

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY,

5TH DECEMBER, 2006, AT 10.30 A.M.:

MR. O'NEILL: Good morning, Mr. Chairman.

CHAIRMAN: Good morning, Mr. O'Neill.

Just before we start our day's work. There was an application on Friday, I think by Mr. Burke, to -- to have a name disclosed to him of an individual whose name was written down by Mr. Dunlop in the course of his evidence on Friday.

In line with normal, with the normal practice of the Tribunal, that individual was notified through his solicitor. The fact that his name had arisen in the course of evidence on Friday, the solicitor in question has been in contact with the Tribunal and has requested additional time because of his inability to make contact with his client.

Now, the Tribunal has acceded to this request.

So, therefore, a decision to disclose or not to disclose the name will therefore be deferred until next Tuesday.

I can say that it is likely that the Tribunal will direct disclosure of the name but a final decision must, in fairness, await any submissions that individual might wish to make on the issue.

So it will be raised again next Tuesday.

All right?

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MR. O'NEILL: Mr. Frank Dunlop, please, if you come to the witness box.

10:40:05 1

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FRANK DUNLOP, PREVIOUSLY SWORN,

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WAS EXAMINED AS FOLLOWS BY MR O'NEILL

10:40:22 5

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MR. O'NEILL: Good morning Mr. Dunlop

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A. Good morning, Mr. O'Neill.

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Q. 1 In relation to the evidence which you gave last Friday, the Tribunal was

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seeking to establish certain matters in relation to payments which you say that

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you made to a total of seven councillors.

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And the question was directed towards establishing why the payments were made,

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when the payments were made, where the payments were made and what the role

14

played by individual councillors was, isn't that so?

10:40:52 15

A.

That's correct, Mr. O'Neill.

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Q. 2 And to summarise it briefly. The where is probably the simplest part. You say

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that all of the payments were made to councillors in the environs of Dublin

18

County Council offices, isn't that so?

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A. That is correct.

10:41:06 20

21

Q. 3 As regards when they were paid. We have been examining a window of

opportunity, if I might call it that, which commenced on the 1st of March.

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That date being fixed by reference to the signature of the first motion heard

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by the Council, isn't that right?

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A. That's correct.

10:41:23 25

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Q. 4 And we're continuing through that period which expires probably in September

when the last of the motions was heard and the plan adopted. We know that on

27

the 29th of September?

28

A. Yes.

29

Q. 5 The wrap up meeting, if I can call it that?

10:41:41 30

A.

The confirmation meeting, yes.

- 10:41:43 1 Q. 6 Although we may not have to go anything close to that. Because I think the
2 when question can be answered by saying it was in and around the time of the
3 active motions that would have concerned the Pennine Holdings application
4 rather than the broader wrap up motion which concluded in September, isn't that
10:42:03 5 so?
- 6 A. That is correct.
- 7 Q. 7 As regards why the payments were made. You've indicated that the payments were
8 made to politicians to secure their support in relation to the motions which
9 were before Dublin County Council in the name of Pennine Holdings Limited,
10:42:19 10 isn't that so?
- 11 A. That is correct.
- 12 Q. 8 And as regards who was involved. I think we have covered the involvement of a
13 number of councillors going beyond those whom you say you paid monies to and
14 including councillors who actively supported the matter but in respect of which
10:42:36 15 you say no payment was made, isn't that so?
- 16 A. That's correct.
- 17 Q. 9 And they are more particularly identified as councillors Michael Joe Cosgrave,
18 Liam Creaven and Sean Gilbride, isn't that so?
- 19 A. That is correct.
- 10:42:51 20 Q. 10 Now, the motions which we were dealing with on the -- and the documentation
21 relating to those motions started with motion No. 1, which was a motion signed
22 by Councillors Liam Creaven, Cyril Gallagher, Michael Joe Cosgrave and Sean
23 Gilbride. And that was, can be dated as the 12th of March 1993, isn't that so?
- 24 A. That is correct, sorry, yes.
- 10:43:21 25 Q. 11 And that document was or motion was followed by another motion which cannot be
26 dated accurately as to when it was signed but as with the earlier motion, your
27 evidence was that it was a motion prepared by you, typed by you, signed by the
28 two councillors involved, Councillor Creaven and Councillor Michael Joe
29 Cosgrave, isn't that so?
- 10:43:44 30 A. That's correct, yes.

- 10:43:44 1 Q. 12 And insofar as we can date that. It is a date sometime prior to the 14th of
2 April because it was circulated to all councillors as of that date. So some
3 undefined date between the 12th of March and the 14th of April it was signed,
4 isn't that right?
- 10:44:01 5 A. That's correct.
- 6 Q. 13 And the first of the motions then, motion No. 1 was listed for hearing on the
7 20th of April and was withdrawn on that date, that was the scheduled date for
8 the first hearing of the Pennine Holding motions, isn't that so?
- 9 A. That's correct.
- 10:44:18 10 Q. 14 That left remaining the second motion and at the hearing on the 20th, an
11 application was made to amend that motion so as to alter the nature of the
12 proposed rezoning, isn't that so?
- 13 A. That is correct.
- 14 Q. 15 And that matter then we heard was the subject of some dispute. It resulted in
10:44:40 15 the meeting being adjourned until the 27th of April. And on the 27th of April
16 we heard that there was a publication in one of the national newspapers about
17 the anticipated or prophecised profit that it was considered that yourself and
18 the promoters of this scheme would realise in the event that the councillors
19 voted in favour of rezoning. That is the ten million pounds to profit to
10:45:13 20 individuals article that we considered at some length last week, isn't that
21 right?
- 22 A. That's correct.
- 23 Q. 16 And I think you indicated that on that and by reason of that publication what
24 you had understood to be a relatively non-contentious application with a fair
10:45:33 25 degree of success became one which was simply incapable of being put before the
26 body of members on that day because of the level of publicity and interest
27 generated and the perception that there would be a very large profit to be made
28 for doing absolutely nothing other than securing rezoning, isn't that correct?
- 29 A. That is correct.
- 10:45:57 30 Q. 17 And in the course of that discussion, I think you indicated that Mr. Lawlor was

10:46:03 1 the first person to draw the matter to your attention and that he did so in
2 terms where he indicated that your prospects were zero in view of what had
3 happened, isn't that right?

4 A. Correct.

10:46:19 5 Q. 18 And as a result of that I think you indicated that it was necessary to
6 strategise the application because if it was to be heard as scheduled on that
7 day it would not succeed. And therefore, the first strategy to be adopted was
8 to endeavour to put the matter back so that time would elapse. You could re
9 group, you could discuss the matter with the councillors, explain the position
10 perhaps and have a better prospect when the matter was re entered, hopefully,
11 on a date before the 15th of May 1993, isn't that so?

12 A. That is correct.

13 Q. 19 In order to achieve that result, it would have required a -- yet another motion
14 to be brought because the agenda as it stood had the amended motion No. 2 there
15 for consideration and it would be considered unless the parties managed to get
16 it off the agenda in a way which would allow it to be re entered at later date?

10:47:18 17 A. Correct.

18 Q. 20 And I think that as with earlier motions, again, you went to Councillors
19 Michael Joe Cosgrave and Liam Creaven and had them sign the necessary motion
20 hopefully to achieve that result, isn't that right?

10:47:44 21 A. That is correct.

22 Q. 21 Do I understand from what you said last week that in fact this was a strategy
23 of yourself and Mr. Lawlor's?

24 A. Yes.

10:47:57 25 Q. 22 And that the role of Councillor Cosgrave and Councillor Creaven in this was
26 merely to sign the document which was prepared by you and to put that before
27 their fellow members?

28 A. Correct.

29 Q. 23 But that their actual input in that strategy was zero. They were not the
10:48:17 30 creators of the motion, it wasn't their concept, they did not -- it did not

10:48:25 1 come from their combined or individual thinking on the issue?

2 A. Correct.

3 Q. 24 All right. And we'll see that that motion was a motion which was successful

4 but it had consequences. I think we might just perhaps look at page 2115,

10:48:46 5 which is an extract from the Council meeting.

6

7 I'm starting about half way through rather than dealing with the whole minute.

8

9 At the top of the page there it says "Councillors MJ Cosgrave and Creaven

10:48:59 10 indicated a wish to postpone discussion. They were asked to clarify the matter

11 which they wished to have deferred. Councillor Cosgrave indicated that he

12 asked to have motion 14.5.G.2 only deferred. It was indicated to the meeting

13 that if such a motion was moved and passed, motion 14.5.1 in the name of

14 Councillor Healy would remain on the agenda. It was proposed by Councillor

10:49:25 15 Cosgrave, seconded by Councillor Creaven that motion 14.5.G.2 rather and the

16 proposed amendment thereto be deferred for further consideration to a date not

17 later than the 15th of May. A discussion followed.

18

19 Certain councillors participating.

10:49:44 20

21 The Manager advised the members that in the interests of completing the review

22 of the Development Plan that the motion to defer consideration of motion

23 14.5.G.2 should not be passed. Councillor Healy advised the motion that he did

24 not wish to have effectively his motion 14.5.1. deferred. The Manager advised

10:50:04 25 the members that the tradition of the Council was that if a Councillor moved a

26 motion it should not be deferred if he dissented. Before the vote was taken it

27 was indicated to the members that in the event of the motion being passed, the

28 motion being proposed by Councillor Healy and seconded by Councillor Gordon

29 would remain to be considered.

10:50:23 30

10:50:23 1 The motion proposed by Councillor Cosgrave and seconded by Councillor Creaven
2 to defer their motions was put and on a division the voting resulted as
3 follows. 37 in favour. 33 against. And a zero vote -- zero abstentions
4 rather.

10:50:42 5
6 Now, if we move then to the following page, 2116.

7
8 We'll see that the Chairman declared the motion passed. And thereafter a
9 further motion was proposed or intended to be proposed would probably be more
10 accurate. And that was coming from Councillor O'Halloran, seconded by
11 Councillor LT Cosgrave. That the decisions relating to the Baldoyle
12 Portmarnock area be deferred until a site meeting is held in that area to allow
13 all councillors to view lands proposed for rezoning. The Chairman asked the
14 Manager to advise whether the motion was in order. Councillor Healy said that
10:51:20 15 he did not wish to have motion 14.5.1 deferred. The Manager advised the
16 members that the tradition of the Council was that if a Councillor moved a
17 motion it should not be deferred. The Manager advised that the motion was not
18 in order and the Chairman ruled it out of order.

19
10:51:37 20 So just getting the sequence of that right. It was ahead of Councillor Healy's
21 motion that the intervention came from Councillor O'Halloran, Councillor Liam
22 Cosgrave to have the matter deferred. And had that motion been successful at
23 that point, obviously, Councillor Healy's motion would have been deferred also,
24 isn't that right? It would appear to follow that if Councillor O'Halloran's
10:52:04 25 motion, that's Councillor O'Halloran and Councillor Liam Cosgrave's motion, was
26 on the agenda and voted on and favourably passed or favourably viewed by their
27 colleagues and passed, it would have had the consequence of deferring all
28 further motions in relation to Baldoyle until after a site meeting had taken
29 place?

10:52:26 30 A. Correct, because of the terms of Councillor O'Halloran's and Councillor

10:52:31 1 Cosgrave's motion relating to the Baldoyle and Portmarnock area.

2 Q. 25 Yes. And because of the terms of Councillor Healy's and Gordon's motion. It

3 then could not have been heard, isn't that right?

4 A. That is correct, yes.

10:52:42 5 Q. 26 But because of the ruling made by the Manager that the motion by Councillor

6 O'Halloran and Councillor Liam Cosgrave was out of order, it was never

7 entertained by the body of members of the Council, isn't that so?

8 A. That's correct.

9 Q. 27 And they went on to deal with the next motion in sequence which was that of

10:53:01 10 Councillor Healy and Gordon. And that was present because the motion of

11 Councillor Cosgrave, that is MJ Cosgrave and Creaven, had been withdrawn by

12 that point?

13 A. Yes.

14 Q. 28 Insofar as it was deferred, isn't that right?

10:53:18 15 A. Yes.

16 Q. 29 So there then was one motion remaining. We'll see at page 2117.

17

18 That was Councillor Healy's motion. That Dublin County Council hereby resolves

19 that all land zoned B and G on the Draft Plan between Baldoyle and Portmarnock

10:53:35 20 retain this zoning.

21

22 And that motion was put, you'll see that 43 members voted in favour, three

23 against and there was a very large number of abstentions in all 23. And that

24 may well have reflected the confusion that stemmed from the fact that the

10:53:55 25 parties had come to consider in effect the substantive motion of Pennine

26 Holdings but they no longer had that on the agenda before them. Instead, they

27 had an omnibus motion seeking to restore or to maintain the status quo. But

28 not to address specifically the Pennine Holdings motions, isn't that right?

29 A. Yes. I think the abstentions, Mr. O'Neill, reflect the level of support that

10:54:26 30 the original motion would have had.

