

19 A. That's correct.

12:36:25 20 Q. 127 You say there were no motions put forward regarding the lands at Ballycullen in  
21 the course of considering the draft 2004-2010 Development Plan for South  
22 Dublin. And I think that draft plan is at 3359 and the map is 3362.

23  
24 You go on to say under heading 2004-2010 Development Plan for South Dublin, in  
12:36:45 25 the 2004-2010 Development Plan for South Dublin adopted on the 8th December  
26 2004, the lands at Ballycullen were subject for the most part, to the zoning  
27 objective A, that is to protect and/or improve residential amenity and F, to  
28 preserve and provide for open space and recreation uses.

29  
12:37:06 30 A portion the lands that had been subject to the zoning objective in the 1998



- 12:37:07 1 Dublin County Development Plan A, to protect or and/or improve residential  
2 amenity was rezoned LC, that is to protect, provide for and/or improve local  
3 centre facilities as a proposal of the manager to reflect the development of a  
4 local centre at the location is that correct
- 12:37:22 5 A. That is correct.
- 6 Q. 128 Now if I go back to the 1993 plan for a moment which is at page 187, I think  
7 that in that plan we'll see a substantial portion of the Ballycullen lands  
8 highlighted in yellow, is that correct? And for the most part has your  
9 statement as I have given it there related to the area as we see appearing on  
10 the map yellow, is that correct?
- 11 A. That is correct.
- 12 Q. 129 To what extent if any does, does your statement deal with the area to the south  
13 of that, that is the other area which is within the ownership, or was within  
14 the ownership of Ballycullen Farms Limited?
- 12:38:02 15 A. It doesn't deal with that area.
- 16 Q. 130 How much different was the position vis-a-vis those other lands to what I have  
17 just referred to for the area coloured yellow?
- 18 A. A significant portion of that land was zoned residential in the 1998  
19 Development Plan.
- 12:38:18 20 Q. 131 Yes. And in fact I think we have been told that a planning application was  
21 received in relation to that lands, Mr. Jones and his in his statement to the  
22 Tribunal at 696, says that in December 1998 a new Dublin County Development  
23 Plan was adopted and it provided for the change of zoning sought by Ballycullen  
24 Farms in 1997. In 2000 planning permission was sought for 655 houses on the  
25 remaining lands at Ballycullen and planning permission was granted in January  
12:38:47 26 2002 is that correct?
- 27 A. That's correct.
- 28 Q. 132 Were you involved in the grant of that planning permission in 2002?
- 29 A. I was.
- 12:38:56 30 Q. 133 Was there any difficulty in relation to the granting of the permission in 2002?

- 12:39:02 1 A. There were a number of objections on the grounds of primarily of the density of  
2 the volume proposed in the application.
- 3 Q. 134 Where did those objections come from?
- 4 A. They would have come from the local community, people in Scholarstown Road,  
12:39:21 5 people in the adjoining development.
- 6 Q. 135 And were those objections on the basis that the proposed planning application  
7 had proposed a density greater than the zoned density for the area?
- 8 A. At the time in, under the '98 plan there wasn't a specific density limit put on  
9 the lands.
- 12:39:40 10 Q. 136 And in considering the planning application at the time what criteria did you  
11 bring to determining whether or not the density was too great?
- 12 A. The Department of the Environment had issued residential density guidelines to  
13 Local Authorities to which they should have regard in determining planning  
14 applications and it made recommendations that in suburban locations, that  
12:40:05 15 density should be in the region between 30 and 50 dwellings per hectare and the  
16 particular proposal in question as far as I can recall was in the region of 40.
- 17 Q. 137 And would it be fair to say that you granted permission for the proposal  
18 sought, you didn't seek to limit or reduce the density?
- 19 A. The density was higher than the density of development of adjoining lands that  
12:40:28 20 had already been developed, but the density was within the range indicated as  
21 appropriate in the density guidelines.
- 22 Q. 138 So the position in relation to the entire of the Ballycullen lands would appear  
23 to be that from a position in 1983, well 1991 draft plan, where they were all  
24 zoned agricultural purposes by 2002 they were at least 1255 houses with  
12:40:54 25 permission on the site?
- 26 A. That is correct.
- 27 Q. 139 Now just in relation to the planning applications themselves, I think in an  
28 appendix, in appendix 2 to be found at page 3277 you set out the planning  
29 history of the sites and you set out the number of planning applications lodged  
12:41:12 30 in relation to the site, is that in relation to the site zoned A, or A1 in the

- 12:41:18 1 1993 plan?
- 2 A. That list refers to the area that was defined in a map.
- 3 Q. 140 Yes which was I think the area originally proposed for industrial purposes in
- 4 1990?
- 12:41:33 5 A. That's correct that table of applications relates to those lands.
- 6 Q. 141 Now I think if we look at that table just for a moment at 3278 we there see a
- 7 planning application register reference S 95 A 0033, that was the planning
- 8 application I think when in January 1995 and it was a planning application in
- 9 accordance with then zoning, isn't that correct? I think that that planning
- 10 application was withdrawn in 1996 after the successful vote on the material
- 11 contravention application which we will come to in a moment, isn't that
- 12 correct?
- 13 A. That's correct.
- 14 Q. 142 I think it was withdrawn on, in February 1996. Sorry the 6th March 1996, if we
- 15 can have 2455 please. Is that --
- 12:42:21 16 A. That would be correct.
- 17 Q. 143 Then the second application at 3278 is a planning application register
- 18 reference S 95 A 0436. And that is for a development of 600 two storey houses
- 19 and that would have been the material contravention application which was
- 20 ultimately voted upon in February 96 isn't that right?
- 12:42:53 21 A. That's correct.
- 22 Q. 144 The 12th of February meeting of the council at 3 -- 2399. Then I think you set
- 23 out a series of further applications in relation to those lands, including an
- 24 application at 3279, this is application made on the 28 of April 1997, S 97 A
- 12:43:15 25 0061 for a neighbourhood centre, is that the neighbourhood centre referred to
- 26 in the drawings and condition 20 of the decision of An Bord Pleanala in August
- 27 96?
- 28 A. It is.
- 29 Q. 145 And I think there were a number of changes to the various type, house type, and
- 12:43:34 30 they are referred to at 3279 and 3280 of your statement and again at 3281 and

- 12:43:44 1 3282 isn't that correct?
- 2 A. That's correct.
- 3 Q. 146 At the 3282 there is another application, planning application register
- 4 reference, S 99 A 0705 made on the 7th October 1999 do you see that planning
- 12:43:59 5 application?
- 6 A. I do.
- 7 Q. 147 Had you any involvement in considering that planning application?
- 8 A. Not that particular application, no.
- 9 Q. 148 Now I think that was an application for an alteration to previously approved
- 12:44:09 10 housing development of 600 houses, proposing the omission of 16 approved houses
- 11 at sites 1 to 16 inclusive and their replacement with 77, number 1, 2 and 3
- 12 bedroom apartments, in a four storey plus penthouse building is that correct?
- 13 A. That's correct.
- 14 Q. 149 So what we had was initially an application in accordance in August, sorry
- 12:44:30 15 January 95 for 360 houses, then we had an application in August '95 for 600
- 16 houses which was a material contravention, voted on in February '96, upheld by
- 17 An Bord Pleanala in August '96 and then in 1999 you had an application to vary
- 18 that further by the inclusion on sites 1 to 16 of 77 apartments, isn't that
- 19 right?
- 12:44:57 20 A. That's correct.
- 21 Q. 150 Now can I just ask you, that appears at first sight to be a further material
- 22 contravention of the Development Plan and, did this application go through that
- 23 route?
- 24 A. It didn't, because at the time the 1993 Development Plan had been replaced by
- 12:45:16 25 the 1998 County Development Plan for South Dublin.
- 26 Q. 151 Did that provide for the construction of apartments on the site?
- 27 A. Not specifically, but the residential density guidelines that were issued to
- 28 local authorities also asked local authorities to consider the mix of house
- 29 types in developments as well as the density and in the area there would have
- 12:45:38 30 been hardly any apartments at that time and that a proposal to build apartments

12:45:45 1 would have been seen as changing the mix of development that was occurring in  
2 the area.

3 Q. 152 Who determines whether an application materially contravenes the Development  
4 Plan?

12:45:56 5 A. At that time it would have been the County Planning Officer.

6 Q. 153 Yes. So the Planning Office would determine whether or not an application was  
7 a material contravention, is that right?

8 A. It would yes.

9 Q. 154 But in any event you say this application in October '99 didn't materially  
10 contravene the '98 plan?

11 A. It was considered not to materially contravene the '98 plan.

12 Q. 155 Even though the plan hadn't specifically provided for construction of  
13 apartments.

14 A. Correct.

12:46:22 15 Q. 156 Now then I think from, at pages 3283 through to 3298 you deal with a further  
16 series of planning applications in relation to the site, presumably as one went  
17 forward, the houses as constructed on the site came into the ownership of  
18 individual house owners and they in turn made a series of applications as one  
19 would expect?

12:46:44 20 A. That's correct.

21 Q. 157 And they would account for the majority of the balance of the applications, is  
22 that correct?

23 A. They did, yes.

24 Q. 158 The -- just to go back for a moment to the missing files, are you surprised  
12:47:00 25 that these files are missing?

26 A. Yes, I would say that I am surprised.

27 Q. 159 Thank you very much.

28

29 CHAIRMAN: Mr. O'Byrne, when you say you are surprised that the files are  
12:47:14 30 missing, is it unusual for files of this nature to go missing without any

12:47:23 1 indication as to who might have had them last?

2 A. It is unusual, I would say yes, because we are talking about for a relatively  
3 small area, three significant files can't be located.  
4

12:47:37 5 CHAIRMAN: Well if its unusual, is it extremely rare, extremely unusual?

6 A. In that context it would be. Given that we are talking about relatively small  
7 area, three files. Two of them from planning applications and one being an  
8 office file of the local authority.  
9

12:47:55 10 CHAIRMAN: And can we, are we to assume that as a matter of probability these  
11 files were removed from the building?

12 A. I couldn't make that assumption.  
13

14 CHAIRMAN: Well you have conducted a search, including e-mailing other staff  
12:48:18 15 and so on, so assuming that everybody who received the e-mail made some effort  
16 to check --

17 A. There is a possibility that they have been removed from the building all right,  
18 but I haven't been able to search every room in the building to exclude the  
19 possibility that it is still in the building, but I have endeavoured to get  
12:48:38 20 others to do that.  
21

22 CHAIRMAN: Would there be any reason why files would be removed from the  
23 building, if they were removed? I mean, do people take files home to work on?

24 A. Staff sometimes do, yes.  
12:48:54 25

26 CHAIRMAN: But you in any event think it's most unusual that these files --

27 A. Yes.  
28

29 CHAIRMAN: All right. Thank you.  
12:49:02 30

12:49:02 1 JUDGE KEYS: Mr. O'Byrne, just in relation to what the Chairman was saying, is  
2 there a system in your place of work whereby when people deal with files, that  
3 there is a record kept as to who the last person may have dealt with a  
4 particular file?

12:49:17 5 A. The current system we have --  
6  
7 JUDGE KEYS: The system at the time.  
8 A. No, the system at the time didn't.  
9

12:49:24 10 JUDGE KEYS: So there was no system at the time that could indicate who was the  
11 last person who dealt or what people dealt with files and certainly who the  
12 last person was who dealt with a particular file.  
13 A. No.  
14

12:49:37 15 JUDGE KEYS: When was the new system brought in?  
16 A. In the region of about 1997.  
17

18 JUDGE KEYS: Was there any particular reason why it was brought in in 1997?  
19 A. The system at the time was -- was an upgrade and enhancement of the file  
12:49:54 20 management system that we had in place. The system is constantly upgraded for  
21 improvements to make it more user friendly and increase the functionality of  
22 it.  
23

24 JUDGE KEYS: But as you say there wasn't a history of files going missing?  
12:50:08 25 A. Files do go missing, but --  
26  
27 JUDGE KEYS: But are eventually relocated or found?  
28 A. Some are not relocated but in this instance you are talking about two  
29 applications and an office file for a relatively small area, that would be  
12:50:25 30 unusual.

12:50:25 1

2 JUDGE KEYS: Thank you.

3

4 JUDGE FAHERTY: Just one matter, you said, I think, in the 1998 plan, a

12:50:32 5 significant portion of the lands that had been zoned F amenity were zoned A, is

6 that correct?

7 A. In the -- yes, that zoning A is usually done to reflect the fact that

8 residential development has taken place, zoning A1 is land that is not yet

9 developed or residential purposes, that's the distinction we have, that when

12:51:00 10 land -- in '93 the lands was zoned A1. When land becomes developed it gets

11 change to zoning just A.

12

13 JUDGE FAHERTY: I see. I just want to understand this. I understood that the

14 material contravention was in respect of the first zoning on the lands or the

12:51:17 15 first change of zoning to A1, isn't that correct?

16 A. Yes.

17

18 JUDGE FAHERTY: And there was a limit of 350 houses or 360.

19 A. 360, yes.

12:51:26 20

21 JUDGE FAHERTY: And then there was a motion and material contravention to, as I

22 understand it, increase that number of houses, effectively, to 600.

23 A. Yes.

24

12:51:35 25 JUDGE FAHERTY: And that was done.

26 A. Yes.

27

28 JUDGE FAHERTY: Do you know when those houses were actually constructed?

29 A. The exact dates for construction, I don't. But the houses were in place --

12:51:48 30



12:51:48 1 JUDGE FAHERTY: There was a planning permission, the planning permission was in  
2 place from August '96.

3 A. But normally developers commence construction within six months of getting the  
4 final grant of permission.

12:52:00 5

6 JUDGE FAHERTY: Just one other thing, when in the draft 2004 and 2010 plan, when  
7 there was a -- part of the A zoning was zoned LC, was that to reflect the fact  
8 that a neighbourhood centre had been built?

9 A. That's correct yes, the neighbourhood centre was in place.

12:52:18 10

11 JUDGE FAHERTY: It was in place was it and that was the reason for that?

12 A. Yes.

13

14 JUDGE FAHERTY: And just effectively, as I understand it, when the 655 houses --

12:52:32 15 the permission for those houses was sought, that planning permission was  
16 granted in 2002, isn't that correct?

17 A. That's correct.

18

19 JUDGE FAHERTY: And obviously the An Bord Pleanala's condition in '96 when they

12:52:46 20 said there had to be a neighbourhood centre that was to reflect presumably the  
21 fact that there was an application for 600 houses?

22 A. Yes, there was also on adjoining land outline permission for additional housing  
23 to the west of these lands. So the neighbourhood centre would have served, you  
24 know, the residential development of those lands as well.

12:53:09 25

26 JUDGE FAHERTY: Yes, obviously. But now you have in 2002 a further planning  
27 permission granted for 655 houses.

28 A. That's correct.

29

12:53:18 30 JUDGE FAHERTY: And was there any, obviously at this stage that would have been

12:53:22 1 permission granted by the planning committee of the Council, isn't that right?

2 A. The lands had been zoned for residential in the 1998 plan so the application  
3 came in subsequently.

4

12:53:34 5 JUDGE FAHERTY: It wasn't material contravention it was, if you like, it was  
6 normal planning.

7 A. Yes.

8

9 JUDGE FAHERTY: But I am just wondering, in terms of the number of houses, why  
10 were there any conditions as to further neighbourhood centres or -- put on the  
11 permission granted?

12:53:42 12 A. It was considered that the neighbourhood centre that existed was adequate to  
13 cater for the number of houses.

14

12:53:58 15 JUDGE FAHERTY: I see. All right. Thanks.

16 A. There was, in the Action Plan there was another site reserved for another local  
17 centre which has not yet been developed at that time but has subsequently been  
18 developed. This again is on land to the west of these lands.

19

12:54:15 20 JUDGE FAHERTY: Thank you.

21

22 CHAIRMAN: Thank you very much for attending.

23

24 MR. QUINN: Those are the available witnesses for this morning. 2 o'clock?

12:54:23 25

26 CHAIRMAN: 2 o'clock. Very good.

27

28 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH**

29

12:54:37 30 **THE TRIBUNAL RESUMED AS FOLLOWS AT 2.00 P.M.**

12:54:37 1

2

**MS. BREDAS CASS, HAVING BEEN SWORN, WAS EXAMINED**

3

**AS FOLLOWS BY MS. DILLON:**

4

14:03:36 5 A. Good afternoon Ms. Cass.

6 Q. 160 Good afternoon Ms. Cass, can you hear me?

7 A. Yes.

8 Q. 161 If, there are certain documents will be put up on screen, Ms. Cass, and if you  
9 have any difficulty understanding any of the documents just stop and I will go  
10 back through them again, is that all right?

14:03:53 11 A. That's fine.

12 Q. 162 Now I think that you were first elected to Dublin County Council, as it then  
13 was, in 1985?

14 A. Correct.

14:04:03 15 Q. 163 And between 1985 and 1993 you were a member of Dublin County Council.

16 A. Yes.

17 Q. 164 From January 1994 to, I think, 1997 you were a member of South Dublin County  
18 Council?

19 A. No, to March 1998.

14:04:18 20 Q. 165 March 1998. I think initially you were a member of the Fine Gael party, is  
21 that right?

22 A. Correct.

23 Q. 166 I think in June of 1991 to March of 1993 you became a member of the Progressive  
24 Democrats?

14:04:30 25 A. Correct.

26 Q. 167 I think that thereafter you stood and kept your seat as an Independent  
27 Councillor?

28 A. Correct.

29 Q. 168 Until such time as you left South Dublin County Council.

14:04:40 30 A. Correct.

- 14:04:41 1 Q. 169 Now, I think that you were, in later years, as a local representative, you were  
2 Cathaoirleach of South Dublin County Council?  
3 A. Correct.
- 4 Q. 170 In that capacity you would have had considerable dealings with the County  
14:04:54 5 Manager, Mr. Fitzgerald?  
6 A. I did.
- 7 Q. 171 Indeed you had dealings with Mr. Fitzgerald in relation to the material  
8 contravention.  
9 A. Yes.
- 14:05:01 10 Q. 172 In connection with Ballycullen lands.  
11 A. Yes.
- 12 Q. 173 Now in the normal course in relation to these meetings are notes and records  
13 kept?  
14 A. Well I note, when I went through Mr. O'Byrne's file that was sent to me, the  
14:05:16 15 meetings that we had, I didn't have meetings one-on-one with Mr. Fitzgerald, we  
16 had meetings with the Councillors for the areas that wanted to attend and the  
17 planners and that was in the chairperson's consultants room, where we really  
18 explored the whole problem of the error in the maps and what was the course of  
19 action to take. The members that were entitled to attend that were anybody who  
14:05:44 20 wanted to, but mostly areas of Rathfarnham, Tallaght/Old Bawn,  
21 Tallaght/Rathcoole, Tallaght central and Terenure, I think. And the planning  
22 officers.
- 23 Q. 174 Right. I think it was your understanding at that stage, and these are the  
24 later events really, but that it was your understanding that there was an error  
14:06:06 25 on the maps when the lands came to be rezoned in 1993?  
26 A. Well we were, that's what we were informed that the map disagreed with the  
27 written statement and that the area was a grey area legally, that the advice of  
28 the managers was that they didn't know which side the ball would hop, more or  
29 less, and that we would have to look at the situation to see could it be, how  
14:06:29 30 could it be retrieved more or less to the benefit of the community really and

- 14:06:40 1 to the benefit of what we thought was proper and right.
- 2 Q. 175 And ultimately, I think, it's your understanding that what happened was, an
- 3 agreement was made between Ballycullen Farms Limited and the Council for the
- 4 acquisition of some lands from the Council which was then given back to the
- 14:06:50 5 Council?
- 6 A. Correct.
- 7 Q. 176 And in return for that agreement, South Dublin County Council agreed to propose
- 8 or pass a material contravention that would increase the density permitted on
- 9 the A1 residential lands.
- 14:07:02 10 A. Well I think it was further than that. I don't think that was the only element
- 11 that formed part of the decision.
- 12 Q. 177 What were the other elements that formed part of the decision?
- 13 A. The open lands in particular on the new development. There was to be open
- 14 pitches, I think 30 acres or something like that, between the two there was a
- 14:07:25 15 large amount of land to, near to the Southern Cross route which is in operation
- 16 today as GAA playing pitches.
- 17 Q. 178 I think in total the Jones Group were to provide at least, I think, 15 acres of
- 18 lands to the Council, 8.75 acres of that they were to buy from the Council and
- 19 give back, isn't that right?
- 14:07:48 20 A. That's right.
- 21 Q. 179 And the balance of the open space lands they were to give, effectively, or to
- 22 the Council who turned it into playing pitches?
- 23 A. Correct.
- 24 Q. 180 But in the overall context, was it your understanding that the agreement that
- 14:07:59 25 had been worked out was that provided the open space requirements of the
- 26 Council could be satisfied the quid pro quo or the arrangement was that the
- 27 Council would promote a material contravention that would permit an increased
- 28 density on the residentially zoned portion of the lands?
- 29 A. Yes, I think that's fair.
- 14:08:18 30 Q. 181 Now was this arrangement between Ballycullen Farms Limited and South Dublin

- 14:08:25 1 County Council dealt with between Ballycullen Farms and the officials of South  
2 Dublin Council?
- 3 A. Yes.
- 4 Q. 182 Did the elected councillors have any hand, act or part, to your knowledge, in  
14:08:36 5 negotiating the agreement between Ballycullen Farms Limited and the Council?  
6 A. In those meetings that we had in the consultation room, the Councillors  
7 expressed their views and what they thought was a proper development as and  
8 when they had had meetings with the community, so whatever the community was  
9 saying, more or less, was transferred through the Councillors and was stated at  
14:08:59 10 that meeting.
- 11 Q. 183 Yes. But insofar as there was face-to-face contact between Ballycullen Farms  
12 Limited and South Dublin County Council, was that contact between the officials  
13 of South Dublin County Council or was it between Ballycullen Farms and the  
14 Councillors?
- 14:09:13 15 A. No, it was the officials.
- 16 Q. 184 Right. Is it the case that when it came to the material contravention, that  
17 the manager prepared a manager's report which promoted the acceptance of the  
18 material contravention to the Councillors, the manager recommended passing the  
19 material contravention?
- 14:09:31 20 A. Yes he did.
- 21 Q. 185 And it was the manager and his staff who had dealt with the fairly protracted  
22 negotiations between Ballycullen Farms Limited and the Council?
- 23 A. Yes.
- 24 Q. 186 And at the end of the day, I think, in February of 1996 the Council passed the  
14:09:46 25 material contravention permitting the increased density on the residentially  
26 zoned lands, isn't that right?
- 27 A. Well I am sure you are right.
- 28 Q. 187 I will show you, on the 12th February I think.
- 29 A. Did it go to An Bord Pleanala?
- 14:10:07 30 Q. 188 It's at 2399, but the actual record in relation to -- it will come up on screen

- 14:10:12 1 beside you at 2399. You will see on the screen beside you, first of all the  
2 record of the people in attendance and you will note that on that date you were  
3 the Cathaoirleach.
- 4 A. Yes.
- 14:10:36 5 Q. 189 Now if we turn then to the actual consideration of the material contravention  
6 which is at page 2430, and that just has to be turned around, and that  
7 effectively sets out the history of the dealings leading to the material  
8 contravention which is continued on the following page 2431.
- 9 A. Right.
- 14:11:02 10 Q. 190 2432, 2434.
- 11 A. Sorry, sorry just a second. Yeah.
- 12 Q. 191 And 2435. Sorry, 2434, sorry. Now if under the heading "recommendation"  
13 there, which can be increased please. This is the recommendation by the  
14 manager, "It is necessary for the passing of a resolution for the development  
15 which would materially contravene the Development Plan that the number of  
16 members of the planning authority voting in favour of the resolution is not  
17 less than three quarters of the total number of members of the planning  
18 authority. In the case of South Dublin Council the number required to vote in  
19 favour of the resolution must be not less than 19" and then the manager  
14:11:56 20 recommended "it is recommended in the interest of the proper planning and  
21 development of the area that the following resolution be passed, that a  
22 decision be made to grant planning permission in respect of an application for  
23 planning permission, register reference S95A/0436 for the development described  
24 therein at Ballycullen Farm Limited, subject to the conditions as set out in  
14:12:12 25 the foregoing report". That was then proposed by you and seconded by  
26 Councillor Tipping and resolved. And on the following page, at 2435, at the  
27 top of the first page, the vote for is recorded, again were Councillors Muldoon  
28 and O'Connell and then the Cathaoirleach Breda Cass then declared the motion  
29 passed.
- 14:12:40 30 A. Correct.