- 10:54:26 1 Q. 30 Yes?
- 2 A. Because these people were not prepared to vote one way or the other in the
- 3 context of the stark reality that had been put before them.
- 4 Q. 31 Right. Now, that motion having passed we'll see the Chairman declared the
- 10:54:40 5 motion passed and thereafter the Manager advised the members that as a result
- 6 of passing motion 14.5.1 that motion 14.5.G.2 and the amendment proposed by
- 7 councillors Cosgrave and seconded by Councillor Creaven fell. And that I think
- 8 was a consequence that you hadn't properly thought out by that point, isn't
- 9 that right?
- 10:55:03 10 A. Is correct.
- 11 Q. 32 And so it took the promoters of the Pennine Holdings motion by surprise that in
- 12 effect they were snookered if this decision was to stand?
- 13 A. Correct.
- 14 Q. 33 And therefore, firstly, can we deal with your immediate reaction to that. I
- 10:55:23 15 can see or we can see from your various notes of attendances by persons phoning
- 16 you and meetings which you held, that there were immediate contacts after the
- 17 meeting with a number of persons whose actions we'll look into over the next
- 18 week or so.
- 19
- 10:55:42 20 Firstly, the meeting, as we see, ended at 1:07 p.m. that day. And looking to
- 21 your telephone records we'll see that the Chairperson of the Council phoned you
- 22 at 2:05, that's Therese Ridge, asking to you call her. Liam Lawlor contacted
- 23 you on your mobile phone at 2:55. Mr. Brendan Hickey was seeking to make
- 24 contact with you at three o'clock. And Mr. Gore Grimes, representing
- 10:56:11 25 Mr. Byrne, was seeking to contact you by 4:55 that day, isn't that right?
- 26
- 27 We may see that on page 2097, where these attendances or attempted contacts by
- 28 these persons are made with you.
- 29 A. Yes.
- 10:56:27 30 Q. 34 The first of them being at 2:05. Sorry. That should be back one page if we

10:56:39 1 can, 2096 it starts.

2

3 You'll see the afternoon records there are after PM

4 A. Uh-huh.

10:56:49 5 Q. 35 2:05 Therese Ridge. Just running through those again. Therese Ridge rang you

6 immediately after lunch?

7 A. Yes.

8 Q. 36 But you had been in attendance obviously all morning and you had seen what had

9 happened and obviously she was contacting you in that context, isn't that

10:57:04 10 right?

11 A. Yes.

12 Q. 37 Can you, have you any particular recollection of what it was Councillor Ridge

13 wanted to discuss with you?

14 A. Well I think, yes. I think Councillor Ridge who was the person at the time was

10:57:20 15 attempting to try and facilitate me.

16 Q. 38 Yes?

17 A. In some fashion or other having had discussions with the Manager. She was --

18 she was a stated supporter to me that she would vote for me. I was quite

19 friendly with her at the time.

10:57:38 20 Q. 39 Yes?

21 A. And that she had said that she would vote for me but that she was the Chairman

22 of the Council obviously and that she would have to play.

23 Q. 40 Yes?

24 A. A neutral role.

10:57:47 25 Q. 41 Yes. She had followed the Manager's advices to date, isn't that right?

26 A. Yes.

27 Q. 42 As recorded in the minutes that the manager firstly said that the O'Halloran,

28 Liam Cosgrave motion which might have been the saver for you was out of order,

29 that is the first decision that went against you, isn't that correct?

10:58:08 30 A. Yeah.

10:58:08 1 Q. 43 And the second decision was the pronouncement that because the Healy motion had
2 passed that the other motion failed as a consequence of that, isn't that right?
3 A. As the Chairman Mr. O'Neill, she had no option but to follow the strategic
4 technical advice.

10:58:24 5 Q. 44 Yes?
6 A. As to what was and was not in order, as per the Manager.
7 Q. 45 Right. We'll see on --
8 A. She did abstain on the vote.
9 Q. 46 Yes?
10:58:33 10 A. That took place ultimately.
11 Q. 47 Yes. We'll see at page 2097 then the next reference there.
12
13 There is a contact, firstly David Shubotham is on at 2:55
14 A. Uh-huh.

10:58:47 15 Q. 48 Followed by Brendan Hickey at three o'clock?
16 A. Uh-huh.
17 Q. 49 We will see Liam Lawlor's mobile phone there somewhere I think. Perhaps it was
18 the previous page?
19 A. The previous page, I think, Mr. O'Neill.

10:59:05 20 Q. 50 Yes, it was at 2:15?
21 A. 2:15, yes uh-huh.
22 Q. 51 Both Mr. Shubotham and Mr. Hickey were on to you in the afternoon. Is there
23 any circumstance in which you wouldn't have discussed with them the outcome of
24 what had taken place only an hour or so beforehand?
10:59:21 25 A. No, there is no such circumstance.
26 Q. 52 No. And do you have a recollection of being able to offer them any solace, any
27 suggestion as to how you might get around at what appeared to be that point
28 finality, from the Pennine Holdings point?
29 A. Yes, there are two ways, two things to use that in retrospect but not in
10:59:45 30 retrospect but in locale as well that I'd probably have said. The matter was

10:59:50 1 to all intents and purposes dead in the water.

2 Q. 53 Uh-huh?

3 A. There were, you didn't allude to it but I'm sure you you will. There were

4 motions or suggestions that matters be postponed until such time as a site

11:00:02 5 visit would take place.

6 Q. 54 Yes, that was the O'Halloran, Liam Cosgrave motion?

7 A. Correct.

8 Q. 55 Which failed?

9 A. Yeah, which failed. Actually, a site visit did ultimately take place.

11:00:13 10 Q. 56 We'll deal with that?

11 A. That really was of no consequence whatsoever. Everybody really knew that that

12 was of no consequence. Having a site visit for councillors to look at a site

13 that they knew quite a deal about already wasn't not going to change their

14 minds. It wasn't going to change the officials' minds. So therefore,

11:00:31 15 realistically the matter was dead in the water. And I think that I was

16 interviewed about this matter at the time. And I made some quotable quotes in

17 relation to what I thought was the outcome. I mean, that it was dead in the

18 water. So there is absolutely no doubt in my mind that in the context of my

19 relationship with DPHL, Davy Hickey Properties, and the two persons involved,

11:01:05 20 Mr. Brendan Shubotham and Mr. Brendan Hickey, either I on my own initiative or

21 at their request, would have reprised what had happened. And would have said

22 to them, look, the matter is to all intents and purposes finished.

23 Q. 57 Yes. Well, whilst that may be your recollection now, could I suggest that your

24 future actions over the next?

11:01:27 25 A. Uh-huh.

26 Q. 58 Two weeks or so from this date.

27 A. Yeah.

28 Q. 59 Would indicate that you pursued two possible avenues to undo the damage?

29 A. Correct.

11:01:37 30 Q. 60 Caused by that motion?

- 11:01:38 1 A. Yeah.
- 2 Q. 61 The first was to seek legal advice to see whether or not a legal challenge to
3 the Council decision can could be brought or could be engineered by somebody
4 else to be brought. And the other was to see whether or not the Council itself
11:01:53 5 could interpret its Standing Orders and regulations so as to permit for another
6 motion to be held on the issue, isn't that right?
- 7 A. That is correct.
- 8 Q. 62 So insofar as you were able to offer advices to Mr. Hickey and Mr. Shubotham,
9 on this date, in the afternoon after the meeting. Could I suggest that it
11:02:15 10 couldn't have been a conclusive view that there was no hope but rather it was
11 more likely to address the possibilities of undoing the harm by the two avenues
12 I've just mentioned to you?
- 13 A. Yeah. With the caveat I suggest, Mr. O'Neill, that any suggestion in relation
14 to legal advice about the technicalities of what the Manager had advised. I
11:02:38 15 don't recall, I don't specifically recall generating that idea. I know that
16 there was a motion put forward by a Councillor. And as I've said in my
17 statement, in discussions with this Councillor that it appeared to me that he
18 had friendly legal advice in relation to what might or might not be the case.
- 19 Q. 63 Yes?
- 11:03:00 20 A. But I don't have an exact recollection of discussing a procedure which would be
21 based on seeking legal advice. I think the realistic appreciation of what had
22 occurred was that the matter was dead. And anything that would take place
23 subsequently, by way of trying to alleviate that, would have been just like
24 Siscuss pushing the bolder up the hill.
- 11:03:29 25 Q. 64 All right. We'll examine some of the documentation which follows on this.
26 Just before we leave this day, the afternoon of the 27th. You'll see that you
27 were in touch with Mr. Gore Grimes or rather Mr. Gore Grimes was in touch with
28 you. He was asking you to call him at home that evening, indicating perhaps
29 the significance of the matters of the day. Do you believe that you probably
11:03:53 30 did contact him that evening?

- 11:03:55 1 A. Well, I think by virtue of the fact that he left a telephone number, that I
2 would have called him, yes.
- 3 Q. 65 Yes. And again I think this confirms Mr. Byrne's continuing interest in this
4 project and in particular the results of the motion that day, isn't that right?
- 11:04:12 5 A. I would say so, yes.
- 6 Q. 66 And Mr. Gore Grimes has given evidence that when he heard this information and
7 when he considered it, one of the matters that he was seeking to establish was
8 whether or not the Council's decision could be subject to judicial review. And
9 that that was of course that it occurred to him should be pursued and that in
10 amongst other things he sought legal advice in relation to it, isn't that
11 right?
- 12 A. Yes, I've seen Mr. Gore Grimes' evidence to that effect.
- 13 Q. 67 Yes. And we'll see that obviously the press coverage of it?
- 14 A. Yes.
- 11:04:52 15 Q. 68 Treated the matter as being a matter which was now a dead duck, isn't that
16 right?
- 17 A. Yes.
- 18 Q. 69 But in fact there were activities going on behind the scenes between yourself
19 and certainly Councillor O'Halloran and Mr. Liam Lawlor with a view to trying
20 to undo matters, isn't that right?
- 11:05:09 21 A. Yes, broadly speaking, yes.
- 22 Q. 70 We'll see that there were, I should say, in the following days a number of
23 contacts between Mr. Brendan Hickey and yourself. He phoned you on both the
24 29th and the 30th. That's the Thursday and Friday of that week. And by the
11:05:37 25 3rd of -- perhaps I'll just have a look at page 2137, which is a publication in
26 the independent newspaper. This was the -- just turn that if you would.
27
28 This was in effect a retraction of some of the information
- 29 A. Yeah.
- 11:06:02 30 Q. 71 Which had been contained within the Irish Independent article. Which had named

11:06:08 1 a number of persons who were said to be the investors in the consortium which
2 was intending to develop the Pennine Holdings lands. And this effectively was
3 retracting that, isn't that so?

4 A. That is correct.

11:06:25 5 Q. 72 It was also stating that the involvement of Davy Hickey stockbrokers was that
6 it was Davy Hickey, the property arm of stockbroking company Davy's that had
7 expressed an interest in the development but only if it was rezoned. Neither
8 Davy Hickey -- sorry, neither Davy Hickey stockbrokers nor Davy Hickey was
9 prepared to get involved in the rezoning process.

11:06:52 10
11 We may take it, I think you'll probably agree as somebody familiar with PR and
12 an element of the law also that where an apology is published in a newspaper it
13 generally is run by the person in whose favour the apology is being written,
14 isn't that correct

11:07:08 15 A. That's correct.

16 Q. 73 And they approve its contents. They certainly don't want to have a further
17 inaccuracy published in relation to them.

18
19 So whereas it's stated here that Davy Hickey is the property arm of Davy
11:07:22 20 Stockbrokers. That was something which they were prepared to accept at that
21 time apparently, isn't that right?

22 A. Yes.

23 Q. 74 And I think this was the first public statement on what the relationship was in
24 relation to Davy Hickey or Davy's and the project, isn't that right?

11:07:39 25 A. Yes. Other than the note that I highlighted for you on, I think, it was on
26 Friday.

27 Q. 75 Sorry, could you just keep your voice up a little, please, we're not quite
28 getting you?

29 A. I do apologise, sorry. Maybe I'll come closer to the microphone. The document
11:07:56 30 that I produced that we spoke about on Friday, was it Friday?

11:08:00 1 Q. 76 Yes?
2 A. Yes. That I had circulated saying that Davy Hickey Properties were property
3 consultants to the project.
4 Q. 77 Yes?
11:08:08 5 A. But that was for, I can't exactly tell you what consumption that was for.
6 Certainly it would have had consumption among residents associations and
7 councillors.
8 Q. 78 All right. But in relation to that document, what you were saying was that
9 Davy Hickey Properties Limited would be the project managers?
11:08:28 10 A. Correct.
11 Q. 79 They would be the people bringing the building to fruition?
12 A. Correct.
13 Q. 80 You weren't suggesting in your publication that they were going to be investors
14 in the project . In fact you were saying to the contrary?
11:08:39 15 A. Absolutely.
16 Q. 81 You, Pennine Holdings were the company that would conduct the development.
17 They would have a role on the purely technical rather than the investment side,
18 isn't that correct?
19 A. That's correct.
11:08:50 20 Q. 82 That isn't accurate because if it was to come to fruition, it would have been
21 Davy Hickey's who would have been providing finance rather than necessarily
22 building?
23 A. Absolutely, correct.
24 Q. 83 So it was, I'm not sure if disinformation is the appropriate word to use for
11:09:06 25 it, but it was selective information which was not complete and was intended to
26 create an impression which was not the reality, isn't that so?
27 A. That's correct, yes.
28 Q. 84 And it was for the consumption of the residents associations to try and ensure
29 that you were not shown solely as a speculator who was there to take the profit
11:09:29 30 as an entrepreneur between the ultimate builder and the landowner, but rather

11:09:35 1 that you did have an actual intention of building what was proposed in the
2 rezoning application contained within the blue book?

3 A. Correct.

4 Q. 85 Isn't that right? Which involved the construction of the golf course and the
11:09:46 5 hotel and the houses and the infrastructure and all of that, isn't that
6 correct?

7 A. That's right, yes.

8 Q. 86 Although what had been said in the article in the -- on the 27th was that there
9 was going to be a cherry picking exercise where you'd take on the residential
11:10:06 10 units of 75 acres at each end, build the 1,000 or 900 houses as the case may
11 be, and really leave the other matter in abeyance or for somebody else to
12 develop if they wished, isn't that right?

13 A. Yes, that was the general aura of what was said.

14 Q. 87 Yes. And obviously that was very damaging and you didn't publish it but
11:10:31 15 somebody else published it presumably with the intention of damaging the
16 enterprise. But do you know what the plan was at that time? What would have
17 happened?

18 A. If?

19 Q. 88 If you'd got the rezoning.

11:10:44 20 A. Oh, if --

21 Q. 89 Was there a plan to develop the housing end?

22 A. Yes. Yes. If the rezoning had occurred.

23 Q. 90 Uh-huh?

24 A. The arrangement in relation to Davy Hickey Properties involvement would have
11:10:57 25 kicked in. And there would have been development on the site as much in
26 accordance with what was outlined as was possible. Obviously, from an economic
27 point of view. People were putting money in.

28 Q. 91 Uh-huh?

29 A. From a capital investment point of view. They would be seeking a return. But
11:11:16 30 by and large, while I know this may sound excessively idealistic, people -- you

11:11:27 1 could not possibly go forward with a plan of the nature that was proposed
2 there, including the maps and the outlining of -- the specific outlining of
3 what would take place at both ends in relation to housing, in relation to
4 industry or business and a golf course. And resile from all of that totally.

11:11:46 5 Q. 92 Right.

6 A. You wouldn't get away with it.

7 Q. 93 Right. It was probably likely to be something that would be conditioned as
8 part of the planning permission?

9 A. Right.

11:11:53 10 Q. 94 That it would be a phased development. And that it would incorporate all of
11 the public amenity areas as well?

12 A. And it would be contingent as well, Mr. O'Neill, on the fact that the rezoning,
13 if it had taken place would have taken place in relation to specific segments.
14 In other words, housing in one section, business in another.

11:12:14 15 Q. 95 Yes. Now, the following Monday, which was Monday the 3rd of May there was an
16 article if we look to page 2176.

17
18 Again, I think in the independent newspaper under the authorship of Jody
19 Corcoran. "Legal doubts on ruling not to rezone land. Legal doubts have been
11:12:37 20 cast over Dublin County Council's decision not to rezone 400 acres of green
21 belt between Baldoyle and Portmarnock which have confirmed may reactivate plans
22 to develop the area. A Councillor claims his rights under the local authority
23 Standing Orders were breached in last week's meeting which voted by a massive
24 majority to retain the green belt.

11:12:59 25
26 We looked at the documentation which illustrates the fact that there was in
27 fact a Councillor and it was John O'Halloran, who was intending to bring a
28 motion in the terms expressed here and in general that would be a matter which
29 would be known only to him as of the 3rd. We'll see that on the 4th, the day
11:13:22 30 after this, documentation is lodged with Dublin County Council alerting them to

11:13:30 1 the content of this in effect saying that the decision was wrong, that it's
2 open to legal challenge. But this would appear to be a leak of information
3 ahead of the matter being known to Dublin County Council. And do you know how
4 that came to Mr. Corcoran?

11:13:48 5 A. No, I don't is the simple answer, Mr. O'Neill. I've had in the past I've had
6 many conversations with Mr. Corcoran. I don't recognise recollect having a
7 conversation with him in relation to this particular subject.

8 Q. 96 All right. We will see that you were aware of the fact that there was to be
9 such a motion brought before the Council, isn't that right?

11:14:14 10 A. Yes, that's correct.

11 Q. 97 And if we look to page 2144. We'll see a letter addressed to Ms. Therese
12 Ridge, Chairperson of the Council. And it's signed by John O'Halloran. It's
13 dated the 4th of May, the day after the press publication.

11:14:32 15 It says "I formally request you to bring this letter and the motion which
16 accompanies it to the attention of today's meeting of the Council called to
17 continue the review of the County Development Plan. On Tuesday 27 of April
18 last I proposed a motion which was duly seconded that a site meeting be held on
19 the lands between Baldoyle and Portmarnock. The subject of motions 5.1 and 5.2
11:15:00 20 G.2 as amended, prior to any decision being taken on the future uses of these
21 lands. This motion is similar to the motions taken with regard to the lands at
22 Carrickmines and in the Liffey Valley. On the advice of the Manager you
23 refused to put my motion to the Council for a vote thereby denying my rights
24 under the Council's Standing Orders to have my motion debated and decided upon.

11:15:19 25 I believe this refusal was a serious breach of the Council's Standing Orders
26 and as such calls into question the validity of the meeting and the decisions
27 taken. In support of my claim that your decision was in breach of Standing
28 Orders, I refer you to a similar motion to defer consideration of a duly
29 proposed item on the agenda of last Thursday's meeting, the 29th of April, of
11:15:39 30 the Draft Development Plan Review, which having been first ruled out of order

- 11:15:44 1 was subsequently taken and voted upon and the ruling was challenged and the
2 relevant standing order quoted and upheld. I therefore request you as
3 Chairperson to put the attached motion to this morning's meeting".
4
- 11:15:55 5 In effect that is bringing into play what was anticipated or published earlier
6 in the letter to Mr.-- or the release by Mr. Corcoran, isn't that right?
7 A. That's correct.
8 Q. 98 And what was intended by this letter and the motion which accompanied it is
9 contained within the letter. And that is an attempt to upend all of the
11:16:17 10 decisions which were taken on the 27th. And if that had been successful, of
11 course, you were back in play, isn't that right?
12 A. Correct, yes.
13 Q. 99 And I take it that that was the intention, your intention, insofar as you
14 participated in this motion being brought, isn't that so?
11:16:33 15 A. That is correct.
16 Q. 100 And you did in fact have a role to play in it, isn't that correct?
17 A. That's correct.
18 Q. 101 And we'll see that on the following page now, page 2145. There is a copy of
19 the motion?
11:16:46 20 A. Uh-huh.
21 Q. 102 Which is signed by Mr. O'Halloran. It's dated the 4th of May. And it is a
22 motion which we know is signed by one only of the two signatories of the motion
23 which found itself with the Council?
24 A. That's correct.
11:17:05 25 Q. 103 Isn't that right? And this document, its source is from files which were
26 originating, originated by you?
27 A. That's correct.
28 Q. 104 So that you had a copy of this motion before the Council had it?
29 A. Correct.
11:17:20 30 Q. 105 And you had it from Mr. O'Halloran.

- 11:17:22 1 A. Well, yes, for ease of reference. The motion was generated in my office.
- 2 Q. 106 I see. And is that your office in Mount Street?
- 3 A. In Mount Street, yes.
- 4 Q. 107 I see. And was Mr. O'Halloran present at the time?
- 11:17:35 5 A. He was present at some stage.
- 6 Q. 108 Yes?
- 7 A. In the context of the preparation of the motion and/or the letter, a point I
- 8 was going to make to you when you had the letter on the screen.
- 9 Q. 109 Yes?
- 11:17:48 10 A. Yes.
- 11 Q. 110 Was it typed in your office also?
- 12 A. The likelihood is, yes it was typed in my office, yes. I think the formatting
- 13 of it and the very fact that it's addressed to Therese Ridge and it just says
- 14 Chairperson, Dublin County Council. There's no address. This was obviously
- 11:18:06 15 going to be handed to her.
- 16 Q. 111 Yes. On the 4th which was the day of the motion.
- 17 A. Yes.
- 18 Q. 112 With you it had taken a bit of time to work-out this strategy, isn't that
- 19 right?
- 11:18:15 20 A. Yes.
- 21 Q. 113 And whilst the motion that we see on screen was prepared in your office?
- 22 A. Uh-huh.
- 23 Q. 114 Can you remember if it was signed by Mr. O'Halloran in your office or
- 24 otherwise?
- 11:18:29 25 A. I can't absolutely say that it was.
- 26 Q. 115 Right?
- 27 A. But his signature was obtained obviously but I can't absolutely say that it
- 28 was. The background to the preparation of the motion.
- 29 Q. 116 Yes?
- 11:18:40 30 A. And/or the letter obviously originating out of John O'Halloran's motion

- 11:18:46 1 together with Liam Cosgrave.
- 2 Q. 117 Yes?
- 3 A. Previously. Mr. Lawlor would have been in consultation with me in relation to
- 4 the possibilities of this being an option.
- 11:18:57 5 Q. 118 Yes. Well this could only be an option, obviously, if you harnessed the
- 6 support of Mr. O'Halloran to it?
- 7 A. Correct, yes.
- 8 Q. 119 He had to be in agreement with you that this was the way in which your Pennine
- 9 Holding motion would find itself back on the agenda?
- 11:19:15 10 A. Yes. Just for context.
- 11 Q. 120 Yes?
- 12 A. Too, Mr. O'Neill. I think it's important from the logical impercal way in
- 13 which you are dealing with matters. That is when Mr. O'Halloran and
- 14 Mr. Cosgrave put the motion that they did in the Council Chamber that the --
- 11:19:34 15 which was defeated. I do not recollect other than having some on going
- 16 conversation with everybody involved at the time, either during breaks in the
- 17 Council. But I do not have a recollection of directing John O'Halloran or Liam
- 18 Cosgrave to put that motion. I think John O'Halloran of his own initiative,
- 19 seeing what was occurring on the floor, very sharply and intuitively saw what
- 20 was going to happen and tried to obviate it.
- 11:20:02 21 Q. 121 Yes. But as regards getting his motion back on the agenda in the manner in
- 22 which we see this motion intends to do. That was the result not of
- 23 Mr. O'Halloran's sole?
- 24 A. Oh, no.
- 11:20:20 25 Q. 122 Continuation of what he had intended to achieve at the earlier motion. But
- 26 rather it was a combined effort of yourself, himself and Mr. Lawlor, isn't
- 27 that?
- 28 A. So correct, yes.
- 29 Q. 123 And was Mr. Lawlor, were three of you present on any one occasion?
- 11:20:34 30 A. No, I don't recollect ever Mr. Lawlor and Mr. O'Halloran being present together

- 11:20:39 1 with me in relation to any motions in relation to.
- 2 Q. 124 We'll see that this particular motion ultimately is signed by Councillor
3 Gilbride before it goes before the motion?
- 4 A. Yes.
- 11:20:51 5 Q. 125 Before the meeting, I should say, on the 4th. And I take it you achieved that,
6 did you?
- 7 A. Yes.
- 8 Q. 126 You went to him with the motion already signed by Mr. O'Halloran, I would
9 think, because you kept one copy of it on your file or a photocopy perhaps.
- 11:21:06 10 And you then had him sign the other copy?
- 11 A. Yes, on the basis that normally, though legally it didn't -- it wasn't
12 necessary. One signature was sufficient legally.
- 13 Q. 127 Yes?
- 14 A. But normally two signatures were appended.
- 11:21:22 15 Q. 128 Right. This particular motion then was going to find itself debated, subject,
16 of course, to what the Manager had to say at the meeting on the 4th, isn't that
17 right?
- 18 A. That's correct, yes.
- 19 Q. 129 And on the 4th effectively it was adjourned until the 6th. No determination as
20 to whether it was valid or otherwise was made at that time, isn't that right?
- 11:21:40 21 A. That's correct, yes.
- 22 Q. 130 The validity of it was a matter to be considered on the 6th by the Chairman and
23 by the officials?
- 24 A. And by the officials.
- 11:21:56 25 Q. 131 Though they could not be the final determinant of it. It would be the Chairman
26 that would make a ruling and that was an important function for Councillor
27 Ridge, as far as you were concerned at the time, isn't that right?
- 28 A. Yes.
- 29 Q. 132 Why do you know did you not go to Councillor Liam Cosgrave who had been the
30 original promoter. I should say that the seconder of Councillor O'Halloran's
- 11:22:13

- 11:22:19 1 motion on the 27th, and more or less in identical terms to this motion?
- 2 A. Yes. That I can't recall other than in the hub bub of activities that were
- 3 taking place. Because of Sean Gilbride's stated and signed support in relation
- 4 to the totality, the Baldoyle Portmarnock, that he obviously, he may well have
- 11:22:42 5 been more available. I just cannot account for the fact that I did not go back
- 6 to Liam Cosgrave.
- 7 Q. 133 Yes?
- 8 A. But as I said to you, I cannot say definitively in relation that motion on the
- 9 floor by councillors O'Halloran and Liam Cosgrave, that I actually generated
- 11:22:59 10 that with both of them. I certainly had conversations with them and with lots
- 11 of them. But I believe it was John O'Halloran's initiative on his own.
- 12 Q. 134 Right. When you were talking to Councillor Cosgrave, that's Councillor Liam
- 13 Cosgrave, about that motion, either before it was put forward or subsequent to
- 14 it, did that play any part in your decision to pay him the sum of 1,000 pounds
- 11:23:26 15 or had you already paid him?
- 16 A. No.
- 17 Q. 135 1,000 pounds by then?
- 18 A. Well, I cannot say definitively that I had already paid him. But on the basis
- 19 that I outlined to you on Friday in relation to support. Councillor Cosgrave
- 11:23:40 20 was a supporter of the motion. He was very much in favour of it in the context
- 21 of my being personally involved. And I hereto promised him or maybe had paid
- 22 him at that stage, I cannot definitively say. But certainly the question of
- 23 money would have been discussed.
- 24 Q. 136 Right. And the involvement then of Councillor Gilbride was probably solely on
- 11:24:01 25 the basis that he happened to be handy at the time to sign this document isn't
- 26 that the position?
- 27 A. Well, again, given the nature of my involvement with Dublin County Council and
- 28 the frequency with which I attended and the meetings that I had with Sean
- 29 Gilbride, were normally -- I had met Mr. Councillor Gilbride at his home. But
- 11:24:30 30 normally and I think the telephone records from him to my office indicate that,