- 14:12:41 1 Q. 192 Now that was the end result, as it were, Ms. Cass, of the negotiations that had  
2 taken place between the officials of South Dublin County Council and  
3 Ballycullen Farms Limited.
- 4 A. Yes.
- 14:12:51 5 Q. 193 And those negotiations commenced with the discovery that there had been an  
6 error in the amount of land actually rezoned in the map in the 1993 Development  
7 Plan.
- 8 A. Well that's what we were told, that the farms had made a planning application  
9 which revoked the observation of the error. That was what we were told.
- 14:13:16 10 Q. 194 If one goes back to look at the entire of page 2435, the next matter that is  
11 then dealt with is the proposed disposal of land at Scholarstown to Ballyboden  
12 Farms Limited, but I think Ballyboden is an error if you look at the  
13 substantive second paragraph, the application was received from Ballycullen  
14 Farms Limited to purchase an area of 8.75 acres.
- 14:13:42 15 A. Yes.
- 16 Q. 195 And this was the second part of the agreement, if I can call it that Ms. Cass,  
17 this was where Ballycullen Farms were going to purchase from the council 8.75  
18 acres for one million pounds and then give those lands back to the Council as  
19 open space.
- 14:13:57 20 A. Correct.
- 21 Q. 196 And it was your understanding that that was all part of the same agreement in  
22 relation to the material contravention.
- 23 A. Yes.
- 24 Q. 197 Right. Now you know, I think, that there is now on the lands an apartment  
14:14:12 25 block?
- 26 A. On the lands that are 8.7 acres.
- 27 Q. 198 No, no. Not those lands, on the zoned lands.
- 28 A. Yes I pass it by. I live beside it, I live down the road, I see it.
- 29 Q. 199 Do you know how that came to be, how they came to develop an apartment block on  
14:14:29 30 those lands?



- 14:14:29 1 A. I'm afraid not, the only thing that was there was supposed to be houses.
- 2 Q. 200 Right. Now, I think if we go back to 1990, Ms. Cass, that the manager
- 3 recommended in the Draft Development Plan of 1990, page 106 please. That the
- 4 northern portion of the Ballycullen lands would be zoned industrial and they
- 14:14:53 5 are the lilac or purple coloured lands in the centre of that map.
- 6 A. Yes, I see that.
- 7 Q. 201 Now when the manager published the Draft Development Plan in 1990 he was
- 8 proposing these lands would be zoned industrial.
- 9 A. Correct.
- 14:15:06 10 Q. 202 Did you agree with that?
- 11 A. No, I objected.
- 12 Q. 203 Why was that?
- 13 A. I objected because I felt that, first of all I didn't, straight I didn't like
- 14 it. But I rang the IDA and the IDA said that they hadn't proposed these
- 14:15:22 15 because the manager had said that the IDA wanted industrial lands. And that I
- 16 felt, I wanted to know, why would the IDA be doing this, I wanted some sort of
- 17 knowledge about it. The IDA said they didn't and I went to the media and the
- 18 media said they interviewed the IDA and the IDA agreed that they hadn't
- 19 specified this and then the manager made a statement, two page statement, to
- 14:15:52 20 the meeting indicating that the IDA had actually indicated that it was the
- 21 lands along side, there was kind of a mix-up between the Dublin Corporation
- 22 lands along side and this one. I don't quite understand what the jist of the
- 23 mix-up was, but I didn't want industry there because naturally Firhouse is a
- 24 very residential area and I felt that, at the time, there was national searches
- 14:16:25 25 going on for waste disposal facilities near the area, high area of production
- 26 they said and very good transport links and I was terrified that that
- 27 particular site was going to turn into the national hazardous waste repository
- 28 and I just felt that I didn't want that to happen. So that was my feeling on
- 29 that.
- 14:16:48 30 Q. 204 You contacted the IDA. Your understanding was that the manager had proposed

14:16:53 1 the rezoning of these lands to E industrial at the request of or on behalf of  
2 the Industrial Development Authority.

3 A. Yes.

4 Q. 205 You contacted the Industrial Development Authority who said no that wasn't  
14:17:13 5 their position.

6 A. That's correct.

7 Q. 206 And I think the records of the meetings of the Council record a difference of  
8 opinion between the Industrial Development Authority and the manager.

9 A. Yes.

14:17:13 10 Q. 207 Right in that the manager was of the view and stated that he understood that  
11 the Industrial Development Authority wanted those lands rezoned for industrial.

12 A. That's right.

13 Q. 208 But that wasn't the position of the IDA.

14 A. Yes.

14:17:24 15 Q. 209 Right. In any event I think, Ms. Muldoon, that you drafted a motion at page  
16 1379 please, Ms. Cass, sorry I beg your pardon, Ms. Cass at 1379, seeking the  
17 rezoning of these lands from industrial back to B agriculture.

18 A. Correct.

19 Q. 210 And the map at 1380.

14:17:49 20 A. I see it, this is it here.

21 Q. 211 That's the motion and this is the map that you signed.

22 A. Yes.

23 Q. 212 Now I think Ms. Muldoon also signed that map and motion for you, she says that  
24 you asked her to do that, would you agree with that?

14:18:02 25 A. We signed it in my dining room.

26 Q. 213 Right. What you were seeking here was to have these lands rezoned back to  
27 agriculture?

28 A. Yes.

29 Q. 214 I understand there was a procedure in the Council at that time, whereby if  
14:18:15 30 there were motions about which there was not serious opposition, that these

- 14:18:19 1 motions could be dealt with by noting them or agreeing the contents of them  
2 rather than going to a vote?
- 3 A. I can't exactly remember that.
- 4 Q. 215 I think if you look at --
- 14:18:33 5 A. I think in the written statement we did that, but I didn't think we did that on  
6 the maps.
- 7 Q. 216 Certainly insofar as these motions are concerned, the records shows that you  
8 did.
- 9 A. Okay.
- 14:18:43 10 Q. 217 If we look at the record of the 30th May '91 at page 130? And at the  
11 following, at page 1427, which is the following page and under the heading  
12 "Development Plan review," if we can just increase that, under the heading  
13 "Development Plan review," now the report states "The following report by the  
14 manager, which had been circulated, was considered. Reports on items number  
14:19:17 15 54, 55, 59, 60, 61, 65, 66, 67, 69 and 79 of the agenda of the special meeting  
16 of the Council to be held on the 30th May 1991.  
17  
18 As indicated in the circular letter to members dated 20th May '91, it is  
19 suggested that motions which it is believed could be passed without objection  
14:19:35 20 might, if the members present at the meeting so agreed, be passed without  
21 discussion."  
22 A. I see that.
- 23 Q. 218 Now your motion was, I think, number, motion number 59 at page 1428?
- 24 A. 55 is it, oh sorry.
- 14:19:50 25 Q. 219 No, the motion in relation to Ballycullen lands was motion number 59 and then  
26 there is a motion by Councillor Eithne Fitzgerald at number 60 and at 61 a  
27 motion by Councillors Hannon, Barry and Lynch all seeking the same, isn't that  
28 right?
- 29 A. Right, right.
- 14:20:06 30 Q. 220 And they were passed without opposition.

14:20:08 1 A. Right.

2 Q. 221 So that when the Development Plan was put on public display at page 135 please,  
3 at 136, the lands at Ballycullen Farm were all zoned B agriculture.

4 A. Yes.

14:20:27 5 Q. 222 So that your motion, and indeed the other motions, had the effect of taking  
6 away the manager's proposal to zone these lands industrial and the matter went  
7 on public display as B agriculture.

8 A. Correct.

9 Q. 223 Now can I ask you Ms. Cass, you clearly objected to industry or industrial --

14:20:47 10 A. Sorry. I didn't know where the voice was coming from sorry.

11 Q. 224 Sorry, you objected to the lands being zoned E for industry.

12 A. Yes.

13 Q. 225 Did you have any problem with the lands being zoned residential?

14 A. Well this is in the context of the lands along side, its a very complicated  
15 context, but nevertheless if you let me explain.

16 Q. 226 Yes.

17 A. The lands along side were belonging to the Corporation from Ballycullen Farms  
18 right over to Bridget Burke's. And we in the council had succeeded in getting  
19 the government to agree to the transfer of Corporation lands from the  
14:21:24 20 Corporation to the County Council. Now there was a deadline on this of the  
21 1993, I think it was, the end of 1993, these lands we were also trying to zone  
22 amenity, although they were actually zoned yellow and that motion was down in  
23 the Council. I think it must have been somewhere around the same time, and the  
24 object of it was that we would, if we got that zoned amenity there would be  
14:21:51 25 less incentive for the Corporation to sell the lands off, which they were  
26 doing, instead of transferring them to us and then we could look and see what  
27 might be done with it if we keep it all green, right across from Ballycullen  
28 Road over to Bridget Burkes except for Ballycragh Allington which had already  
29 been built. Now what happened was, in that context agriculture made sense, but  
14:22:19 30 what happened was during the consideration of the Development Plan, the

14:22:19 1 manager, although that motion was passed, the manager granted planning  
2 permission to Dublin Corporation for the Ballycragh Action Plan which made it  
3 not viable really, that Jones farm would be still agriculture in the corner of  
4 that when everything around, it undermined us really, it reduced our hope of  
14:22:39 5 being green right across.  
6  
7 The other thing was that we appealed it to An Bord Pleanala, I certainly went  
8 in and An Bord Pleanala not only granted the planning permission even though it  
9 was in the middle of the Development Plan contradicting it, they let them off  
14:23:00 10 the levies for the road and really scuppered the infrastructure of the area for  
11 all Banbridge and the road, which meant that when it finally came before the  
12 council as a proposal, when it was a high density I would not have supported  
13 it, I would have taken my chances fighting it, but a low density of 360 houses,  
14 I felt was definitely an improvement on either industry or high density.

14:23:26 15 Q. 227 Right. The situation then is that the Dublin Corporation lands, which were  
16 adjoining these lands, where planning permission was granted --  
17 A. Yes, in the middle of us asking for it to be put into amenity so that we would  
18 get it, because the Corporation were selling their lands instead of  
19 transferring them to us.

14:23:44 20 Q. 228 How many acres of land did the Corporation have there?  
21 A. I'm afraid I don't know, but it was enormous, it covers the entire area, from  
22 Ballycullen right across to Bridget Burkes, all of that and back up the  
23 mountain, right back up.

24 Q. 229 That was all Corporation land and the Corporation were offering these lands for  
14:24:03 25 sale rather than giving them to Dun Laoghaire/Rathdown.  
26 A. No, to South Dublin.

27 Q. 230 South Dublin County Council.  
28 A. Yes, they weren't offering them for sale at that point, when they got planning  
29 permission then they said they wouldn't be developing, because they wouldn't  
14:24:17 30 have been allowed develop in the county because we complained about absentee

14:24:21 1 landlords and we had finally prevailed upon the whole thing to get us the land,  
2 so when they got the land Mr. Twoomey said at the An Bord Pleanala's hearing,  
3 that he was there for the Corporation and said there was nothing unusual for  
4 the Corporation to sell their lands, and I felt the position that I was put in  
14:24:40 5 was, that if these lands had been bought for that purpose, for public purpose  
6 then they shouldn't be just willy nilly have been available for sale, but he  
7 said that they did, anyway they prevailed.

8 Q. 231 So once those lands were zoned and planning permission, once planning  
9 permission was granted for those lands your view was, that it was likely that  
14:25:03 10 there would be development on the Ballycullen lands.

11 A. And on the Ballycullen land was serviced and the other thing was that my  
12 experience with An Bord Pleanala, if I was to take the chance and you know, go  
13 backwards and not secure the 360 houses, I had appealed to An Bord Pleanala the  
14 Dodder Valley Park development which was on the only high amenity lands in  
14:25:25 15 Tallaght and Firhouse which was Dodder park which had 115 houses was put on.  
16 Now, that was a material contravention I think in '87 or '88 and that allowed  
17 those houses to go on the G, high amenity land and it meant when the appeal  
18 came to myself, Mervyn Taylor and I am not sure if it was John Hannon as well,  
19 the Firhouse Community Council and Tallaght Community Council all appealed that  
14:25:56 20 decision and we lost. An Bord Pleanala not only upheld it but let them off the  
21 road reservation and levy which had been the carrot to the Councils at the  
22 time.

23 Q. 232 This was the per house levy.

24 A. No, for the road, the road was so bad, opposite the Firhouse Community College  
14:26:14 25 there, near Kilkeel. So they were granted that and let off the levies, and  
26 that was exactly the same as what happened at Dublin Corporation granted and  
27 let off the levies for the infrastructure and it was the same with Castlefield  
28 and Knockfield.

29 Q. 233 But insofar as the Ballycullen lands were concerned, your view had been,  
14:26:34 30 initially, that the lands should be zoned for agriculture.

14:26:38 1 A. Yes.

2 Q. 234 Because you brought a motion to that effect in, before the Council.

3 A. To keep it green.

4 Q. 235 To keep it green.

14:26:44 5 A. Yes, yeah.

6 Q. 236 Now when it came to 1992, a motion was put into the Council by Councillors

7 Lydon and Hand, seeking to rezone a portion of those lands to residential and

8 the balance of the lands to open space and recreational amenity, is that right?

9 A. That's right.

14:27:09 10 Q. 237 Now first of all, is there any significance to trying to move off the B zoning

11 agriculture to amenity? In other words is there an advantage to the land owner

12 to have the lands moved from B, agriculture to high amenity or to recreational?

13 A. Sorry I don't understand.

14 Q. 238 The lands were zoned residential, isn't that right?

14:27:25 15 A. No they were zoned agriculture.