- 11:24:30 1 that meetings normally took place in Dublin County Council and I either rang
2 him, ran into him, had a discussion with him about it and asked him to append
3 his signature.
- 4 Q. 137 And while he was an initial signatory to the first motion, which was withdrawn?
- 11:24:44 5 A. Yes.
- 6 Q. 138 And he was a signatory to this motion. He's not one of the persons who you
7 name?
- 8 A. No.
- 9 Q. 139 As being a person whom you paid money to?
- 11:24:52 10 A. Correct.
- 11 Q. 140 Although you have paid him money, isn't that right?
- 12 A. Yes.
- 13 Q. 141 And how do you indicate why it was that you paid him money in some instances
14 and not in this instance, given that he was a signatory to both of these
11:25:04 15 motions?
- 16 A. Firstly in, the first instance the matter didn't arise. I mean, it wasn't
17 raised by him. I have given evidence to the effect in relation to other
18 Modules that issues were raised by -- money issues were raised by him and
19 presumably in future Modules we will have an opportunity of looking at that as
11:25:24 20 well. But in this particular Module I think he considered his role as a
21 personal -- a personal supporter. He was already in receipt of significant
22 monies from me at that stage and that he regarded this as something of doing
23 something for me.
- 24 Q. 142 Right. Is that because of your personal identification qua developer in this
11:25:50 25 project?
- 26 A. Yes.
- 27 Q. 143 As opposed to as promoter as you were in others. Is that the reason?
- 28 A. Yes.
- 29 Q. 144 Why you think you weren't asked for money?
- 11:25:58 30 A. Yes. And I think the point I made in relation to your incisive question last

- 11:26:03 1 Friday in relation to whether councillors would differentiate between my role
2 as a developer or as a front man.
- 3 Q. 145 Yes?
- 4 A. The very fact that I was associated with it and had promoted myself as being
11:26:19 5 the promoter would have given a lot of councillors the idea that they should
6 help.
- 7 Q. 146 And also that they shouldn't ask you for money in this one instance?
- 8 A. Yes, but as I have given evidence to the effect that that didn't apply in all
9 instances.
- 11:26:42 10 Q. 147 Well, in the event that any of the three councillors whom we've been discussing
11 this morning had asked you for money, that is Councillor Gilbride or Councillor
12 Michael Joe Cosgrave or Councillor Creaven what would your reaction have been?
- 13 A. Well, I would have given ...
- 14 Q. 148 We'll see at page 2143 there is a copy of the motion which was actually
11:27:08 15 submitted to the Council, though there are manuscript additions to it.
16
17 If we ignore the manuscript and just look to the signatures firstly. Sean
18 Gilbride has signed under John O'Halloran here.
- 19 A. Yes.
- 11:27:20 20 Q. 149 And the origin of this document is from DCC planning. It came by way of a fax
21 from there. And if we now look to the manuscript additions, which are here.
22 Do you know whose writing that is?
- 23 A. No, I'm just looking at the totality of it, Mr. O'Neill, just to make sure.
24 None of the writing is mine.
- 11:27:42 25 Q. 150 It is documentation which came from your files?
- 26 A. Yeah.
- 27 Q. 151 I'm just wondering if?
- 28 A. None of the writing is mine. It could well be either the Chairman's
29 handwriting, Therese Ridge's handwriting.
- 11:27:56 30 Q. 152 There is a reference, I should say, to a fax document coming over from Ann, who

- 11:28:02 1 is Mr. Lawlor's secretary, on the 5th?
- 2 A. Uh-huh.
- 3 Q. 153 I'm wondering if these documents -- these documents were received by you, I
- 4 should say, firstly. Because they are coming from your file?
- 11:28:14 5 A. Correct.
- 6 Q. 154 So they either had been faxed in the first instance to you from DCC, in which
- 7 case, presumably it would be some member of the Council would have used the fax
- 8 facilities in the Council to send it to you. Or else it could have gone to an
- 9 intermediary and then been faxed from there to you?
- 11:28:35 10 A. Yes.
- 11 Q. 155 With perhaps a different fax tracking on it, I'm not sure?
- 12 A. Well I have no -- I can't see the top of the page. I don't know what the
- 13 genesis of it is. Well it's DCC.
- 14 Q. 156 It's DCC. That's the only decipherable one. I'm not sure if there was another
- 11:28:53 15 trace other than that one. Some person is making commentary on it here you
- 16 will see. And then if we look to the next page, at 2146.
- 17
- 18 This seems to have been an earlier draft of the motion that Mr. O'Halloran was
- 19 going to sign. You see that
- 11:29:16 20 A. Yes.
- 21 Q. 157 And this one is signed Liam Cosgrave?
- 22 A. Yes.
- 23 Q. 158 I'm not sure whether this was the motion on the 27th or whether it is the one
- 24 which was being dealt with on the 4th.
- 11:29:34 25 A. Yes, it relates to the site visit. Can't help you there.
- 26 Q. 159 What about the handwriting beneath it there?
- 27 A. No, none of it is mine. None of that handwriting is mine.
- 28 Q. 160 Somebody is carrying out a form of analysis here as to what the deficiencies
- 29 were in the decision making process of the Council because it says because it
- 11:29:56 30 purports to defer and attaches conditions to the deferral which are so loose

- 11:30:00 1 that they may never be fulfilled sine die fixed date or to fixed further
2 meeting without conditions contrary to 34.D, which is a reference to the
3 Standing Orders of the Council, isn't that right?
- 4 A. I would suggest, I mean, it's just merely a suggestion, Mr. O'Neill.
- 11:30:21 5 Q. 161 Yes?
- 6 A. But given the language alone I suggest that may well be the comments of an
7 official.
- 8 Q. 162 From an official. If it was generated by an official there was no official in
9 communication with you, was there?
- 11:30:34 10 A. No, none what so.
- 11 Q. 163 Though this documentation finds itself in your file?
- 12 A. Correct.
- 13 Q. 164 Somebody who is entitled to get official documentation, obtained it and sent it
14 to you for comment or certainly for you to consider in the course of your
11:30:48 15 strategy as to how to deal with matter, isn't that right?
- 16 A. Yes. And I don't recognise any of the handwriting as being that of anybody
17 that I know.
- 18 Q. 165 Now, you may know that Mr. John O'Halloran has stated to the Tribunal that in
19 relation to the motions which he brought in relation to the extension of the
11:31:14 20 period for consideration of the Baldoyle lands so as to allow for a site
21 meeting to take place, that all of that was of his own thinking, that he
22 received no assistance whatsoever from anybody, that he didn't consult with
23 anybody, and that the work was exclusively his. I take it that that cannot be
24 true in the light of your evidence?
- 11:31:35 25 A. Well, it certainly cannot be true both in the light of my evidence and in the
26 light of the documentation that we have seen.
- 27 Q. 166 Well, it is confirmatory or otherwise. But as regards your evidence, it is
28 untrue?
- 29 A. Yes.
- 11:31:50 30 Q. 167 Yes. Mr. O'Halloran, as you say, is one of the councillors who didn't receive

11:32:00 1 the payment that you indicated was made in this instance by means of a 1,000
2 pound individual payment related to Pennine Holdings, Baldoyle. But rather it
3 was part of the 5,000 pounds that you paid him as part of a composite sum,
4 isn't that right?

11:32:19 5 A. Yes, that is correct.

6 Q. 168 And again, trying to date when it was that you paid that composite sum. Can we
7 take it that it was prior to the dates we're considering here in early May of
8 1993?

9 A. No.

11:32:32 10 Q. 169 No. It could be subsequent?

11 A. Yes.

12 Q. 170 Right. The letter that you referred to as having emanated you believe probably
13 from your office on the 4th of May and signed by Councillor O'Halloran was
14 received by the Chairman and she in turn sought the advice of the Manager as
11:33:12 15 she would in her capacity as Chairman. And we'll see that response at page
16 2180.
17
18 Where the Manager Albert Smith. Sorry, he was principal officer at that time,
19 was replying as follows.

11:33:28 20
21 "Dear Chairman, I refer to the letter dated the 4th of May which you received
22 from Councillor J O'Halloran. At its meeting of the 20th the Council in
23 dealing with the matters had on its agenda a motion submitted by Councillor
24 Healy to the following effect" and we know what that was, I won't read it. "IT
11:33:45 25 also had object on the agenda a motion by councillors Creaven and MJ Cosgrave
26 in the following terms", that was motion No. 2 in its amended form, isn't that
27 right

28 A. That's correct, yes.

29 Q. 171 Then he goes on in the next page 2181, 'at the following meeting held on the
11:33:59 30 21st, Councillor Cosgrave indicated he wished to move that consideration of

11:34:04 1 "it" be deferred'. It was not clear from the wording used by Councillor
2 Cosgrave what exactly he wished to have deferred. And he was asked to clarify
3 the matter and it was pointed out that if it was only his motion that he was
4 proposing to defer Councillor Healy's motion would remain on the agenda to be
11:34:22 5 dealt with. Councillor Cosgrave indicated that he was seeking to defer the
6 motion only in the name of Councillor Creaven and himself before a vote was
7 taken on this proposal. It was again indicated to the members that in the
8 event of the motion being passed Councillor Healy's motion would remain to be
9 considered. A vote was then taken. The vote -- the motion was deferred to not
11:34:46 10 later than the 15th. As Councillor Healy's motion was on the agenda on the
11 question of the green belt and agricultural zoning it continued. This was at
12 this point that Councillor O'Halloran moved the motion in those terms. I
13 advised the Council, Mr. Smith was present at the meeting, that the tradition
14 of the Council had been if a Councillor moved a motion it would not be deferred
11:35:09 15 if he dissented.
16
17 In response to a further query from you, that is Councillor Ridge. I advised
18 that in my opinion Councillor O'Halloran's motion was not in order. And the
19 subsequent meeting on the 29th deals with a motion put forward by Councillor
11:35:25 20 Owen. And that was a motion which was treated in a different manner and was to
21 be the basis of Mr. O'Halloran's subsequent complaint that he had been treated
22 a manner different from another member.
23
24 At page 2182. Mr. Smith says I am of the opinion still that the advice I gave
11:35:44 25 you on the 27th was correct. Namely, that Councillor O'Halloran's motion was
26 in order. It's certainly in my view not in accordance with the practice of the
27 Council having been followed to seek deferral of a motion which a councillor
28 had moved that motion wished to have brought to a Council and on the strict
29 reading of the standing order which is that what Councillor O'Halloran was
11:36:04 30 relying on, his motion as presented does not specify a fixed date nor does it

11:36:10 1 propose that the matter be adjourned sine die.
2
3 That may well explain why there are subsequent handwritten amendments on the
4 document which have we've just looked at, which was critical of the fact that
11:36:25 5 even in its amended or in its new form the motion didn't comply with the rules
6 because it wasn't specifying a date, isn't that correct?
7 A. That's correct.
8 Q. 172 So there were procedural and technical matters which you I take it were not
9 familiar with at the time you came to assist in the drafting of the motion
11:36:42 10 which was put forward in the name of Councillor O'Halloran?
11 A. Correct.
12 Q. 173 But it's corrected here by the Manager and is subsequently amended by
13 Councillor O'Halloran to try and get over that difficulty, isn't that right?
14 A. That's right.
11:36:55 15
16 JUDGE FAHERTY: Mr. O'Neill, sorry to interrupt you. Line 20 of the
17 transcript you were quoting from the Manager's letter.
18
19 MR. O'NEILL: Yes.
11:37:02 20
21 JUDGE FAHERTY: And you said namely that Councillor O'Halloran's motion was in
22 order, instead of not in order.
23
24 MR. O'NEILL: I see.
11:37:07 25
26 JUDGE FAHERTY: I just -- I am just alerting that.
27
28 MR. O'NEILL: I'm obliged.
29
11:37:11 30 JUDGE FAHERTY: So that it can be corrected.

11:37:14 1

2 MR. O'NEILL: The Manager was taking a consistent view throughout?

3 A. That's correct.

4 Q. 174 That this matter was not in order. In deed, we'll see that having analysed in

11:37:26 5 detail for the Chairperson the letter which had been written by Councillor

6 O'Halloran and the motion which accompanied it, Mr. Smith wrote again on the

7 6th, which was the day of the resumed motion at page 2186.

8

9 "Dear Chairman, I would also have to advise you that in my opinion, Councillor

11:37:49 10 O'Halloran's second motion", this is the one you say, you were instrumental in

11 drafting. "Would not be in order for the same reasons as his first motion.

12 The first motion being the one dealt with on the 27th. And also because it is

13 proposing to deal with matters which have already been decided on by the

14 Council".

11:38:08 15

16 Isn't that right

17 A. That's correct.

18 Q. 175 So they are consistently putting forward the position that it has been dealt

19 with, it cannot be reopened, and you are endeavouring, in this instance,

11:38:22 20 through the efforts of Mr. O'Halloran, to have that matter undone by bringing a

21 motion before a new meeting on the 6th, isn't that right?

22 A. That's right.

23 Q. 176 And that is not the only avenue you're pursuing. Because you're also meeting

24 with counsel, briefing him in relation to the circumstances and seeking an

11:38:46 25 opinion on the validity of the matter. You meet with Mr. George Birmingham,

26 barrister, on the 5th of May?

27 A. In the offices of.

28 Q. 177 Well the, I'm not sure where you met him. The attendance that you have seems

29 to suggest that it may have been in the Shelbourne bar at five o'clock on the

11:39:11 30 5th. You see that at page 2139.

11:39:20 1
2 Five o'clock George Birmingham, Shell Bar.

3 A. Yes.

4 Q. 178 Right. Wherever it was that you met with him, you obviously briefed him in
11:39:42 5 detail with what had taken place. And you had available to you certain
6 documents, though you wouldn't have a typed minute by then, isn't that right?

7 A. That's correct.

8 Q. 179 But you were able to recount to him the full details as are reflected in his
9 opinion, which was provided to you on the 6th of May, the following day, at
11:39:57 10 page 2195.
11
12 I have been asked to advise Pennine Investments Limited, which I think might
13 indicate that you weren't yourself quite clear as to what the title of the
14 entity was, it was Pennine Holdings that was in fact the limited liability
11:40:17 15 company
16 A. Yes.

17 Q. 180 But Pennine and East View were names which I think were being bandied about
18 between yourself and the others involved in this project and the exact legal
19 nature of that entity wasn't particularly relevant to you at the time, isn't
11:40:34 20 that right?
21 A. Precisely.

22 Q. 181 I think we can move to the summary of conclusions of Mr. Birmingham, at page
23 2197.
24
11:40:43 25 Where he says in summary it's my view that the decision taken on Councillor's
26 Michael Cosgrave's motion by necessary implication involved a deferral of
27 Councillor Healy's motion and that Councillor Healy's motion should not have
28 been taken. It's also my view that Councillor O'Halloran is entitled to have
29 his motion for deferral considered and finally I am of the view that Councillor
11:41:05 30 Cosgrave and Creaven are entitled to have a specific decision of their proposal

- 11:41:10 1 to their rezoning. Nothing further occurs to me.
- 2
- 3 So, if this was to be ultimately the opinion adopted by the Council's own legal
- 4 advisors you'd be back on track with your proposals, isn't that correct
- 11:41:26 5 A. Correct. And again, if I may say so, Mr. O'Neill in, the context of
- 6 Mr. Birmingham and that document. I think some of the amendments are in my
- 7 writing and I think the date is in my handwriting on the bottom of it.
- 8 Q. 182 Yes?
- 9 A. And I think the advice sought from Mr. Birmingham, the genesis of that came
- 11:41:46 10 from Gore Grimes.
- 11 Q. 183 Yes. Although it's clear that you met?
- 12 A. Yes.
- 13 Q. 184 With him. And I think we'll see that the opinion went to you?
- 14 A. Yes.
- 11:42:03 15 Q. 185 Although Gore Grimes are effectively acting on Mr. John Byrne's behalf?
- 16 A. Correct.
- 17 Q. 186 And it seems Mr. Byrne may well have also received a copy of this opinion. So
- 18 that to some extent Mr. Birmingham was astride two interests here. His and
- 19 your's. Your's and Mr. Byrne's which were synonomous at this time?
- 11:42:29 20 A. Yes.
- 21 Q. 187 Can you tell me whether this opinion was received on the morning before this
- 22 meeting was to take place. I take it it would be very material to know what
- 23 counsel's opinion was in advance of the meeting?
- 24 A. Yes.
- 11:42:41 25 Q. 188 Obviously, whatever the councillors were going to advance to the meeting could
- 26 well be based on this or this could be used to influence the strategy which
- 27 would be involved. I take it that was the purpose of getting the meeting at
- 28 the time?
- 29 A. Yes.
- 11:42:55 30 Q. 189 Sorry, the opinion?

11:42:56 1 A. The opinion.

2 Q. 190 At the time, isn't that right?

3 A. Yes.

4 Q. 191 And we'll see at page 2198.

11:43:02 5

6 That it went to Mr. Gore Grimes. This is an unsigned letter from

7 Mr. Birmingham. And from his records it says, to go to Frank Dunlop only with

8 a compliments slip and also we have there Mr Byrne's fax number in the UK

9 beneath that. And we know that the document was faxed to him also.

11:43:23 10

11 Although the copy that we read was your own copy with a couple of annotations

12 on it, isn't that right?

13 A. Yes.

14 Q. 192 And the date the 6th?

11:43:31 15 A. Yes, I'm not clear and I apologise because I'm not clear. I'm not clear as to

16 who gave me the document, whether Mr. Birmingham gave me the document or

17 Mr. Gore Grimes gave me the document. But certainly the document that I got.

18 I received it on the 6th at some time during the course of the 6th. Because

19 the 6th of -- the 6th is in my handwriting.

11:43:54 20 Q. 193 Yes?

21 A. And some of the amendments made to the document. In other words the spellings

22 in relation to people's names and particular is in my handwriting.

23 Q. 194 Yes. And you were getting really a copy here which was unproofed, to say the

24 least?

11:44:09 25 A. Yes.

26 Q. 195 And unsigned by councillors, subsequently a signed version. So you were

27 getting something hot off the press and the urgency for that being that there

28 was an eminent meeting before the Council to take place that morning. And I

29 think the Chairman was guided by what was said in this opinion, isn't that

11:44:36 30 right?

- 11:44:36 1 A. Yes.
- 2 Q. 196 And I take it that it follows from that that you had discussed with her in
3 advance of the meeting the advices that you had received by counsel and you
4 were indicating, no doubt, that you had legal support for the principle that
11:44:45 5 her decision in the first instance was erroneous, isn't that right?
- 6 A. Yes.
- 7 Q. 197 And we'll see that this matter comes then before the Council at the meeting on
8 the 6th. I think we can probably skip to page 2193 of the minutes of the
9 meeting. The earlier page is merely recite the content of each of the letters
11:45:22 10 that we've seen and considered up to now, so far.
- 11
- 12 We'll see at page 2193, after the meeting had resumed with the quorum, the
13 Manager again advised that the motions before the meeting were out of order.
14 The Chairman informed the members that because there was a doubt as to the
11:45:41 15 correctness of her decision and ruling the motion proposed by Councillor
16 O'Halloran, seconded by Councillor Liam Cosgrave out of order at the meeting of
17 the 27th. She was ruling the motions now before the Council in order but that
18 all decisions taken by, in relation to the matter would be referred to the law
19 agent for advice. The chairman then directed that a vote be taken. The
11:46:05 20 following amendment proposed by Councillor O'Halloran and seconded by
21 Councillor Gilbride was put and on a decision the voting resulted as follows.
22 The motion be amended by the addition of the words "the site visit to take
23 place on Tuesday May 18th May 1993" I think that was to get over the breach of
24 the rules that the motion couldn't be voted upon on a sine die basis there had
11:46:29 25 to be a specific date. It's now inserted by this amendment, then voted upon
26 and carried for 33 and against four and abstentions one. I think that that
27 reflects the fact that there was a significant abstention or sorry
28 non-attendance at the time this vote was put, isn't that right?
- 29 A. Yes, none attendance rather than abstention.
- 11:46:53 30 Q. 198 The non-attendance I think stemmed from the fact that there had been

- 11:46:57 1 considerable disorder in the chamber before this incident. And members of the
2 Labour Party, Progressive Democrats, The Workers Party and some other
3 individuals declared that the process was illegal to ineffect re-enter the
4 matter on the agenda given Standing Orders and they walked out, isn't that
11:47:15 5 right?
- 6 A. Yes.
- 7 Q. 199 So effectively all that was left was those in support with the exception of
8 four. And they all voted it in favour. And the effect of that was to put the
9 question of Pennine Holdings green belt rezoning back on the agenda, isn't that
11:47:31 10 right?
- 11 A. That's correct.
- 12 Q. 200 So to that extent, there had been success to that point, isn't that right?
- 13 A. Uh-huh.
- 14 Q. 201 And unless there was going to be a contrary opinion offered by the law agent of
11:47:44 15 the Council as to the appropriateness of Councillor Ridge's decision as
16 Chairperson, you were safe?
- 17 A. Well, in the context of a site visit, yes.
- 18 Q. 202 Well, if the question of reconsidering the zoning at all was back on the
19 agenda?
- 11:48:04 20 A. Yes.
- 21 Q. 203 Everything was back on the agenda?
- 22 A. Yes. Yes, I accept that, Mr. O'Neill, absolutely.
- 23 Q. 204 Yes?
- 24 A. But I suppose the real point that I wanted to make here in relation to this was
11:48:14 25 in the context of Therese Ridge as the Chairperson, in the context of the
26 letters that you put forward from the Manager or the planning officer
27 Mr. Smith, to her, in relation to what he perceived to be a correctness of the
28 view that he had taken. She, as Chairperson, would normally follow the advice.
- 29 Q. 205 Yes?
- 11:48:40 30 A. Of the Manager. Now, we have a scenario on the 6th of May where she appears to

- 11:48:47 1 be going contrary to the Manager's advice.
- 2 Q. 206 Yes. She in effect in making the decision we have seen here has resiled from
- 3 the earlier decision?
- 4 A. Correct.
- 11:48:57 5 Q. 207 She made on an identical motion beforehand?
- 6 A. Correct.
- 7 Q. 208 Isn't that right? And the only intervening things that have happened is,
- 8 firstly, there's been the passage of time from the 27th until the 6th, isn't
- 9 that right?
- 11:49:11 10 A. Correct.
- 11 Q. 209 The Manager's advice, sorry, the planning officer's advice has not changed?
- 12 A. No.
- 13 Q. 210 It has reaffirmed on reflection what has taken place -- that what took place on
- 14 the 27th was accurate?
- 11:49:26 15 A. Uh-huh.
- 16 Q. 211 But she has had the benefit of the counsel's opinion through you?
- 17 A. Correct.
- 18 Q. 212 To the effect that her decision was wrong?
- 19 A. Correct.
- 11:49:35 20 Q. 213 And she seems to have moved on that opinion and revised her view?
- 21 A. Yes, I have a recollection of speaking with Therese Ridge in relation to the
- 22 matter and because she and George Birmingham would have been at that time, I
- 23 don't know of what the current situation is, so please forgive me, I'm not
- 24 making any imputations about political allegiances in relation to barristers
- 11:50:00 25 but at that time both of them would have been of a particular persuasion and
- 26 she was very well disposed to his view.
- 27 Q. 214 The effect of it then is that the matter, there is a foot in the door, if I can
- 28 put it that way. The door has been opened again. And certainly it is so
- 29 interpreted I think by those who disapproved of that decision?
- 11:50:28 30 A. Yes.

11:50:28 1 Q. 215 Having been taken. And their views are reflected in press coverage at the time
2 which perhaps though not technically accurate, gave the flavour of what was
3 current at the time. And that was that the green belt vote was overturned.
4 We'll see that in an Evening Herald publication at page 2208 on the 7th of May.
11:50:56 5 Move gives new hope to Baldoyle house plan?
6 A. Yes.
7 Q. 216 The controversial bid to build on Baldoyle green belt has been resurrected
8 because of a row over procedure at County Council meeting. Last week
9 councillors voted to preserve the entire green stretch between Baldoyle and
11:51:14 10 Portmarnock, effectively vetoing the plan to develop part of the 450 acres site
11 for five years. But now the Council's law agent is to decide if a vote taken
12 yet to hold a Council meeting on the green site -- sorry on the site over turns
13 the green belt decision.
14
11:51:34 15 So that was the position as of that date, isn't that correct
16 A. Correct.
17 Q. 217 Obviously, this was good news for all concerned. And something that would have
18 been welcomed by both Mr. Lawlor and also Mr. Byrne's interests, isn't that
19 right?
11:51:56 20 A. That's correct.
21 Q. 218 But one had to build on the first step of getting back in and try and ensure
22 that the matter now came back on track, isn't that right?
23 A. Correct.
24 Q. 219 And I think to that end, you met with Mr. Lawlor and the representative of
11:52:13 25 Mr. John Byrne on either the 7th or the 8th of May. But certainly after the
26 meeting, isn't that right?
27 A. That's right.
28 Q. 220 And we'll see at page 2210. An attendance which was taken by Mr. Byrne's
29 solicitor Mr. John Gore Grimes. It's dated the 8th of May and it says
11:52:31 30 attending a meeting from 9:30 to 10 with Frank Dunlop and Liam Lawlor to

- 11:52:35 1 discuss the proceedings of yesterday based on Council's opinion. Now, the
2 meeting was on the 6th so we're not clear as to whether this attendance is an
3 attendance properly of the 7th rather than the 8th. In any event it's dated
4 the 8th. Councillor O'Halloran is now introducing a motion to say that
- 11:52:56 5 Mr. Healy's motion was completely without foundation. That was Mr. Gore
6 Grimes' interpretation of what was being processed. And he obviously was
7 learning of this through what you were telling him or Mr. Dunlop -- Mr. Lawlor
8 was telling him, isn't that right?
- 9 A. That's correct.
- 11:53:12 10 Q. 221 The letters are to be drafted over the weekend and Mr. Lawlor and Mr. Dunlop
11 are to come in to see me on Monday and I am to check the legal implications of
12 these letters.
13
14 This is part of the ongoing strategy then that there would be, firstly,
11:53:30 15 agreement and consensus between Mr. Byrne's interests and the Pennine interests
16 and Mr. Lawlor and yourself, whatever interests you're representing
- 17 A. Correct.
- 18 Q. 222 Going forward, isn't that correct?
- 19 A. Correct.
- 11:53:43 20 Q. 223 And that involved you and Mr. Lawlor performing certain tasks and Mr. Gore
21 Grimes to perform others subsequently. And that involved the drafting of
22 documentation. And we'll see that the documentation which was intended to be
23 drafted was a chain of correspondence or an exchange of correspondence which
24 was to emanate on its face from councillors MJ Cosgrave and Creaven and to be
11:54:12 25 responded to by the Chairperson, Therese Ridge, isn't that correct?
- 26 A. Correct.
- 27 Q. 224 What was the underlying intention and objective to be achieved by pursuing that
28 course, what had you in mind to do, that is yourself and Mr. Lawlor?
- 29 A. Well, I think that we would, Mr. O'Neill, have then from the Chairperson of the
11:54:35 30 Council, who obviously would be dictated to, not dictated to, but would be

11:54:40 1 guided by the officials in the Council because she obviously wouldn't write the
2 letter herself, as to what the possibilities were going forward.