16 Q. 239 Sorry I beg your pardon, the lands were zoned agriculture is that right?

17 A. Nods head.

18 Q. 240 Then a motion was brought before the council seeking to rezone all of the

19 lands?

14:27:36 20 A. Right.

21 Q. 241 Part of the rezoning that was sought was for A1, residential?

22 A. Yes.

23 Q. 242 On a limited number of acres, 60 acres?

24 A. Yes, yes.

14:27:46 25 Q. 243 The balance of the lands which would have been around, I think 120 acres?

26 A. Yes.

27 Q. 244 What -- the zoning that was sought was open space and recreational amenities,

28 in other words they weren't seeking --

29 A. It meant that that lands, I see your question. It meant that that lands could

14:28:05 30 be used for things like pitch and putt, golf course.

- 14:28:10 1 Q. 245 Hotel?
- 2 A. Yeah, hostel, that sort of stuff. And it was above the 400 foot contour line
- 3 where they wouldn't have got planning permission anyway.
- 4 Q. 246 Yes. But the motion came before the council?
- 14:28:24 5 A. Yes.
- 6 Q. 247 Now in September and October indeed prior to that, did you have any contact
- 7 with Mr. Frank Dunlop about these lands?
- 8 A. No.
- 9 Q. 248 Mr. Dunlop has told the Tribunal that he would have telephoned you.
- 14:28:41 10 A. I had no contact with Mr. Dunlop.
- 11 Q. 249 And I think he has an entry in his diary for October 1992, at page 1816, now
- 12 its for the 8th October and its at, yes if you can increase that, the second
- 13 name that's there is B. Cass?
- 14 A. Right.
- 14:29:13 15 Q. 250 Do you see that?
- 16 A. I see that.
- 17 Q. 251 And I think that prior to that on the 25th March 1992 at 1633 Mr. Dunlop has an
- 18 entry in his diary "Ring Breda Cass re Ballycullen", in fact I think it says at
- 19 the very top of the 25th if that can be increased please? It says "Rang B.
- 14:29:50 20 Cass re Ballycullen" do you see that entry?
- 21 A. Yes I see that, but I mean I have no recollection of talking to him whatsoever.
- 22 Q. 252 On the 8th April 1992, Mr. Dunlop sent you a letter at 1643 please. And this
- 23 letter says.
- 24
- 14:30:10 25 "Dear Breda, as I mentioned to you sometime ago I would like to discuss with
- 26 you a submission to the Draft County Development Plan by Ballycullen Farms
- 27 Limited. I know you are under enormous pressure and no doubt this will
- 28 increase as the Development Plan process gets under way. To short circuit any
- 29 discussion on Ballycullen perhaps it would be more appropriate if you were to
- 14:30:29 30 meet Chris Jones himself on the matter. This can be arranged very speedily.



14:30:32 1 He is an old friend of mine and he is genuinely interested in doing something  
2 positive on the lands" then he goes on and sets out how the lands are no longer  
3 viable for agriculture and that he has been badly served by previous advice and  
4 then he says if the final paragraph,

14:30:49 5  
6 "Could I suggest that you ring Chris Jones and arrange a meeting? I have told  
7 him that in all my previous contacts and consultations with you on other  
8 matters you were extremely principled, pragmatic and helpful"

9  
14:31:01 10 Now he sent a copy of that letter to Mr. Jones on the 9th April 1992 which is  
11 at 1645.

12 A. I have to tell you I have absolutely no recollection of that because the person  
13 I dealt with was Frank Brooks.

14 Q. 253 Frank Brooks. I will come to talk to you about Mr. Brooks in a minute. On the  
14:31:23 15 24th April 1992, at 1668, Mr. Dunlop's, this is a record of telephone calls  
16 into Mr. Dunlop's office and at 11.45 there is a reference to Brenda Cass and  
17 there is a telephone number and do you see the telephone number?

18 A. Yes that's my old telephone number.

19 Q. 254 That would suggest Ms. Cass that you had occasion on the 24th April 1992 to  
14:31:54 20 telephone Mr. Dunlop's office?

21 A. Obviously, I must have had some reason.

22 Q. 255 And isn't it likely that the reason you had to contact him was that the letter  
23 he had sent you on the 8th of April 1992 asking for you to meet with Mr. Jones?

24 A. I don't -- I don't think so because I don't think I discussed Chris Jones with  
14:32:21 25 Frank Dunlop. I have to say now I have no recollection of that, but I don't  
26 think -- I am almost certain, I am almost certain now that I didn't because I  
27 just don't think I did.

28 Q. 256 Did you meet with Mr. Jones?

29 A. I did.

14:32:40 30 Q. 257 Can you outline to the Tribunal the circumstances in which you met with

- 14:32:44 1 Mr. Jones?
- 2 A. Frank Brooks brought me in and I met him in an office.
- 3 Q. 258 Did you know Frank Brooks?
- 4 A. Yes, he is local.
- 14:32:58 5 Q. 259 And did Mr. Brooks get in touch with you initially?
- 6 A. He did.
- 7 Q. 260 And did he ask you to meet with Mr. Jones?
- 8 A. He did, he said would I give him a hearing.
- 9 Q. 261 And he brought you in to meet Mr. Jones is that right?
- 14:33:03 10 A. He did, he did.
- 11 Q. 262 Where did the meeting take place can you recollect?
- 12 A. I can't recollect, but it was in an office.
- 13 Q. 263 Right. That meeting would have taken place when do you recollect, Ms. Cass?
- 14 A. I can't I'm afraid, no.
- 14:33:22 15 Q. 264 Mr. Jones September you a letter on the 22nd of September 1992 at 1773 please,  
16 now this letter was in fact drafted by Mr. Frank Dunlop but it was signed by  
17 Mr. Jones and its a letter addressed to you and the first sentence says "You  
18 will recall that at our last meeting I undertook to try and incorporate the  
19 suggestions you made about the development of the lands at Ballycullen?"
- 14:33:53 20 A. Right.
- 21 Q. 265 Right, this is a letter from Mr. Christopher Jones to you in September 1992 and  
22 what Mr. Jones sets out in the balance of the letter is that after his meeting  
23 with you.
- 24 A. Yes, I recognize this suggestion, I recognise the suggestion from -- for 60  
14:34:12 25 acres and the F zoning.
- 26 Q. 266 Certainly Mr. Jones in writing this letter seems to have adopted the suggestion  
27 that the maximum amount of acreage should be 60 acres and it should be mid to  
28 low density?
- 29 A. That's what I was under the impression.
- 14:34:27 30 Q. 267 Yes, now it was your suggestion that you would have been, did you tell him you

14:34:31 1 would have been in favour of low density residential on 60 acres?

2 A. No I didn't.

3 Q. 268 You didn't?

4 A. I don't think so because I think the meeting, I was a little bit rude.

14:34:43 5 Q. 269 What happened at the meeting?

6 A. Well, I didn't agree with density, I think Mr. Jones felt that the meeting,

7 that he should have been able to get ten to one, which was in A1 and I didn't

8 agree with that.

9 Q. 270 And you made that clear to him at the meeting?

14:35:01 10 A. I did.

11 Q. 271 But what the letter then says, Mr. Jones, the first paragraph if we can

12 increase the first paragraph?

13

14 Now in the first paragraph it says " you will recall that at our last meeting I

14:35:18 15 undertook to try an incorporate the suggestions you made re the development of

16 the lands at Ballycullen" do you agree with that you made suggestions?

17 A. Yes.

18 Q. 272 Okay, the second sentence "As of our meetings with you" I note he says meetings

19 which would suggest you had more than one meeting with him.

14:35:34 20 A. No I don't think so.

21 Q. 273 All right. "I instructed our architects to come up with a revised proposal

22 which would incorporate in as economically viable a fashion as possible a

23 balanced and integrated private medium to low density residential development,

24 together with a defined area of zoned open amenity space" okay?

14:35:53 25 A. Yes.

26 Q. 274 Do you see that?

27 A. Yes.

28 Q. 275 That Suggests that as a result of whatever was said or discussed at the meeting

29 he changed the advice he gave his architects and instructed them to come up

14:36:04 30 with a new proposal, do you see that, would you agree with that, that you made

14:36:10 1 suggestions at the meeting?

2 A. Sorry I just have to try and take it in.

3 Q. 276 Sorry.

4 A. Yes, but he said private medium to low density residential. I think it

14:36:30 5 probably represents the jist.

6 Q. 277 Right. In the next paragraph, he sets out a summary of the new architects

7 proposal which is commencing with the words "As you can see?"

8 A. Yes."

9 Q. 278 "It is proposed that the land be subdivided and zoned as follows, 24.6 hectares

14:36:54 10 or 60 acres A1, coloured red on the enclosed map and 52.78 hectares or 130

11 acres F, coloured blue on the enclosed maps."

12 A. I can see that.

13 Q. 279 Right. Now on the next page he goes on at 1774 --

14 A. I wouldn't have agreed with A1.

14:37:17 15 Q. 280 You wouldn't have agreed with A1?

16 A. No because A1 was ten to the acre.

17 Q. 281 Yes but you did I think ultimately propose a motion capping the density on the

18 A1, on the residential portion of the lands isn't that right Ms. Cass?

19 A. I did, on the 360.

14:37:36 20 Q. 282 So your objection was not to the zoning of residential but to the density that

21 was permitted on the lands?

22 A. Yes because at that stage I thought we couldn't hold the land as agriculture.

23 Q. 283 So you would have told Mr. Jones at your meeting that you didn't have an

24 objection in principle to residential, but you would have had an objection to

14:37:52 25 the density he was seeking?

26 A. I think you might probably say that.

27 Q. 284 Yes. And I think in fairness to yourself that the earlier proposal that had

28 been produced by Mr. Jones had sought residential zoning on 90 acres and that

29 is now been reduced in this proposal to 60 acres, and would that have been in

14:38:14 30 line with what you would have agreed?

14:38:17 1 A. I think agreed is too strong a word.

2 Q. 285 Well that you have discussed with Mr. Jones?

3 A. Well he was proposing 60 acres.

4 Q. 286 In this proposal he is --

14:38:27 5 A. Yeah but its a case of who proposed which? What was shown to me and what did I  
6 show to him?

7 Q. 287 Did you show him anything Ms. Cass?

8 A. No I didn't.

9 Q. 288 All right. Did he show you plans?

14:38:39 10 A. I think he suggested the open space but it was A1 he wanted and I didn't agree  
11 to that.

12 Q. 289 Right. And you told him at all stages you didn't agree to A1?

13 A. Yes.

14 Q. 290 On the second page of that letter at 1774?

14:39:01 15 A. Its not up.

16 Q. 291 Its coming now, yes. At the commencement of that he says "I very much  
17 appreciated your valuable and forthright advice in this matter heretofore and I  
18 would equally appreciate and value your support for this revised proposal" now  
19 there he is saying that he would like your support again, for this revised  
14:39:20 20 proposal, that would suggest and I am putting it no higher than that Ms. Cass  
21 that you had indicated some support to Mr. Jones for his proposal when you met  
22 with him?

23 A. No because I continually told him, A1 was not acceptable. He seemed to think  
24 that A1 was.

14:39:36 25 Q. 292 But you didn't have an objection in principle to residential on a portion of  
26 the lands but you did to the density?

27 A. No I think that's fair to say.

28 Q. 293 Yes. Would you have told that to Mr. Jones and Mr. Brooks?

29 A. I think I would have kept my position to myself, so that you would have much  
14:39:54 30 more leverage.

- 14:39:55 1 Q. 294 Now I think when the matter came before Dublin County Dublin County Council in  
2 October of 1992 the manager was against the proposed rezoning of the lands  
3 isn't that right?
- 4 A. Yes.
- 14:40:11 5 Q. 295 There was a motion by Councillors Lydon and hand that was proposed, isn't that  
6 right? Seeking the rezoning of the lands?
- 7 A. Right.
- 8 Q. 296 And there was a separate motion by Councillor Muldoon, seeking to keep the  
9 lands agriculture?
- 14:40:23 10 A. Yes.
- 11 Q. 297 Now you didn't support, I think its fair to say, Councillor Muldoon's motion?
- 12 A. For the reasons I gave you earlier.
- 13 Q. 298 Right. But you did propose an amendment, sorry you seconded an amendment put  
14 by Councillor Hannon to limit the density on the residential lands?
- 14:40:42 15 A. Yes.
- 16 Q. 299 That's at 1902 please?
- 17 A. What happened there was in the course of the meeting there was a sós, I think  
18 and there was a lot of discussion after the contributions where I had indicated  
19 I think that I was not in favour of it and Councillor Hand, Councillor Hannon  
14:41:02 20 proposed to me, the arrangement with the council you are almost on top of one  
21 another, he was sitting in front and he suggested the lower density and I  
22 thought that was a good opportunity to reduce the density and so I seconded it  
23 and I see it was passed unanimously.
- 24 Q. 300 Yes. And the effect of that was that insofar as --
- 14:41:26 25 A. Sorry, there was no pre-arrangement with Councillor Hannon that I would second  
26 or that he would make an amendment as far as I know.
- 27 Q. 301 The amendment that you are talking about was passed unanimously isn't that  
28 right?
- 29 A. That's right.
- 14:41:43 30

14:41:43 1 JUDGE FAHERTY: Ms. Dillon, just I see on the transcript that's coming up that,  
2 it may well be corrected later, I think Ms. Cass is talking about Councillor  
3 Hannon, I see on the transcript Hand is coming up so I want to --  
4

14:41:59 5 MS. DILLON: We better. The person who proposed the amendment to the motion  
6 was Councillor H A N N O N, is that right?  
7 A. That's right.  
8 Q. 302 He spoke to you without any pre arrangement?  
9 A. That's right.