3 Q. 225 But, I mean, I can understand what you say. That she could, of course, liaise
4 with her own officials as to what type of letter should be written?

11:55:02 5 A. Uh-huh.

6 Q. 226 But what is clear from this is that the letters in question were going to be
7 drafted by yourself and Mr. Lawlor?

8 A. Correct.

9 Q. 227 Right. Not by the Councillor who was Chairman of the Council nor by her
11:55:15 10 officials?

11 A. Yeah. To any letters that were going to be generated in relation to the
12 matter, either for on behalf of Liam Creaven and Michael Joe Cosgrave to the
13 Chairperson.

14 Q. 228 Yes?

11:55:28 15 A. And the Chairperson's response to those letters.

16 Q. 229 Yes?

17 A. Would in effect have been drafted by us or certainly an indication given as to
18 what they should contain.

19 Q. 230 Well these ones actually were to be drafted?

11:55:41 20 A. Yes.

21 Q. 231 And were drafted by you, isn't that right?

22 A. Yes, and checked by.

23 Q. 232 Yes?

24 A. John Gore Grimes.

11:55:47 25 Q. 233 Well, perhaps we might look at at those letters firstly.
26
27 At page 2853.
28
29 And 2854, if we could just look at that first. You see that this is unsigned

11:56:05 30 A. Yes.

- 11:56:06 1 Q. 234 Its origin is from your own files?
- 2 A. This letter was drafted and typed in my office.
- 3 Q. 235 Yeah?
- 4 A. Yeah.
- 11:56:11 5 Q. 236 And it can be distinguished from the one which was actually sent for a number
6 of reasons. Firstly, the copy sent was signed by both parties?
- 7 A. Yeah.
- 8 Q. 237 And secondly, it was on the letter heading of the Fingal area committee, isn't
9 that right?
- 11:56:26 10 A. Yes.
- 11 Q. 238 I take it that you didn't have that correspondence or did you have that
12 correspondence?
- 13 A. No, I have to disabuse you of that, Mr. O'Neill. I did have some of that
14 notepaper, yes.
- 11:56:36 15 Q. 239 Yes?
- 16 A. Available to me at that time for this purpose.
- 17 Q. 240 Very good. Can we then just look at page 2227. Which is the same letter in
18 its totality but it's now on the letter heading here of Fingal area?
- 19 A. Yeah.
- 11:56:52 20 Q. 241 So your evidence is, Mr. Dunlop, on this issue that you had already
21 documentation in blank in your office which when the appropriate occasion arose
22 could be utilised so as to write letters purportedly emanating from Fingal
23 whereas in fact they were coming from your office, typed by you and ultimately
24 signed by the signatories who might be shown in the bottom, isn't that right?
- 11:57:30 25 This letter that we see now, and I think we can probably look at it in its
26 final form as we see it here on screen.
- 27
- 28 This was the culmination of a process, this document here. I think we may take
29 it as a probability that this is a true copy of what left your office and was
11:57:51 30 sent to Therese Ridge, is that right?

11:57:53 1 A. If that's a signed copy.

2 Q. 242 This is --

3 A. Well, then it is the true copy.

4 Q. 243 It's an unsigned copy?

11:58:00 5 A. Is it.

6 Q. 244 We don't have a signed copy from any source?

7 A. Well I think given the format that it is laid out, I would suggest that it is

8 the final draft, the final copy.

9 Q. 245 Right. Now, it's dated the 12th?

11:58:16 10 A. Uh-huh.

11 Q. 246 We know that the process involved a meeting on either the 7th or the 8th. An

12 intervening weekend until Monday the 10th?

13 A. Yes.

14 Q. 247 Over that weekend letters were to be drafted. Is this letter the culmination

11:58:33 15 of that drafting process?

16 A. Yes.

17 Q. 248 Now, obviously, the letter that was drafted over the weekend was not in the

18 final form that we see here?

19 A. Correct.

11:58:42 20 Q. 249 As between yourself and Mr. Lawlor, did you divide the drafting task as to who

21 would draft the letter to the Manager, who would draft the letter to the

22 Chairman?

23 A. No, not particularly.

24 Q. 250 No?

11:58:56 25 A. I don't recall that there was any such.

26 Q. 251 Right?

27 A. Division of labour in relation to it.

28 Q. 252 Right, what input had Mr. Lawlor as opposed to yourself?

29 A. Yes, I think it was a combined effort. Certainly from my point of view,

11:59:08 30 because Mr. Lawlor was not a member of the Council and was not present, I was

- 11:59:12 1 briefing him as to what had actually occurred.
- 2 Q. 253 Yes?
- 3 A. And that was then transposed in a variety of terminology, by either of us or
- 4 combined by both of us, which ended up in the format that you now see.
- 11:59:27 5 Q. 254 Yes. The issue which is raised is probably best addressed by the second
- 6 paragraph here of that letter. And that was a request to the Chairperson
- 7 "could you confirm our interpretation of Standing Orders is correct". And it
- 8 raises three specific queries. These came from you, isn't that right?
- 9 A. Well when you -- when the letter says "could you confirm that our
- 12:00:08 10 interpretation of Standing Orders is correct."
- 11 Q. 255 Yes?
- 12 A. That essentially means could you confirm that my interpretation and that of
- 13 Mr. Lawlor's, but my interpretation of the Standing Orders is correct. Because
- 14 neither Councillor Creaven nor Michael Joe Cosgrave in fairness to them would
- 12:00:18 15 ever go into the detail in relation to what was or was not correct
- 16 understanding.
- 17 Q. 256 Sure. And what is in this request for confirmation is in effect a request that
- 18 they would confirm the accuracy of the opinion which had been offered by
- 19 Council which was in your possession before you wrote this letter and was
- 12:00:40 20 seeking to confirm each one of the three issues with which Council had
- 21 indicated?
- 22 A. Yes.
- 23 Q. 257 That the Chairman's decision was erroneous, isn't that correct?
- 24 A. Correct.
- 12:00:51 25 Q. 258 So that if this was accepted in effect the Chairperson would now be adopting
- 26 the opinion of Mr. Birmingham?
- 27 A. Of Mr. Birmingham.
- 28 Q. 259 Yes. Of which she was aware before she ever received this letter because you
- 29 had discussed its content with her prior to the meeting of the 6th?
- 12:01:10 30 A. Correct.

- 12:01:11 1 Q. 260 Isn't that correct that?
- 2 A. That is correct, yes.
- 3 Q. 261 So that this letter doesn't really achieve anything new. There has already
- 4 been a decision taken by the Chairperson effectively operating on the basis of
- 12:01:25 5 that opinion, suspect that right that?
- 6 A. Is correct.
- 7 Q. 262 And can you explain what the purpose of this chain of correspondence was to be
- 8 then?
- 9 A. Well, I think probably it arose out of an old sort of Civil Service training,
- 12:01:39 10 and that is to keep the file right. I mean, if matters followed through
- 11 eventually somebody would go and look at the file.
- 12 Q. 263 Yes?
- 13 A. And what would appear on the file would be a letter from these two local
- 14 councillors vis a vis a procedural matter that had taken place on the floor.
- 12:01:58 15 And that they are asking that this is a matter, that this be confirmed that
- 16 their interpretation is correct. Which I --
- 17 Q. 264 And what purpose?
- 18 A. Would have legal implication.
- 19 Q. 265 Sure. And what purpose did that serve effectively from your point of view and
- 12:02:14 20 Mr. Lawlor's in the context of the Chairperson's decision?
- 21 A. It didn't serve any real concrete purpose other than that a letter, not an
- 22 official letter. But a letter in the names of the two local councillors who
- 23 were involved particularly in relation to this project.
- 24 Q. 266 Well, I mean, the first obvious consequence of that is that it removes your
- 12:02:39 25 involvement?
- 26 A. Yeah.
- 27 Q. 267 And Mr. Lawlor's totally from the decision making process, isn't that right?
- 28 A. Correct. It's a matter that is being dealt with inter say. It's between the
- 29 Chairperson as an elected representative and two of her colleagues.
- 12:02:56 30 Q. 268 Yes?

12:02:56 1 A. It's a political elected member matter rather than a lobbyist/non-elected
2 politician matter vis-a-vis a project.

3 Q. 269 Right.

12:03:05 5 CHAIRMAN: Mr. O'Neill, we are going to just rise for about ten minutes.

6
7 MR. O'NEILL: Very good.

12:03:23 10

11

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

13 **AND RESUMED AS FOLLOWS:**

14

12:18:18 15

16 MR. O'NEILL: Mr. Dunlop, the document that's on screen here, of course, is
17 the final draft of perhaps earlier documents that had been considered with
18 Mr. Gore Grimes and others leading to this document ultimately being issued,
19 isn't that right?

12:18:36 20 A. Yes, I cannot say to you that I have any recollection of the type of
21 consultation that was outlined by Mr. Gore Grimes in his attendance note.

22 Q. 270 Yes?

23 A. In relation to the -- the substance of any correspondence.

24 Q. 271 All right. Well?

12:18:53 25 A. But I think it is probably fair for me to say that Mr. Gore Grimes being the
26 man he is, having made an attendance note in the terms that he did, would not
27 have followed it up.

28 Q. 272 Yes. Now, this letter was only one of two letters that were coming from
29 Councillors Cosgrave and Creaven, isn't that right?

12:19:24 30 A. Correct.

- 12:19:24 1 Q. 273 One was to go to the Manager and a copy of that was an addendum or an
2 attachment to the letter that was going to the Chairperson itself, isn't that
3 right?
- 4 A. Yes.
- 12:19:35 5 Q. 274 And you've given us an explanation as to why this letter, that is the first
6 letter, was written. It was to put matters in order. It was to have a
7 document trail which would indicate that the query was raised by elected
8 members of the Council to the Chairperson and her response was to that query?
- 9 A. Yes.
- 12:20:01 10 Q. 275 In contra-distinction to the fact that it actually was your handy work and
11 Mr. Lawlor's, isn't that right?
- 12 A. Correct, yes.
- 13 Q. 276 Now, we do not have a copy of the response which was sent to the councillors by
14 the Chairperson, Therese Ridge. But we know from the attendance that the
12:20:28 15 intention was to draft one, firstly. And secondly, that one was in fact
16 drafted because it was considered by Mr. Gore Grimes and yourself at a meeting,
17 isn't that right?
- 18 A. Correct, yes.
- 19 Q. 277 And I'll just get you a copy now. A rather poor typed document.
- 12:20:49 20
- 21 At 2205. And the probabilities are that you aren't the author of this
22 document, though it deals with the matters which are raised in the letter which
23 we saw a little earlier on screen. It purports to be a letter, I believe, from
24 the Chairperson which is addressing the issues which are raised in the letter
12:21:16 25 of the 12th. I should also say by way of placing it, its origin is from your
26 files
- 27 A. Yes, yes.
- 28 Q. 278 It was on your file?
- 29 A. Yeah.
- 12:21:29 30 Q. 279 How it got there, I don't know. It doesn't seem to be your type font. And

12:21:35 1 it's missing a number of, it doesn't make sense, for a start. But in any
2 event, it purports to be a response to the issues which are raised in the
3 letter of the 12th. Now, the letter of the 12th is the final draft. And
4 therefore, we don't know what the earlier drafts were. But we may take it that
12:21:57 5 if you analyse the issues that are raised in it, this letter is an initial
6 response to them based upon the fact that there was to be a site meeting to be
7 carried out?
8 A. Correct.
9 Q. 280 Right. Now, while you've told us that you and Mr. Lawlor drafted the letters
12:22:17 10 which ultimately went out on the 12th. What was your intention or what were
11 the contents of the response to that letter to be, because you drafted the
12 response as well as the letter itself, isn't that right?
13 A. Yes.
14 Q. 281 So, I take it that they were intended to be complete in the sense that there
12:22:36 15 would be a question raised, there would be an answer given and the document
16 trail would be complete in that?
17 A. There would be dovetailing.
18 Q. 282 Yes?
19 A. You raise a question allegedly on the basis that this is an legitimate question
12:22:51 20 arising from an elected member. You have the drafted it. You raise the
21 question because you arising out of legal advice of otherwise.
22 Q. 283 Yes?
23 A. And not only legal advice. Know that these are the issues that pertain
24 particularly to the success or otherwise and then you draft the response
12:23:07 25 accordingly on the basis that this is what you would want to get.
26 Q. 284 Yes?
27 A. Hope to get.
28 Q. 285 Well, does it help to look at the letter of the 12th rather than this letter,
29 which is undated?
12:23:18 30 A. Why -- will I think that's of no -- this letter here that's on the screen I

12:23:22 1 think is of no consequence.