14:42:10 10 Q. 303 You agreed second Councillor Hannon's motion?  
11 A. Yes.  
12 Q. 304 You did not second Councillor Hand's motion which was the main rezoning motion  
13 isn't that correct?  
14 A. That's correct.

14:42:19 15 Q. 305 If the transcript could be amended to reflect that.  
16  
17 Your position which you stated to the meeting was that you were not going to  
18 object to residential but you were objecting to an A1 density is that correct?  
19 A. I think I didn't imagine that they would get it down to 360 so I would have  
14:42:39 20 found myself objecting to the residential because it would have been too high.  
21 Q. 306 But what happened when Councillor Hannon said to you about proposing the  
22 amendment that he was going to propose an amendment limiting the density you  
23 were happy with that?  
24 A. Yes, I was and I felt that that was a good outcome for the area generally.

14:43:07 25 Q. 307 Would it not have been a better outcome to have kept the lands as agriculture?  
26 A. Not for the reasons I gave you earlier because part of the lands were service  
27 and the An Bord Pleanala had not upheld, even on the amenity or high amenity  
28 land they had not upheld, it and with the material contravention all you have  
29 to do is get it on the agenda, it doesn't even have to go through the council  
14:43:24 30 as passed. Once it gets on the agenda and the council voted on, even if its

- 14:43:30 1 lost and it goes to An Bord Pleanala, An Bord Pleanala can grant it.
- 2 Q. 308 Yes but in this case Ms. Cass, with the greatest possible respect to you, if
- 3 these lands had been kept agriculture, any application to An Bord Pleanala
- 4 would have required a material contravention?
- 14:43:46 5 A. Correct.
- 6 Q. 309 And a material contravention would have required 75 per cent of the councils to
- 7 vote in favour of it, isn't that right?
- 8 A. Well what I am explaining to you is that it doesn't -- when a material
- 9 contravention comes before the council it does not have to be passed, it just
- 14:44:01 10 has to be proposed and seconded and then they appeal it to An Bord Pleanala it
- 11 can be granted, and they do.
- 12 Q. 310 But you were satisfied on the day that the best possible outcome from your
- 13 point of view was to support the amendment proposed by Councillor Hannon?
- 14 A. Yes, yes.
- 14:44:16 15 Q. 311 Now that was to limit the density at 360 houses on the 60 acres of the lands
- 16 that was proposed would be rezoned residential?
- 17 A. Correct, I thought it was a good outcome.
- 18 Q. 312 Now at that stage were you a member of the Progressive Democrats?
- 19 A. What time, what date?
- 14:44:31 20 Q. 313 This is 1992?
- 21 A. Yes.
- 22 Q. 314 Now your other colleagues who were also members of the Progressive Democrats
- 23 were Ms. Cait Keane, is that right?
- 24 A. Yes.
- 14:44:41 25 Q. 315 Larry Lohan?
- 26 A. Yes.
- 27 Q. 316 Catherine Quinn?
- 28 A. Yes.
- 29 Q. 317 And Sheila Terry?
- 14:44:45 30 A. Yes.



- 14:44:46 1 Q. 318 Now all of the members --
- 2 A. There was 7.
- 3 Q. 319 Pardon?
- 4 A. There was more than that.
- 14:44:52 5 Q. 320 Yes but of those that voted on this motion?
- 6 A. Oh sorry.
- 7 Q. 321 All of the members of the Progressive Democrats voted in favour of the
- 8 rezoning?
- 9 A. Right.
- 14:45:00 10 Q. 322 And there wasn't any member of the Progressive Democrats who voted against the
- 11 rezoning, that's what the records shows?
- 12 A. Well --
- 13 Q. 323 Now I think the Tribunal was told by Ms. Terry yesterday that it was normal
- 14 practice for the Progressive Democrats to have a meeting in advance of the
- 14:45:16 15 Council meeting?
- 16 A. We did, yes.
- 17 Q. 324 Now in that normal course of events would you have had a meeting in advance of
- 18 this meeting that decided the Ballycullen lands?
- 19 A. I don't think so. I think we had, our meeting were in front, were generally in
- 14:45:30 20 front of the County Council meeting because the agendas were largely very long
- 21 and we had to work them out.
- 22 Q. 325 Yes but you did have meetings, did The progressive Democrat group have meetings
- 23 in the council before the full meeting?
- 24 A. Before the full meeting of the council.
- 14:45:44 25 Q. 326 Yes?
- 26 A. Of the monthly meeting of the council.
- 27 Q. 327 No, question if we talk about the special meetings?
- 28 A. No, no as far as I know we didn't. We had no way planned and everybody voted
- 29 according to what they felt was correct.
- 14:45:57 30 Q. 328 So there was no discussion among the members of the Progressive Democrats who

- 14:46:01 1 voted in favour of the Ballycullen rezoning?
- 2 A. I am sure we discussed it, but I am not sure there was a formal discussion.
- 3 Q. 329 Well if there wasn't a discussion at all are you saying its just coincidence
- 4 that every member of the Progressive Democrats who was there voted in favour
- 14:46:17 5 it?
- 6 A. Sorry I don't know what you mean by coincidence.
- 7 Q. 330 I am asking you if there wasn't a meeting as you have suggested to the Tribunal
- 8 that there was no meeting of the Progressive Democrat group before the full
- 9 meeting?
- 14:46:27 10 A. We didn't meet before meetings like that, we met, say on the Council meetings
- 11 as far as I can remember we met on Council meeting, I don't think we would have
- 12 had special scheduled meetings.
- 13 Q. 331 Right. But do you think its likely that you would have as a group, discussed
- 14 the Ballycullen lands before the meeting took place?
- 14:46:45 15 A. Its possible, but I cannot say.
- 16 Q. 332 You cannot say. Who was the leader of the Progressive Democrats group at that
- 17 time?
- 18 A. I think I was.
- 19 Q. 333 All right. And in the normal course of events would the would the Progressive
- 14:47:00 20 Democrats Councillors take their lead from the local Councillor whoever was the
- 21 local Progressive Democrat Councillor on the ground as it were?
- 22 A. I think everybody thought for themselves.
- 23 Q. 334 Everybody thought for themselves?
- 24 A. Yes I think so.
- 14:47:13 25 Q. 335 So insofar as this rezoning is concerned it's your belief that each member of
- 26 the Progressive Democrats who voted in favour of the rezoning of the
- 27 Ballycullen lands did so as a result of a, their own careful consideration of
- 28 the matter?
- 29 A. Yes.
- 14:47:27 30 Q. 336 Right?

- 14:47:28 1 A. There was no whip.
- 2 Q. 337 I didn't suggest a whip, all I was trying to establish was whether there might
- 3 have been discussion amongst you as a group in advance of the meeting?
- 4 A. Not in advance no.
- 14:47:39 5 Q. 338 Not in advance?
- 6 A. I am sure.
- 7 Q. 339 The Tribunal has --
- 8 A. I am sure that we discussed the various zonings pros and cons but we wouldn't
- 9 have had a dedicated meeting.
- 14:47:48 10 Q. 340 Right but there would have been some discussion amongst you about the
- 11 Ballycullen lands?
- 12 A. I am sure there was, it would be unusual if there wasn't.
- 13 Q. 341 And would it be normal at those meetings, which were obviously informal
- 14 meetings that people would indicate what their attitude to the matter was?
- 14:48:04 15 A. I don't think so.
- 16 Q. 342 Your colleagues wouldn't have said what their view of the zoning of the
- 17 Ballycullen lands was?
- 18 A. Well, I can't recall what their views were so I think they probably wouldn't
- 19 have expressed them. I can't recall saying "oh she is for that or she is, "
- 14:48:22 20 you know what I mean.
- 21 Q. 343 Right.
- 22 A. We tended to sort of have open discussions.
- 23 Q. 344 Right?
- 24 A. And there wasn't resolutions out of them, you know.
- 14:48:32 25 Q. 345 I am not suggesting that there was but the Tribunal has heard that with other
- 26 parties discussions did take place amongst Councillors in advance of the
- 27 meetings and people let their views in relation to proposed matters be known as
- 28 it were, all I am asking you is, in the meetings that took place within the
- 29 Progressive Democrat group, did that system, was that the system?
- 14:48:55 30 A. No.

- 14:48:56 1 Q. 346 No. When you proposed the rezoning or seconded the rezoning proposed by  
2 Councillor Hannon, was that something that would have influenced your fellow  
3 Progressive Democrat colleagues?  
4 A. I'd say it probably did.
- 14:49:13 5 Q. 347 Mm-hmm. And did you ever have any discussions with the Tanaiste, Ms. Mary  
6 Harney, in connection with the Ballycullen lands?  
7 A. No.
- 8 Q. 348 Did Mr. Christopher Jones ever mention to you that he had met Ms. Harney in  
9 connection with the Ballycullen lands?  
10 A. No.
- 11 Q. 349 Did Ms. Harney ever contact you in connection with these lands?  
12 A. No.
- 13 Q. 350 No. Now Mr. Dunlop has an entry in his diary for the 2nd of November 1992 at  
14 1908 please. And this is after the rezoning has taken place and its a note to  
15 ring Breda Cass, at the top of the 2nd please. And this would suggest that on  
16 Monday the 2nd of November, which is a couple of days after the successful  
17 rezoning of the Ballycullen lands, that Mr. Dunlop had made a note that he  
18 wanted to contact you, do you recollect Mr. Dunlop telephoning you or  
19 contacting you?  
20 A. I certainly do not.
- 21 Q. 351 Did you have, did you know Mr. Dunlop to see?  
22 A. Did I know him to see.
- 23 Q. 352 Yes?  
24 A. I did, he was pointed out.
- 14:50:27 25 Q. 353 And did you ever have any discussions with Mr. Dunlop on any matter?  
26 A. On Ballycullen sort of stuff is it?  
27 Q. 354 Yes, on rezonings?  
28 A. No I don't think -- well Mr. Dunlop did the Citywest development and that was  
29 the first time that I saw him, Mr. Dunlop.
- 14:50:52 30 Q. 355 Did you ever receive any political donations from Mr. Dunlop?

- 14:50:55 1 A. No, he sent me Christmas card.
- 2 Q. 356 Right. Did you ever receive any political donations from Mr. Christopher
- 3 Jones?
- 4 A. No.
- 14:51:02 5 Q. 357 Or Mr. Frank Brooks or Mr. Oliver Brooks?
- 6 A. No.
- 7 Q. 358 Of the people who lobbied you in connection with Ballycullen Farms who were the
- 8 people who lobbied you the most?
- 9 A. I'd say the people who were in the foyer, which was Frank Brooks and Oliver,
- 14:51:23 10 but mostly I think Frank Brooks was there, the two brothers, they were
- 11 generally in the lobby if their motions were coming up.
- 12 Q. 359 Did, was -- did Mr. Brooks, did you know that Mr. Brooks had a political
- 13 affiliation, was a member of Fianna Fail himself?
- 14 A. Yes.
- 14:51:40 15 Q. 360 Right. There was some publicity after the rezoning of these lands Ms. Cass
- 16 isn't that right?
- 17 A. There was.
- 18 Q. 361 Right. And was that something that you were concerned about, about the fact
- 19 that there was quite a bit of publicity about rezonings in general in 1993, not
- 14:52:00 20 just limited now to Ballycullen lands?
- 21 A. Well, I saw in the file that was sent to me the bit of publicity and stuff like
- 22 that, but I had an awful lot going on in my life at that time, which I won't
- 23 burden the Tribunal with, but I don't live in a vacuum.
- 24 Q. 362 I think again in 1993 these lands came to be confirmed in the normal course
- 14:52:24 25 isn't that right?
- 26 A. That's right.
- 27 Q. 363 And this meeting took place on the 28th October 1993 and I think again you were
- 28 present?
- 29 A. Must have been.
- 14:52:35 30 Q. 364 Yes. And there was a proposal by Councillor Muldoon to rezone the lands back

- 14:52:37 1 to agriculture?
- 2 A. Yes.
- 3 Q. 365 And a vote took place on that matter and you voted against the motion at 2085
- 4 please.
- 14:52:52 5
- 6 Now you will see there I want to draw to your attention the names Councillor
- 7 Cass, Councillor Keane, Councillors Lohan, Councillor Quinn and Councillor
- 8 Terry
- 9 A. Right.
- 14:53:02 10 Q. 366 And they again were all members of the Progressive Democrats at that time isn't
- 11 that right?
- 12 A. Right.
- 13 Q. 367 And they again have all voted against rezoning the lands to agriculture and in
- 14 favour of keeping them A1, residential with a density limitation of 360 houses?
- 14:53:19 15 A. Yes.
- 16 Q. 368 Right. You were of the view at that stage that that was the correct thing to
- 17 do Ms. Terry is that right?
- 18 A. Ms. Terry.
- 19 Q. 369 Sorry I beg your pardon, I'm really sorry I do apologise, Ms. Cass sorry?
- 14:53:34 20 A. Its all right.
- 21 Q. 370 Was that your view at that time that that was the, you were staying with what
- 22 you had decided in 1992?
- 23 A. I was happy with what had been achieved yes, 360 was good.
- 24 Q. 371 When the material contravention came, subsequently when you were Cathaoirleach
- 14:53:51 25 of the Council were you disappointed with the end result with the increase in
- 26 density?
- 27 A. Well I felt it was a trade off.
- 28 Q. 372 Was it your view that what the Council was getting by way of open space would
- 29 make up for the increase in density?
- 14:54:09 30 A. It was the best we could do.