2 Q. 286 Yes?

3 A. I think that is something that appears to me and I know it came from my files

4 and as to its provenance, I either got that from Mr. Cosgrave or Mr. Creaven or

12:23:37 5 from the secretariat. And the only way I could get it from the secretariat

6 would be from the Chairperson.

7 Q. 287 Right.

8 A. I certainly didn't get it from an official.

9 Q. 288 But that leaves us in the dark as to what response you actually did draft?

12:23:54 10 A. Uh-huh.

11 Q. 289 For the Chairperson which you ran through with Mr. Gore Grimes and sought his

12 approval and that letter, that letter of response which was drafted by you was

13 intended to be a draft in response to the letter of the 12th of May, isn't that

14 right?

12:24:11 15 A. Correct, yes.

16 Q. 290 So your draft must have dealt with the issues that are raised in the letter of

17 the councillors, which you drafted?

18 A. Yes.

19 Q. 291 You drafted the response to it as well as drafting the query?

12:24:22 20 A. Yes.

21 Q. 292 Now, can you assist us as to what it was you said in your response?

22 A. Well, I'm -- I'm -- in something of a similar situation that you are,

23 Mr. O'Neill, in this context. But the only thing that I can say to you is that

24 in the absence of a copy of such a letter, draft or otherwise, that the

12:24:44 25 response would have been drafted to the best interest of Pennine Holdings and

26 the project. So, in other words, if we saw in the questions that we were

27 asking that there were issues that cause difficulties that could be resolved by

28 raising the questions and having a response from the Chairperson and/or the

29 Manager, that that would be to the best interests ultimately of what the

12:25:08 30 project was. So the key is in the question.

- 12:25:11 1 Q. 293 Yes. Well, if we look to what you say is that rough draft document there, the
2 origin of which you are unclear of?
- 3 A. Yes.
- 4 Q. 294 It would appear to contain a proposal or an indication of what was to happen
12:25:29 5 after the site visit had taken place?
- 6 A. Yes.
- 7 Q. 295 In other words, once the site visit had taken place, it is stated here "after
8 the site visit has been undertaken any information you have sought and it might
9 be clarification on the matter can be put before the Council for a full
10 discussion and decision?"
- 11 A. Yes.
- 12 Q. 296 Now, if that was the view of the Chairperson?
- 13 A. Uh-huh.
- 14 Q. 297 Of the Council, it would mean that as a result of the query having been raised
12:25:54 15 by the two councillors, the matter was now back on the agenda?
- 16 A. Yeah.
- 17 Q. 298 As regards their initial motion to have the matter deferred to not before the
18 15th?
- 19 A. Yes.
- 12:26:05 20 Q. 299 In other words, their motion No. 2 would now be back on the agenda?
- 21 A. Correct. That would appear to be the logical conclusion.
- 22 Q. 300 Yes. Well, is that what your intention was that you would achieve by
23 correspondence a recognition in correspondence that the Manager, sorry. That
24 the Chairperson after the site visit would be prepared to allow for the matter
12:26:31 25 too come back on the agenda?
- 26 A. Yes, which was the key. The only way in which the matter could be progress.
- 27 Q. 301 Yes?
- 28 A. Was to have it brought back to the agenda. However that was achieved.
- 29 Q. 302 Right. And you believed that this correspondence was going to reflect that,
12:26:49 30 isn't that so?

- 12:26:49 1 A. Correct, yes.
- 2 Q. 303 Yes. So the probabilities are then that your draft letter did contain some
3 form of a, let's say, good news for the councillors, that the matter would be
4 re entered?
- 12:27:02 5 A. Oh, I --
- 6 Q. 304 After the site visit?
- 7 A. Yes, I had to doubt that some allusion was made to the fact that if the site --
8 once the site visit had taken place, the likelihood, probably, possibility or
9 otherwise might be that the matter could then be re-agendised.
- 12:27:23 10 Q. 305 Right. Now, all of this correspondence, of course, so far, as far as we know,
11 is drafted, conceived by yourself and Mr. Lawlor, drafted by yourself, possibly
12 with input from Mr. Lawlor, approved by Mr. Byrne's legal advisors and then
13 dispatched?
- 14 A. Correct.
- 12:27:43 15 Q. 306 And it is your belief that the letters that were to be signed by Mr. Cosgrave
16 and Mr. Creaven were in fact signed by them at your request?
- 17 A. Yes, and it does come as a matter of surprise to me that that -- having done so
18 and that letter would have been sent that it is not discoverable from the files
19 of Dublin County Council.
- 12:28:07 20 Q. 307 Yes. That file apparently is missing.
- 21 A. The Baldoyle file?
- 22 Q. 308 Yes. The file. The secretariat file which would have dealt with this issue is
23 no longer available. Equally, do you have a memory of having the two
24 councillors sign it for you?
- 12:28:29 25 A. No, I have absolutely no doubt that they did sign it, yes.
- 26 Q. 309 Right. Would your practice have been to go with the copy to be sent, have them
27 sign it and then you'd post it yourself or would you leave it to them?
- 28 A. No, no, no I -- what was needed to be done I would either hand deliver it or
29 post it.
- 12:28:47 30 Q. 310 Yes?

- 12:28:47 1 A. In the circumstance that we are dealing with in this particular instance I have
2 no doubt that that matter, that that particular correspondence was hand
3 delivered.
- 4 Q. 311 By you?
- 12:28:56 5 A. Yes.
- 6 Q. 312 To the Council?
- 7 A. To the secretariat.
- 8 Q. 313 Yes?
- 9 A. Upstairs. You just go up the stairs from the lobby and you come to the
12:29:03 10 secretariat.
- 11 Q. 314 Right. And what did you do about the response to it which you'd also drafted
12 that?
- 13 A. I cannot -- I cannot put the jigsaw together for you myself in the first
14 instance and therefore then for you in relation to the response to it and in
12:29:22 15 the absence of any documentation or any copy of a response, I'm at a loss in
16 relation to what I might have did in relation to it. But certainly I have no
17 doubt that the letter was drafted, composed with the assistance of Mr. Lawlor
18 by me. Signed by the two gentlemen and deposited by me in the secretariat.
- 19 Q. 315 Yes?
- 12:29:49 20 A. Now.
- 21 Q. 316 Now you had a second letter, which was to be the response from Councillor
22 Ridge?
- 23 A. Correct.
- 24 Q. 317 Supposedly to the two councillors involved. And --
- 12:29:57 25 A. Now --
- 26 Q. 318 Having drafted that and brought it into existence, I assume that you processed
27 it to the point that it also was signed?
- 28 A. Yes. And that it was delivered. And the likelihood is that that was done
29 personally with the Chairperson at the time, Councillor Ridge.
- 12:30:21 30 Q. 319 Yes. But unlike the two councillors who would have used your secretarial

- 12:30:21 1 service, if I can call it that, or, in other words, you would have typed the
2 letter on the heading of the Fingal area committee. The secretariat document
3 was more likely to be drafted within the secretariat?
- 4 A. Correct, yes.
- 12:30:34 5 Q. 320 By Councillor Ridge, isn't that right?
- 6 A. Yes, that's right.
- 7 Q. 321 So you wouldn't be providing her with the same type of document as you were
8 sending in, supposedly from the councillors?
- 9 A. No.
- 12:30:44 10 Q. 322 You'd be providing her with a draft which she in turn would draft, either on a
11 particular dating machine or otherwise, and have typed through the secretariat,
12 isn't that correct?
- 13 A. Correct.
- 14 Q. 323 Yes. But in either event, yourself and Mr. Lawlor were in a position to draft
12:31:04 15 both the request and its response without consultation, with either the sender
16 of the letter or its responder, isn't that correct?
- 17 A. That is absolutely true.
- 18 Q. 324 Which means in effect, Mr. Dunlop, that you were controlling the Council?
- 19 A. Well, certainly I was controlling certain elements of the Council.
- 12:31:24 20 Q. 325 Yes. Well you were controlling the Chairperson who you drafted her response
21 and you were controlling the members named to the extent that they were writing
22 a letter at your behest to resolve an issue which was in your interest of which
23 they had no particular interest or knowledge and they were being used for the
24 purpose of advancing your interest, isn't that correct?
- 12:31:47 25 A. Correct, that's absolutely correct.
- 26 Q. 326 And I take it that since this is not something that is particularly surprising
27 to you, that it wasn't the only instance in which this process was conducted,
28 is that right?
- 29 A. No, it wasn't the only instance in which the process was conducted. It may not
12:32:07 30 have followed the same path that this one, others may not have followed the

- 12:32:13 1 same path that this one did. But certainly I did produce documentation of my
2 own volition, under my own resources, for signature by people in relation to a
3 variety of matters. And just for completeness too, I must say, Mr. O'Neill.
4 That wasn't something unusual in the business that I was in. It didn't just
12:32:38 5 apply to Dublin County Council. I drafted many letters on headed note paper
6 for Chief Executives and Chairman of companies at the time.
- 7 Q. 327 Yes. And Mr. Lawlor apparently did similarly, are you aware of that?
- 8 A. Yes, I am absolutely aware of that. And I have given evidence in effect in
9 another Module that I am aware of how he did it.
- 12:32:57 10 Q. 328 Yes. The letters we've seen were dated the 12th. As we know they had their
11 origin in the meeting of the 8th. I just want to refer you to your diary
12 entries for the days between them at page 2211. We see that you started the
13 week on the 10th. With a reference to the fact that Ms. Ridge, I think, was it
14 TR Paris return. She had been away in Paris that weekend if we look from the
12:33:25 15 Friday before?
- 16 A. Oh, right I see, yes.
- 17 Q. 329 So she was returning that morning?
- 18 A. Uh-huh.
- 19 Q. 330 Her involvement, of course, was vital in what we're just discussed?
- 12:33:39 20 A. Correct.
- 21 Q. 331 The exchanging of documentation. Your next meeting -- sorry. I take it
22 therefore the reference to her returning that go morning was to alert you to
23 the fact that you should be making contact with her or meeting with her on the
24 12th?
- 12:33:52 25 A. Yes, well obviously if she was returning that morning this is a note in my
26 diary for Monday morning to say that she's back. So she's contactable.
- 27 Q. 332 Yes. And you were to be drafting the letters we've talked about over that
28 weekend?
- 29 A. Correct.
- 12:34:07 30 Q. 333 So presumably it was in the context of that that you were going to meet her?

- 12:34:11 1 A. Correct.
- 2 Q. 334 And your next meeting then was for Liam Lawlor at ten o'clock?
- 3 A. Yeah.
- 4 Q. 335 Presumably to collect the drafts, have you a recollection of that?
- 12:34:19 5 A. I would just say in that in the context of the timing and the date and the
6 issue on the agenda, there was no doubt that this is the issue that we were
7 dealing with the drafts of letters for Dublin County Council.
- 8 Q. 336 Right. And you had arranged the previous week to meet with Mr. Gore Grimes so
9 that he could approve the drafts on Monday. And that meet something is
10 cancelled as we see?
- 11 A. Yes.
- 12 Q. 337 By a deletion through J Gore Grimes?
- 13 A. Correct.
- 14 Q. 338 And your next meeting then is with Liam Creaven and Michael Joe Cosgrave, the
15 signatories to one of the letters?
- 12:34:52 16 A. Yes.
- 17 Q. 339 Although, as we know, it's not dated until the 12th so it's unlikely that they
18 sign it on that day?
- 19 A. No, but they may well have been shown a draft or there may well have been a
20 discussion with him in relation to the contents.
- 12:35:08 21 Q. 340 Right. And equally, you hadn't had it approved by Mr. Gore Grimes, which was
22 part of your agreement the previous week and that wasn't to happen until you
23 had a meeting the following day?
- 24 A. Correct.
- 12:35:18 25 Q. 341 You'll see at 8:30 you have Mr. Gore Grimes down for 8:30. Before I leave him,
26 of course, between --
27
- 28 JUDGE FAHERTY: Sorry. Yes, I think you're probably asking the same question
29 I was going to ask.
- 12:35:34 30

- 12:35:34 1 MR. O'NEILL: I hope so.
2
- 3 Q. 342 Between Mr. Lawlor and Mr. Gore Grimes you are meeting David and Brendan?
4 A. I did not ask the question. I was going to bring your attention it anyway in
12:35:48 5 case you moved on to another page on the screen Mr. O'Neill. That is David
6 Shubotham and Brendan Hickey.
- 7 Q. 343 And what was the context or in what context do you think you were meeting them?
8 A. Well that, I cannot specifically say. And I do not have a recollection, as I
9 said to you on Friday, of discussing motions or looking over maps with either
12:36:11 10 gentlemen. But in the context of what we're at, at this particular time from
11 May the 10th until May the 12th, when the letter is dated, I can only say to
12 you that there would not be a meeting with David Shubotham and Brendan Hickey
13 in circumstances other than briefing them as to what was going on.
- 14 Q. 344 Right. Even if you had a long-standing arrangement to meet them on that date
12:36:41 15 would you have brought up the question of the Baldoyle documents and the
16 councillors' involvement as a matter of course?
- 17 A. Yeah.
- 18 Q. 345 Given the currency of the issue at the time?
19 A. Well, I can't say to you definitively that I ever brought the documents up.
12:37:03 20 But if you broaden the perspective slightly for a moment and we can close it
21 again to continue on. But in or around this time great concern -- following on
22 what you dealt with on Friday and reprised again this morning.
- 23 Q. 346 Uh-huh?
24 A. In relation to the story in the Irish Independent. There was considerable
12:37:27 25 angst in certain circles in relation to the publication of that story.
- 26 Q. 347 Yes?
27 A. And it is at this point, and I'm sure that as a matter you will deal with
28 subsequently, but it is at this point that the view is being taken by certain
29 people that they no longer want to have anything to do with this.
- 12:37:48 30 Q. 348 Yes. Now, that is May the 10th. Do you think that the decision was taken as

12:37:58 1 of May the 10th that they did not wish to proceed further. We'll see the
2 attendance on the 11th which makes reference to your views as to what should
3 happen in relation to -- in relation to Mr. Shubotham and Mr. Hickey and their
4 future involvement?