- 14:54:11 1 Q. 373 Was that according to the advice that you were getting from the manager?
- 2 A. Yes.
- 3 Q. 374 Right. And were any of the Councillors minded to make any independent inquiry
- 4 in relation to the matter or did they rely completely on the manager and the
- 14:54:25 5 officials?
- 6 A. They relied completely because nobody new, if we hadn't taken John Fitzgerald's
- 7 word, what happened was this error would have occurred in the old Dublin County
- 8 Council and the County Council was then broken up into three Councils, we had
- 9 John Fitzgerald and if he told us it was human error it would have amounted to
- 14:54:45 10 a vote of no confidence in him. We challenged it as best we could and asked
- 11 for the, what the advice was, and we were told that the advice was that it was
- 12 a grey area, that they might win or they might lose.
- 13
- 14 Now in that situation, we thought that brokerage was possibly the best way
- 14:55:10 15 forward to get best compromise
- 16 Q. 375 Thank you very much if you answer any questions that anybody else might have.
- 17
- 18 CHAIRMAN: No questions.
- 19
- 14:55:20 20 JUDGE FAHERTY: I have. Ms. Cass? Can I ask you just a question, obviously the
- 21 error in the mapping or in the acreage that occurred, I think you said earlier
- 22 it obviously occurred, that there was obviously the map that was submitted for
- 23 the motion and the motion itself was inconsistent is that correct?
- 24 A. No, what I am saying is that the map, sorry --
- 14:55:47 25
- 26 JUDGE FAHERTY: It transpired that the lands that were zoned A1, as I understand
- 27 it and Ms. Dillon will correct me if I am wrong, there was an error in the
- 28 mapping isn't that correct, a greater acreage appeared in the plan as having
- 29 been zoned
- 14:56:02 30 A. Yes.

14:56:03 1  
2 JUDGE FAHERTY: Than actually had been voted on as I understand it  
3 A. Yes that was in the map that was confirmed 1993. In other words the one that  
4 was done in Dublin County Council.

14:56:16 5  
6 JUDGE FAHERTY: Yes that's my question really. But presumably that the map that  
7 accompanied the motion in, there was a motion dated the 28th of September 1992,  
8 the Lydon and the Hand motion to zone the lands. And that would have had a map  
9 attached, isn't that correct?

14:56:31 10 A. Yes.  
11  
12 JUDGE FAHERTY: And it was, that obviously set out the acreage that they  
13 proposed to zone A1, residential, I think 60 acres isn't that correct  
14 A. Yeah it must be.

14:56:44 15  
16 JUDGE FAHERTY: I am just asking you from your knowledge of the council, when  
17 those motions and maps go in presumably, a note is taken by the officials a  
18 stamp is put on it obviously if the motion is accepted isn't that correct?  
19 A. That's correct.

14:56:58 20  
21 JUDGE FAHERTY: And -- obviously that map reflected I don't know this and  
22 obviously it may well become clear, but presumably that was the map that went  
23 in showed the acreage they wanted zoned residential being 60 acres or whatever?  
24 A. Yes.

14:57:14 25  
26 JUDGE FAHERTY: But somehow, between that time and the time the Development  
27 Plans for the County was agreed and in December '93, that what went on the map,  
28 the development map on the 10th of December '93 was something like 90 acres  
29 zoned A1 residential isn't that correct or --  
14:57:42 30 A. No.



14:57:42 1  
2 MS. DILLON: I think what happened was the entire of the lands, if you look at  
3 the side of the map that's on screen, it deals with 190 acres, there was 219  
4 acres in total contained with in the black lines, so what happened, they  
14:57:48 5 rezoned more in fact residential that they had intended.  
6  
7 JUDGE FAHERTY: That's my point  
8  
9 MS. DILLON: And the council subsequent to that error being made increased that  
14:57:58 10 by drawing the southern boundary more south wards when they were drawing the  
11 actual map.  
12 A. Sorry, are you saying there was two errors made.  
13  
14 MS. DILLON: That's the position according to the Council records, yes.  
14:58:12 15 A. I'm afraid we only heard of one.  
16  
17 JUDGE FAHERTY: But irrespective of the number of errors Ms. Cass, are you  
18 saying that really legally there wasn't anyway to correct that after 1993?  
19 A. That was our advice.  
14:58:29 20  
21 JUDGE FAHERTY: Is that what you are saying?  
22 A. The manager informed us that their advice was, legal advice was, that they  
23 couldn't decide between which had precedence, the written, or the map and in  
24 that situation if we didn't know whether they would win or they would loose and  
14:58:46 25 in that situation the advice was to go to material contravention to see what  
26 Ballycullen Farms wanted, to see what the community wanted, see what the  
27 Councillors wanted, see what the planners wanted and then in the light of all  
28 that the recommendation was to go to material contravention, which we did. Now  
29 nobody expressed lack of confidence in the manager to me, not one single  
14:59:10 30 member. Everybody had confidence in him. So he said it was human error and we

14:59:18 1 had to accept that.  
2  
3 JUDGE FAHERTY: All right. My other question is about evidence you gave  
4 earlier, in relation to the reasons you explained to Ms. Dillon, I just want to  
14:59:28 5 make sure I understood your evidence. You had obviously proposed the motion to  
6 dezone the 1990 plan back from E, industrial to B, agriculture.  
7 A. Yes.  
8  
9 JUDGE FAHERTY: And that was done. When the motions came then obviously in 1992  
14:59:45 10 the Dillon, the hand and the Lydon motion, you said you supported that because  
11 you were fearful that had you not that, if it wasn't passed that there could be  
12 a material contravention application, is that correct?  
13 A. Well, what happened was the lands along side it, what was feasible land for  
14 agriculture the lands along side it.  
15:00:13 15  
16 JUDGE FAHERTY: That's the Ballycragh lands referred to I understood that  
17 evidence, my question is this --  
18 A. That's the context.  
19  
15:00:19 20 JUDGE FAHERTY: Yes I understood what you said in relation to that. But you  
21 said to Ms. Dillon this is something I want to ask you, you said even if they  
22 had been agriculture and you said even if there was a material contravention  
23 and even if it wasn't passed by 75 per cent as it then was, of the Council,  
24 there could be an appeal to An Bord Pleanala, as it happened, as I understand,  
15:00:44 25 certainly in the Ballycragh lands? Well you said there could be an appeal to  
26 An Bord Pleanala, if the material contravention motion hadn't passed who would  
27 appeal to An Bord Pleanala?  
28 A. The people, the builders or applicants or whatever.  
29  
15:01:02 30 JUDGE FAHERTY: Yes the people who wanted the motion on the agenda is that

- 15:01:05 1 correct?
- 2 A. No the people, well I think its the people who were, the developers.
- 3
- 4 JUDGE FAHERTY: Yes. So you are saying to the Tribunal that if you hadn't --
- 15:01:14 5 A. It was my understanding if you put a material contravention before the council
- 6 and the Council rejected it, the way is still open to appeal it to An Bord
- 7 Pleanala and An Bord Pleanala can grant it.
- 8
- 9 JUDGE FAHERTY: That's what I want to ask you, if the material contravention
- 15:01:30 10 before the council wasn't passed by 75 per cent as it must, at Council level,
- 11 that notwithstanding it being defeated, had such a material contravention been
- 12 brought, that the people promoting the material contravention could appeal to
- 13 An Bord Pleanala and then it would be a matter for An Bord Pleanala is that
- 14 what you are saying?
- 15:01:53 15 A. That's right.
- 16
- 17 JUDGE FAHERTY: I just want to understand
- 18 A. That's why I was influenced by my previous experience with An Bord Pleanala,
- 19 specially on the Dodder Valley lands the high amenity area they just, that was
- 15:02:06 20 it.
- 21
- 22 JUDGE FAHERTY: Just could I ask you finally Ms. Cass, in the time of this, the
- 23 making of the 1993 Development Plan we have heard a lot of evidence from
- 24 certain people and that there was disquiet at the time that, about the nature
- 15:02:26 25 of the making of that plan, did you, were you concerned at that time or did you
- 26 recall reading about what was said about the Council, that there might have
- 27 been, for example, Michael Smith's, the Environment Minister at the time, he
- 28 wrote an article, or made a speech in 1993, do you recall that? Referring to a
- 29 debased currency, did you have any knowledge of rumour or --
- 15:02:55 30 A. Well no I didn't. But I was surprised because, not surprised then, surprised

15:03:01 1 insofar as if he felt that, when he came to 1993 I felt it was belt and braces,  
2 that he had the opportunity to refuse the Development Plan and he didn't.

3

4 JUDGE FAHERTY: I see.

15:03:12 5 A. That was the fall back as far as I was concerned he had belt and braces.

6

7 JUDGE FAHERTY: Yes. Ms. Muldoon told us I think it was Ms. Muldoon, yesterday,  
8 she felt there was a rezoning coterie within the Dublin County Council

9 A. I have no knowledge of that.

15:03:29 10

11 JUDGE FAHERTY: I see

12 A. I examined absolutely everything ad nauseum I think, that was put before me  
13 from the Council and I can't say that I never attributed any wrongdoing to any  
14 Councillor and in fact I never imputed wrongdoing to Councillor Muldoon who  
15 voted for high amenity rezoning on the Dodder Valley which was her right and  
16 her judgement to operate, but I never imputed false or bad motives to her for  
17 that. And I resent the idea that I could, that I did not use my judgement. I  
18 used my judgement at all times.

19

15:04:09 20 JUDGE FAHERTY: I don't think in fairness to Ms. Muldoon that she attributed  
21 that-- she just made a general observation, I don't think in fairness and  
22 Ms. Dillon can correct me, in any circumstances did she attribute that to  
23 yourself

24 A. Okay thank you. Because certainly the conditions under which we worked in the  
15:04:26 25 Council was absolutely disgraceful, we were breaking the factory axe when you  
26 went to move from the chair, when I said Councillor Hand was sitting in front  
27 of me, I mean, I mean literally and there was another in front of him and  
28 another one of him and another one behind him if you wanted him to move you had  
29 to excuse the people's legs behind you, we were performing this function under  
15:04:48 30 those circumstances, it was ridiculous.

15:04:51 1  
2 JUDGE FAHERTY: Did you read? You would have been sent a lot of material that  
3 was normal before special meetings.  
4 A. Yeah.

15:04:57 5  
6 JUDGE FAHERTY: Did you read all the material Ms. Cass?  
7 A. I tried to read the stuff and also the Council's reports were absolutely  
8 horrendous, the minutes, everything, the whole running of the thing as far as I  
9 was concerned was bad, the whole thing, a hundred people squash into a little  
10 room and they were all exhausted and smoking and one toilet for 26 women, so  
11 even to get to the toilet there was no facilities we were sort of tolerated in  
12 the canteen for a cup of tea, its not like it is now in Dublin, when you wanted  
13 your bit of lunch people said "why did you go to Conways?" We went to Conways  
14 because Conways gave us toasted sandwiches very quick because they knew which  
15 had to be back up the road and they were cheap and it was good dinner, we got  
16 pub grub, but there was no facilities for us, absolutely disgraceful.  
17

15:05:43 18 JUDGE FAHERTY: I understand that and we have heard that from others, but in  
19 terms of the material you would have gotten from the council, that's how you  
20 would have informed yourself?  
21 A. Mostly yes. Except I had the knowledge of the place myself.  
22

15:06:01 23 JUDGE FAHERTY: Obviously yes.  
24 A. But I would have informed myself. The other thing that I found difficult was,  
25 when you get a manager's report from the Council there is no signature on the  
26 bottom, none whatsoever. Even though we asked for this, so you don't know  
27 which manager is actually done the report, because the manager goes off if he  
28 had to be away or whatever or moved sideways or whatever and he delegates  
29 another Principal Officer and you don't know which one signed the thing. So  
30 you get a manager's report and you don't know what manager signed it. The

15:06:43

15:06:48 1 other thing is that when you were talking to Officers and that, it took me an  
2 awful long time to work-out that the person who was speaking on behalf of,  
3 we'll say the Engineering Department or the Roads Department or the Planning  
4 Department, that they weren't a professional, that they were an administrator,  
15:07:10 5 so trying to work-out where was the origin of the report in itself was just  
6 crazy, you know, you just, it was just very very difficult, you couldn't  
7 work-out. I didn't realise that until I was nearly a year and a half in the  
8 council that they weren't the professionals that they were the administrators  
9 because one man was moved from Libraries to Engineering and suddenly he was  
15:07:33 10 saying he was the Engineer and he was replying to us on engineering questions  
11 and I began to - you know, it was all sort of higgledy-piggledy, that was my  
12 view of it. The staff didn't service the new Councillors for nearly, I think a  
13 year and a half.  
14

15:07:49 15 JUDGE FAHERTY: Very well. Thank you very much

16 A. Thank you.  
17

18 MS. DILLON: Just in relation to the error, very very briefly Ms. Cass, I think  
19 you said you thought there was only one mistake made, isn't that right?

15:08:01 20 A. That's right.

21 Q. 376 If I can clarify that for you and show you the map that was attached to the  
22 motion that's on screen, if the map can be put back to its normal size on  
23 screen and at the side of that it says, zoning objective A1 and above that 60  
24 acres. If that could be increased, this is the map that was attached to the  
15:08:21 25 rezoning motion and that was seeking to rezone objective A1, 60 acres isn't  
26 that right?

27 A. Yes.

28 Q. 377 But at page 2304 please? Following, when they became aware that there were  
29 difficulties the very last paragraph and this is a report to the Planning and

15:08:43 30 Development Committee of South Dublin County Council, "From an examination of

15:08:49 1 the documentation associated with the Development Plan review process it  
2 appears that the area of the lands indicated on the map submitted with the  
3 motion referred to above to change the zoning measures 72.5 acres" so the  
4 Council in 1995, when they came to examine how the problem arose, discovered  
15:09:06 5 that the first problem was that instead of 60 acres the map measured lands  
6 totalling 72.5 acres which would have been 12.5 acres more than the motion map  
7 had indicated, do you follow me Ms. Cass?

8 A. Yes.

9 Q. 378 Now in addition to that the Council go on to say "The boundary of the lands  
15:09:23 10 were drawn free hand in red. In the transferring of this detail on the Draft  
11 Development Plan maps it appears that an adjustment was made to the southern  
12 boundary to coincide, next page please, with existing field boundaries shown on  
13 the Ordinance Survey maps. This adjustment had the net effect of adding 5.5  
14 acres to the residential zoning", so what appears to have happened was the  
15:09:47 15 following, the Lydon/Hand map attached to the motion recorded the acreage  
16 proposed to be A1 rezoned at 60 acres in fact it measured 72.5 acres and when  
17 the Council were drawing the outline of the map on the new Development Plan in  
18 1993 they added another 5.5 acres.

19  
15:10:07 20 So the residential zoning at the end of it came to 78 acres instead of 60 and  
21 that's how the two mistakes occurred according to the documentation.

22 A. Just this report that I have in front of me here, was that given to us in the  
23 Council.

24 Q. 379 If you go back to the top of the document and I can't answer you --

15:10:27 25 A. I don't think it was.

26 Q. 380 At 2304 please? This is a meeting of the Planning and Development Committee on  
27 the 16th of May 1995. This report is submitted, now unfortunately we don't  
28 have any further documentation other than that, and in fact we got that  
29 documentation from Mr. Jones, I think this is part of the missing documentation  
15:10:56 30 from South Dublin County Council and the only reason we have this documentation

- 15:10:59 1 is that Mr. Jones provided it in his discovery.
- 2 A. Yeah, that says there is two errors I'm afraid I was of the impression that
- 3 there was a single error.
- 4 Q. 381 I can't comment to that. I am just pointing out to you why I was telling the
- 15:11:19 5 Tribunal there were two errors an that is the document that records and sets
- 6 out the reason for the two errors do you ever recollect seeing that document
- 7 Ms. Cass?
- 8 A. I don't. I think I would have recalled two errors I think I would have thought
- 9 two? You know?
- 15:11:34 10 Q. 382 Thank you very much Ms. Cass?
- 11 A. Thank you.
- 12
- 13 CHAIRMAN: Ms. Cass thank you very much for attending and you are free to go.
- 14 Thank you.
- 15:11:41 15
- 16 MS. DILLON: I think maybe if you rise for just two minutes please.
- 17
- 18 CHAIRMAN: Certainly.
- 19
- 15:11:58 20 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**
- 21 **AND RESUMED AGAIN AS FOLLOWS**
- 22
- 23 MR. QUINN: Mr. Stanley Laing please.
- 24
- 15:17:10 25 **STANLEY LAING, HAVING BEEN SWORN, WAS EXAMINED**
- 26 **AS FOLLOWS BY MR. QUINN:**
- 27
- 28 CHAIRMAN: Good afternoon Mr. Laing.
- 29 Q. 383 Thank you Mr. Laing. Mr. Laing, the Tribunal wrote to you in the context of
- 15:17:48 30 this module and you responded in a letter on the 14th of November I think it



15:17:56 1 was 2000 and I am going to read a transcript of that letter, which is to be  
2 found on page 3021 and then I propose to ask you one or two questions arising  
3 out of it.  
4

15:18:08 5 You said that I am sure you will agree as it is sometime since these matters  
6 were discussed and as I have no minutes or notes of these meetings I was unable  
7 to add very much to this inquiry.  
8

9 In fact I don't remember any meetings taking place with either Mr. Hussey or  
15:18:26 10 Mr. Jones and if there was it would have only been one or two. As far as I can  
11 remember most of these discussions would have been by phone and I have no  
12 notes.  
13

14 I remember the debate on Ballycullen Farms and the change in zoning and the  
15:18:38 15 location and the need for housing in that part of the county. But I am unable  
16 to provide any further information.  
17

18 With regard to the phrase "term or side" it would seem that having had  
19 discussions with a number of Councillors they now felt confident for support in  
15:18:51 20 the zoning in question.  
21

22 May I repeat if meeting took place they would have been in Council or my centre  
23 but I have no record of same, yours sincerely councillor Stanley Laing". I  
24 think Councillor Laing you are still a member of South Dublin County Council  
15:19:03 25 and you had been a member of Dublin County Council is that correct?

26 A. That's quite right yeah.

27 Q. 384 I think you were in fact in 1992 the Chairman of Dublin County Council is that  
28 correct?

29 That's quite right, yes.

15:19:15 30 Q. 385 I think you, you will have received documentation from the Tribunal which will

15:19:23 1 show at page 1596 that Mr. Chris Jones wrote to you on the 12th February 1992  
2 and its now appearing on screen and in that he wrote to you and he said "Dear  
3 Chairman I would like to thank you very much for the interview we had yesterday  
4 and for your understanding of the problems we face in Ballycullen.

15:19:42 5  
6 I am preparing a set of documents of our proposals for rezoning, which I will  
7 forward to you in the near future.

8  
9 If at any time you would like to view the lands I will arrange a visit at your  
10 convenience.

11  
12 In the meantime I would like to thank you for your courtesy and wish you well  
13 in your term of office", that seems to suggest a meeting of some sort Mr. Laing  
14 between you and Mr. Jones

15:20:04 15 A. It does, yes. I honestly can't quite remember but it seems as if that's the  
16 fact.

17 Q. 386 Yes. Did you know Mr. Jones?

18 A. Did I know him?

19 Q. 387 Yes?

15:20:12 20 A. No.

21 Q. 388 Did you know Mr. Frank brooks?

22 A. I knew of Mr. Frank Brooks yeah.

23 Q. 389 Did you know Mr. Derry Hussey?

24 A. No.

15:20:22 25 Q. 390 Did you know Mr. Oliver Brooks?

26 A. Just to hear, no I didn't know him, no.

27 Q. 391 Did you know Mr. Frank Dunlop?

28 A. Well I knew of him to see, yes I did know him, yes.

29 Q. 392 Yes. Its been suggested and I don't think there is any dispute on the fact  
15:20:37 30 that Mr. Dunlop was a frequent visitor to the Council for the discussion and

15:20:42 1 review of the Development Plan?

2 A. That's quite right.

3 Q. 393 As were a number of developers?

4 A. That's quite right.

15:20:47 5 Q. 394 Can you recall this discussion at all with Mr. Jones?

6 A. I honestly can't.

7 Q. 395 I see?

8 A. Yes. But obviously he was in my office and as a number of developers would

9 come in from time to time and I felt obliged to meet them and I did so.

15:21:03 10 Q. 396 Yes. On the 19th of February 1992 if we could have 1598 there is a further

11 letter to you from Mr. Jones where he is enclosing a copy of a submission for

12 the rezoning of the Ballycullen lands as promised. Would you have asked for a

13 copy of the submissions when you met with Mr. Jones?

14 A. Yes, I'm sure I would have asked for further informs, yes.

15:21:29 15 Q. 397 Mr. Dunlop who was retained by Mr. Jones had compiled a report in August 1991

16 on the 30th of August 1991 where he had set out a programme of activity which

17 might be undertaken in relation to having these lands rezoned, if we can have

18 page 1503, he identifies a number of Councillors who in order of priority ought

19 to be contacted and as Chairman of the County Council you appear first in that

15:21:54 20 list.

21 A. Yes I see that, yes.

22 Q. 398 So that was in August 1991?

23 A. That was August 1991.

24 Q. 399 Yes and the meeting, the letters --

15:22:06 25 A. I was then Chairman at that period.

26 Q. 400 Yes. The letter and meetings suggested in that letter of the 12th February

27 suggests a meeting of the 11th February '92?

28 A. Sorry, I can't quite follow you there sorry.

29 Q. 401 In August 1991 Mr. Dunlop advises that the Jones Group ought to make contact

15:22:25 30 with you?

- 15:22:25 1 A. Oh, yes right.  
2  
3 MS. KILROY: Excuse me Chairman it's just a very small point its Mr. Jones not  
4 the Jones Group
- 15:22:34 5 Q. 402 Mr. Chris Jones on behalf of Ballycullen Farms?  
6 A. Right.  
7 Q. 403 Is advised by Mr. Dunlop in August 1991 that he ought to contact a number of  
8 people including you?  
9 A. Right yes.
- 15:22:44 10 Q. 404 And the following February, that is the 11th February 1992 there appears to  
11 have been a meeting between you and Mr. Chris Jones, you have no  
12 recollection --  
13 A. Is that the meeting you have already referred to in my office.  
14 Q. 405 Yes?  
15:22:57 15 A. Yes I'm sure that's correct, yes.  
16 Q. 406 Yes. Following on that meet building Jones wrote, thanking you for the meeting  
17 and he wrote subsequently forwarding copies of his rezoning proposals for  
18 Ballycullen, did you know the lands in Ballycullen?  
19 A. Not as intimately as my colleague Councillor Cass because it wasn't in my  
15:23:16 20 actual ward, I did not represent the ward.  
21 Q. 407 Yes. Did you ever meet with Mr. Dunlop?  
22 A. Did I ever meet with him?  
23 Q. 408 Yes?  
24 A. No.  
15:23:24 25 Q. 409 You don't believe you did?  
26 A. No.  
27 Q. 410 If we could have 1691, there is an entries in Mr. Dunlop's diary for the 3rd  
28 June 1992 for a 2.30 meeting with Stanley Laing at DCC, which we presume is  
29 Dublin County Council?  
15:23:45 30 A. Well I honestly can't recollect that at all. I don't remember meeting

- 15:23:51 1 Mr. Dunlop in connection with this matter.
- 2 Q. 411 Okay. On the 30th September 1992 Mr. Jones appears to have written to you, if
- 3 we can have 1805 please, where he refers to the, he says "I am enclosing as
- 4 promised at our last meeting the final proposal for the development of our
- 15:24:10 5 lands at Ballycullen.
- 6
- 7 As you can see the housing element has been vastly reduced from our previous
- 8 proposal with a massive provision for a golf course and other amenities.
- 9
- 15:24:21 10 I believe this development would give an enormous boost to the area when the
- 11 new road structure is in place" do you recall receiving that letter from
- 12 Mr. Jones?
- 13 A. Well, we get tremendous amount of correspondence and I can't really recollect
- 14 having received this letter.
- 15:24:42 15 Q. 412 If we can have 161 please, we do know in any event and you will have heard from
- 16 the prefers evidence that there was a vote on the 29th of October 1992
- 17 proposing that these lands be rezoned from agriculture to A1 residential and F
- 18 amenity, do you recall that vote in October 1992?
- 19 A. In October 1992?
- 15:25:04 20 Q. 413 Yes?
- 21 A. Yes I am sure I do, yes.
- 22 Q. 414 You appear to have voted in support of the motion?
- 23 A. Yes. That's for, to rezone the land A1.
- 24 Q. 415 That's correct?
- 15:25:16 25 A. Mm-hmm.
- 26 Q. 416 A1 and F?
- 27 A. And F, right.
- 28 Q. 417 Do you have any recollection of voting at that time in support of that proposal
- 29 brought by Mr. Lydon and Mr. Hand?
- 15:25:27 30 A. Do I have any recollection of the?

- 15:25:29 1 Q. 418 Of voting in favour of the proposal as you appear to have done from this  
2 documentation?
- 3 A. Well I feel quite honestly as time went on, it was inevitable that these lands  
4 were going to be zoned to housing.
- 15:25:39 5 Q. 419 Yes.
- 6 A. There was a requirement that council for further land bank and I think as this  
7 was on the edge of the County and very suitable for housing I think that I  
8 would have gone along that way.
- 9 Q. 420 Did anybody seek your support for the rezoning?
- 15:25:58 10 A. I don't recollect, maybe some of the Councillors representing, I generally -- I  
11 generally took some advice from the Local County Councillors who represent that  
12 had particular ward, I am sure they approached me.
- 13 Q. 421 Because by the confirmation meeting in October of the following year if we  
14 could have --
- 15:26:20 15 A. That's 19 --
- 16 Q. 422 1993, if we can have 171 please? This is the vote to confirm the amended, the  
17 1993 draft plan which would become the 1993 plan, on that vote you appear to  
18 have abstained, I am just wondering why you would have supported the proposal  
19 the year previously and abstained a year later?
- 15:26:43 20 A. Is that for a similar motion I am just clarifying.
- 21 Q. 423 Yes what you are voting for is you are abstaining on a motion by Councillor  
22 Muldoon that the lands revert to agriculture?
- 23 A. Yes, well I certainly didn't agree that they should be rezoned back to  
24 agriculture.
- 15:27:01 25 Q. 424 I see?
- 26 A. So I abstained, yes, that's quite right.
- 27 Q. 425 All right. Now you then became I think a member of the South Dublin County  
28 Council isn't that right?
- 29 A. That's right.
- 15:27:12 30 Q. 426 But before you did?

- 15:27:13 1 A. 1994.
- 2 Q. 427 In 1994 but in of July of 1993 I think there were a series of articles arising  
3 out of a level of disquiet about the level of rezoning in Dublin isn't that  
4 right?
- 15:27:25 5 A. That's right.
- 6 Q. 428 If I could have 2037, one of those articles purported to show the voting  
7 pattern of some of the Fine Gael members, compiled from figures supplied by  
8 Dublin County Council and I think you were somebody who, contrary to the trend  
9 had voted against 13 of the proposed rezoning and had only voted in favour of  
10 four, isn't that right?
- 11 A. I am sure you are right yes, I don't have a figure.
- 12 Q. 429 You weren't someone who was constantly in favour of rezonings would that be  
13 fair to say in that period?
- 14 A. That's right, I judged each application as it came before me, if there was a  
15 need for housing in that particular area I would do so, but proper planning for  
16 the future of the county, that was my concern.
- 17 Q. 430 Yes. Now I think in 1996 we have heard evident that there was an application  
18 by way of a material contravention of the Development Plan brought in relation  
19 to these lands, do you recall that application coming before the Council on the  
15:28:32 20 12th of February 1996 whereby planning permission had been sought for 600  
21 houses?
- 22 A. Yes I recollect that coming before us alright.
- 23 Q. 431 Just before that, can I just bring to your attention an entry in Mr. Jones'  
24 diary at 2397, this is an entry for the 7th of February 1996 and it appears to  
15:28:56 25 be an entry for John Fitzgerald and Stanley Laing, do you see that Mr. Laing?
- 26 A. I see that there, yes.
- 27 Q. 432 John Fitzgerald I think was the County Manager?
- 28 A. I see, yes I see John Fitzgerald I do.
- 29 Q. 433 Do you have any recollection of having a meeting with Mr. Jones in February  
15:29:13 30 1996?

15:29:14 1 A. February 1996? I honestly don't remember any such meeting.

2 Q. 434 Yes. I think you did write to him in January of 1996 on behalf of the

3 Templeogue Development Committee Limited, at 2379 please.

4 A. I wrote to who.

15:29:32 5 Q. 435 To Mr. Jones?

6 A. No I think I wrote --

7 Q. 436 Sorry Mr. Brooks yes?

8 A. Mr. Brooks.

9 Q. 437 Did you know Mr. Brooks?

15:29:39 10 A. I had met him on one or two occasions at functions, but that's about all.

11 Q. 438 Yes. And was that what prompted you to write to him in January 1996?

12 A. With regard to Templeogue House.

13 Q. 439 Yes?

14 A. Well he was aware that I was very supportive and it was one of my main projects

15:29:57 15 in Templeogue the restructuring and conservation of Templeogue House for the

16 community and he was aware of that and he offered his support, I said at that

17 time through we would do fundraising, I had an auction and I asked would he

18 like to contribute.

19 Q. 440 I think you received what was described as a charitable donation on the 20th

15:30:17 20 November 1995, if I could have 701 in relation to the Templeogue fund in the

21 sum of 100 pounds, this is a schedule provided by Mr. Jones, just at the bottom

22 please if we can highlight that, do you see an entry there for either the --

23 20th November 95 or 96?

24 A. Templeogue.

15:30:42 25 Q. 441 S. Laing, do you recall receiving that money from Mr. Brooks or Mr. Jones?

26 A. I don't quite frankly, but all I remember is receiving a gift for the auction.

27 Q. 442 Yes. I think that was a gift of a coloured television?

28 A. That's right.

29 Q. 443 If we can have 2451 please that's a letter of gratitude sent by you on 27th of

15:31:02 30 February 1996 to Mr. Jones isn't that right?



- 15:31:04 1 A. That's right to Mr -- I don't know why I wrote to Dear Chris, but I obviously,  
2 it was Oliver Brooks that I understood-- that provided the TV.
- 3 Q. 444 Oliver Brooks or Frank Brooks?
- 4 A. I think its Oliver Brooks, I'm not too sure whether its Oliver or Frank now.
- 15:31:24 5 Q. 445 In any event your letter of gratitude is to Mr. Chris Jones?
- 6 A. Right.
- 7 Q. 446 Now in the intervening period, that is to say on the 12th of February 1996 I  
8 think there was a vote on the material contravention and you attended that  
9 meeting and you voted in favour of it have?
- 15:31:38 10 A. That's for the enlarged--
- 11 Q. 447 For the 600 houses.
- 12 A. For the 600 houses, right.
- 13 Q. 448 If we could have 2399 please, that shows your attendance on the day and I think  
14 we see your vote in favour of it?
- 15:31:56 15 A. That's right.
- 16 Q. 449 Which is to be found at 2435, did Mr. Oliver Brooks or Mr. Frank Brooks at any  
17 stage enlist your support for either the original rezoning proposals in '92 or  
18 '93 or this material contravention in February '96, can you recall?
- 19 A. It's quite possible that one or both of them could have rung me up on the phone  
15:32:28 20 and said look would you be kind enough to support us.
- 21 Q. 450 Yes and had they asked to you support it would you have support it had as a  
22 consequence?
- 23 A. Would I have? No I deal with each regardless of the ownership of the land I  
24 dealt with each particular application on the need for the County.
- 15:32:43 25 Q. 451 Now Mr. Laing you were the Chairman of Dublin County Council in 1992 isn't that  
26 right?
- 27 A. '91/'92 yeah.
- 28 Q. 452 '91/'92 and you heard the previous witness who was a member of the Council,  
29 complain about the conditions in the Council at that time?
- 15:33:03 30 A. Yes.

- 15:33:03 1 Q. 453 Would you agree with those complaints?
- 2 A. Well we had 78 councillors it wasn't exactly a very well cared for operation,  
3 but yes it was, it was never intended that it would house an enlarged Council  
4 such as that, it was difficult to carry on business, especially when you were  
15:33:18 5 dealings with matters right throughout the whole County it was most difficult.
- 6 Q. 454 Just one other matter Mr. Laing, in January of 1992, you had come out of a  
7 period where you had a display of the draft 1991 plan, I think the draft 1991  
8 plan went on display between September and December 1991 and then in early part  
9 of 1992 you had some oral, further oral submissions in support of the  
15:33:48 10 submissions which have been received during that public display period, and  
11 then I think as you went further into 1992 a decision was taken at some stage  
12 as communicated to the meeting of the Council on the 13th January 1992 that  
13 there would be a review commencing this time with map 28 and working back to  
14 map 1, could I have 3068 please? This is a meeting of the Council on the 13th  
15:34:17 15 of January 1992, item number 61 and its a report on proposed arrangements  
16 relating to the review of the Development Plan, 1983.
- 17 A. Right.
- 18 Q. 455 Now if I could just direct you to the very last paragraph it says "In response  
19 at that request received from the Chairman it is proposed to start dealing with  
15:34:39 20 maps in the south eastern part of the County and as far as possible work in  
21 reverse order from that followed by the council in its last consideration of  
22 maps, that is to commence with representations relating to map number 28. This  
23 however will depend on the volume of objections/representations relating to an  
24 individual map and the availability of reports there on", you there are being  
15:35:01 25 credited, Mr. Laing as Chairman of the County Council for having decided the  
26 consideration of the maps would be in reverse order leading up to the  
27 consideration for the 1991 draft plan can I ask you why?
- 28 A. I can clearly remember I was purely responding to a request from the Planning  
29 Manager to reverse the procedure, purely a request I wouldn't have done that on  
15:35:24 30 my own accord.

15:35:25 1 Q. 456 Yes. Who was the Planning Manager at that time?  
2 A. Well it was, as far as I can remember Mr. Al Smith.  
3 Q. 457 Yes. Is there any reason why Mr. Smyth wouldn't have, or the manager?  
4 A. Still back in 199?  
15:35:38 5 Q. 458 92 at this stage?  
6 A. Sorry I want to be right, yeah Mr. Al Smith was the Planning Manager at that  
7 time.  
8 Q. 459 Whoever compiled this report seems to have given you credit for deciding that  
9 this was the order to be adopted but you are saying that you merely, it would  
10 in fact it was the decision of the planning manager that this was the order?  
11 A. Yes, very nice of them, but at the request of the planning manager, that's it.  
12 Q. 460 Yes. Thank you?  
13 A. I would have had no reason to do it otherwise.  
14 Q. 461 Thank you very much Mr. Laing?  
15:36:07 15 A. Thank you.  
16  
17 CHAIRMAN: Mr. Laing, could I just ask you, you abstained on one occasion?  
18 A. I see that, yes.  
19  
15:36:17 20 CHAIRMAN: Which was an unusual  
21 A. It was.  
22  
23 CHAIRMAN: It wasn't often done by Councillors that they would abstain--  
24 A. It was done on occasions, I have done it on a number occasions.  
15:36:28 25  
26 CHAIRMAN: But do you know why you might have abstained?  
27 A. The only thing, just remind me again why I abstained what was that particular  
28 vote.  
29  
15:36:37 30 CHAIRMAN: That was the confirmation motion on 28th of October '93, this was

15:36:42 1 the year following the -- you had voted in favour the previous year.

2 A. Yeah I --

3

4 CHAIRMAN: And this was a motion to bring it back to, to revert it back to

15:36:56 5 agriculture.

6 A. And I abstained.

7

8 CHAIRMAN: You abstained having supported the rezoning the previous year, I am

9 just wondering why, if you can remember why?

15:37:06 10 A. Well, I can't honestly remember Sir why I abstained, but if on occasions I felt

11 I hadn't followed the debate as well as I might and I wasn't 120 per cent

12 certain I would abstain.

13

14 CHAIRMAN: All right.

15:37:22 15

16 That concludes your evidence, thank you very much for attending.

17

18 MR. QUINN: Those are the available witnesses for today.

19

15:37:27 20 CHAIRMAN: All right so Tuesday at half-ten.

21

22 MR. QUINN: Thank you.

23

24 CHAIRMAN: Thank you.

15:37:46 25

26 **THE TRIBUNAL THEN ADJOURNED TO TUESDAY**

27 **21ST FEBRUARY 2006 AT 10.30 AM.**

28

29

30