12:38:18 5 A. Yeah. No, I can't say that that -- that any decision of any finality was taken
6 on the 10th. But I can tell you that as a result of the events that had taken
7 place and most particularly the arising out of the story in the Independent on
8 the morning of the vote.

9 Q. 349 Uh-huh?

12:38:41 10 A. The original vote that is. That between -- from that point onwards the,
11 including the generation of the apology, from that point onwards there was
12 unease and angst on the part of both gentlemen.

13 Q. 350 There was also running in tandem with that another problem that was independent
14 of the land development aspect of Davy Hickey Properties. But touching on
15 Davy's own role as stockbrokers for the Greencore launch, isn't that correct?

12:39:09 16 A. Yes, that is correct. But that would not -- that would not be the subject
17 matter of a discussion with both gentlemen. If there was any discussion in
18 relation to that, it would relate to the principle and/or Mr. Shubotham but it
19 would not relate to any discussions with Mr. Shubotham and Mr. Hickey.

12:39:32 20 Q. 351 Combined?

21 A. Combined. Sorry, I beg your pardon. Combined, yes.

22 Q. 352 You saw Mr. Gore Grimes the following day, the 11th. And he took an attendance
23 on that date.

12:39:52 25 It's at page 2218.

26
27 The part that's referable to you is that the letters were approved, that is the
28 draft letters. And we added the matter dealing with the CPO. And we
29 telephoned John Byrne and spoke to him, Frank Dunlop is to remove Brendan
12:40:14 30 Hickey and David Shubotham from the Pennine board. There is to be absolutely

12:40:19 1 no conversation with the press.

2 A. Yeah.

3 Q. 353 Now, we know that as a fact the directors of the company, as recorded in the

4 Companies Office, did not include either of those gentlemen as directors?

12:40:37 5 A. That's correct.

6 Q. 354 The directors being yourself and Mr. Ciaran O'Byrne initially of the company,

7 isn't that correct?

8 A. That's correct, yes.

9 Q. 355 Can you explain what this reference to the removal of Mr. Brendan Hickey and

12:40:46 10 Mr. David Shubotham is. And why it was that there was to be an alteration in

11 whatever status they had at this time?

12 A. I was going to say to you, Mr. O'Neill, that I probably from here on in will

13 follow the example of Mr. Gore Grimes and take attendance notes. But now that

14 I see the content of this one.

12:41:06 15 Q. 356 Yes?

16 A. I don't know is the answer. It is either a misunderstanding on somebody's part

17 that Mr. Hickey and Mr. Shubotham were on the board. By that I presume is

18 meant were directors of.

19 Q. 357 Yes?

12:41:21 20 A. Pennine Holdings. To the best of my recollection, neither gentlemen were ever

21 directors of Pennine Holdings. As you rightly point out, the directors were

22 Mr. Ciaran O'Byrne and myself. As to why this would be contained in an

23 attendance note, either it's a misunderstanding on the part of Mr. Gore Grimes

24 or on the part of Mr. George Birmingham. But it may well be as a result of a

12:41:52 25 conversation with Mr. Byrne. Because Mr. Byrne is the man who dealt directly

26 with Mr. Hickey in the initial stages in relation to the option.

27

28 Now, that is the only explanation I can give for that. I don't have a

29 recollection of somebody saying to me, either by way of command or by way of

12:42:17 30 suggestion that these two gentlemen be removed from the board in circumstances

12:42:22 1 where they were never on the board

2 Q. 358 Uh-huh.

3

4 CHAIRMAN: Sorry Mr. Dunlop. Your voice is dropping off a bit. Could you

12:42:29 5 A. Sorry.

6

7 CHAIRMAN: Could you move the nearest microphone to me. That one, towards

8 you. Yes. And we'll see if that improves it.

9 A. Is that better?

12:42:40 10

11 CHAIRMAN: All right.

12 A. Sorry, I apologise, Chairman.

13

14 CHAIRMAN: No, no, no

12:42:45 15

16 MR. O'NEILL: We're now in May 1993, almost two and a half years on from the

17 initial involvement as best one can judge it. And one can't be accurate, as to

18 exactly when matters started. But we know that Pennine Holdings Limited was a

19 company which was formed from very early February on of 1991

12:43:12 20 A. Correct.

21 Q. 359 The 5th of February we see an application made to the Companies Office in

22 relation to it. So we're talking about two and a half years or so to this

23 point. Now, what is envisaged here is that in whatever capacity they were

24 acting, Mr. Hickey and Mr. Shubotham were no longer to be involved?

12:43:30 25 A. Yes.

26 Q. 360 Why was that?

27 A. Well, from my point of view, and it's the only way that I can answer your

28 question. From my point of view, as I have outlined to you, two questions

29 back. In or around the time that this matter began to go, to use a

12:43:46 30 colloquialism, pair shaped, both gentlemen began to display serious doubts as

12:43:55 1 to their involvement on the basis that I understood their involvement to be and
2 continued to understand their involvement to have been in relation to Pennine
3 Holdings and in relation to the land. They were never directors of Pennine
4 Holdings. I was not in a position to remove them as members of the board since
12:44:16 5 they were never members of the board. But if we inch forward, both of them
6 individually and together, indicated to me that they no longer wanted to have
7 any involvement with the project. The basis on which their involvement having
8 been generated was that they would become involved. Directly if I got the land
9 rezoned.

12:44:44 10 Q. 361 Yes. Well, it would appear that notwithstanding the reversal of fortunes
11 effected by the motion the 27th they still remained involved and actively all
12 the way until this date which is the first recorded suggestion that they would
13 be other than involved, isn't that right?

14 A. Yes. Well, what I have said consistently to you, Mr. O'Neill, and in a
12:45:07 15 statement, is that I -- the genesis of this by Mr. Lawlor and/or myself with
16 Davy Hickey Properties to it Mr. Shubotham and Mr. Hickey was on the basis that
17 I have outlined. My understanding was on the basis of how I have outlined it
18 to you. And that there were briefings, largely generated by me, on a reportage
19 basis as to what in fact was happening and what wasn't happening.

12:45:39 20 Q. 362 Yes?

21 A. This eventuated in a situation where both gentlemen, individually and
22 collectively, on behalf of the entity known as DHP, said that they no longer
23 wanted to be involved, when they actually physically specifically said that to
24 me I cannot absolutely tell you what the date was. But certainly we are in the
12:46:03 25 frame in or around this time.

26 Q. 363 Right.

27

28 JUDGE FAHERTY: Just on that Mr. Dunlop

29 A. Sorry, I beg your pardon.

12:46:11 30

12:46:11 1 JUDGE FAHERTY: Sorry Mr. O'Neill. We've had your diary and the day before
2 there is a recorded meeting in your diary with Mr. Hickey and Mr. Shubotham
3 A. Yes.
4

12:46:20 5 JUDGE FAHERTY: And as I understand your evidence to be, that if such a
6 recording or entries was in your diary by and large such meetings took place
7 isn't that correct
8 A. That's correct.
9

12:46:31 10 JUDGE FAHERTY: So when you say you can't physically say when you might have
11 had such a conversation. Certainly, you had a meeting with those gentlemen
12 A. Yes.
13

14 JUDGE FAHERTY: On your evidence
12:46:40 15 A. Yes.
16

17 JUDGE FAHERTY: The day before
18 A. That is correct, Judge, yes. But what I just -- can I continue, can I add to
19 that?
12:46:49 20

21 JUDGE FAHERTY: Yes
22 A. The reason I am saying that I cannot say to you specifically what date, both,
23 either or both gentlemen said, is that there is a likelihood that at that
24 meeting on the day previously there was a discussion about what was happening
12:47:02 25 in Baldoyle. And there is a likelihood that I did tell them that there was a
26 possibility that matters could be revived or could be brought back on the
27 agenda. And that they conceivably, and I'm sorry, I cannot put it any
28 stronger. They conceivably might have said well notwithstanding the fact that
29 we are very -- we are reluctant to continue, that they may have postponed any
12:47:31 30 final decision in relation to it until they saw what happened.

- 12:47:37 1
- 2 MR. O'NEILL: You may be aware from a brief, Mr. Dunlop, that Mr. Lawlor
- 3 expressed a view as to how it was that
- 4 A. Yes.
- 12:47:47 5 Q. 364 That the interest of Davy's ceased in this project, isn't that right?
- 6 A. Yes, I have seen that.
- 7 Q. 365 And he attributed it to the fact that there was the exposure at the time of
- 8 what he called the Irish Sugar Company involvement of Davy Stockbrokers, isn't
- 9 that correct?
- 12:48:04 10 A. Correct, yes.
- 11 Q. 366 I take it, I mean, you are aware of that fact and of the fact that it was
- 12 covered extensively in the newspapers at the time, that Davy's core business
- 13 was under considerable adverse comment in the press, isn't that right?
- 14 A. That is correct, yes.
- 12:48:25 15 Q. 367 The essence of it being that they had been the Government stockbrokers, they
- 16 were launching Greencore on the market some 25 million shares and 19 million of
- 17 those shares ended up under the control of Davy's and their companies, isn't
- 18 that right?
- 19 A. That's correct, yes.
- 12:48:42 20 Q. 368 And that was a matter which came as a considerable shock to the Minister for
- 21 Finance at the time who was floating the Government's interest in those
- 22 companies, isn't that right?
- 23 A. Albert was very upset.
- 24 Q. 369 Yes. And there led to a stock exchange inquiry, amongst other things, and an
- 12:49:05 25 inquire by the Attorney General, isn't that correct?
- 26 A. That's correct.
- 27 Q. 370 And all that have was running in tandem, if I may say so, with the involvement
- 28 of your project here, isn't that right?
- 29 A. I should say to you too.
- 12:49:17 30 Q. 371 Yes?

12:49:17 1 A. And please stop me if I'm pre-empting you, Mr. O'Neill. I should say too that
2 I had something of a unique role in, at this time because I might not only have
3 been riding two horses but I could possibly have been riding three. I had the
4 Baldoyle project, I was the advisor to Greencore, the public relations advisors
12:49:40 5 to Greencore, we had been responsible for the publicity surrounding, bringing
6 the share to the market and I also had and was able to facilitate necessary
7 contact between the Chairman of Greencore and the Minister for Finance in
8 relation to this matter.

9 Q. 372 Right. We might look at one of the contemporaneous press reports in relation
10 to this.
11
12 At page 2865 of the brief. Which was the Irish Times of the 7th of May 1993

13 A. Uh-huh.

14 Q. 373 And this is a very critical analysis of Davy's stockbrokers. But it makes the
12:50:25 15 link with your Pennine project in the body of the article in the column
16 furthest to the right. And the lower column, if we could, the lower column
17 immediately to the right?

18 A. Yeah.

19 Q. 374 It says "Davy Hickey is developing the" I think it's "60 million pounds
12:50:49 20 Newlands Business and Industrial Park". This is the City West development,
21 isn't that correct?

22 A. That's correct.

23 Q. 375 The 300 acres in the development are reported to have been bought for 4.5
24 million perhaps. The property development company has expressed an interest in
12:51:08 25 the Pennine Holdings plan to build a major housing scheme on the old Baldoyle
26 Race Course. If it was rezoned. The rezoning sought by the public relations
27 consultant Mr. Frank Dunlop was rejected by Dublin County Council".
28
29 The link was there and made and identified. And I'm sure it didn't have to be
12:51:35 30 identified by Davy's directors that they were now in two areas of possible

12:51:41 1 controversy in the press. One, in relation to their core business, where I
2 think ultimately they were sanctioned to the extent of not receiving a fee for
3 having put that flotation in. But secondly, they were now associated with this
4 highly controversial rezoning project

12:52:02 5 A. That's correct.

6 Q. 376 And I take it that their involvement in the project, had it continued was one
7 which was likely to give oxygen to whatever disgruntled views were being
8 expressed about the Pennine project in the press?

9 A. Yes, I would say that that's a fair comment, to the extent of how much oxygen
12:52:26 10 is a mute point, I don't know. But certainly I would concur with that, yes.

11 Q. 377 And have you any reason to believe that Mr. Lawlor was wrong and in summation
12 that the cessation of the interest of Davy's in this project was because of the
13 Greencore problems which were current at that time?

14 A. Yeah, well certainly my view then and it is my view now that whatever connection
12:52:57 15 there was between the two issues, certainly Greencore was never mentioned to me
16 as being a reason why.

17 Q. 378 Yes?

18 A. They would no longer have an interest. The reason expressed to me specifically
19 was because of the controversy that was being associated with the project and
12:53:18 20 their involvement in it.

21 Q. 379 Yes. Well, that isn't inconsistent?

22 A. No.

23 Q. 380 With what Mr. Lawlor says?

24 A. No.

12:53:25 25 Q. 381 It's just an appreciation on their part of where that controversy was going to
26 lead?

27 A. Yes. And I think it is, in fairness to the late Mr. Liam Lawlor, it is an
28 appreciation on his part, for whatever reason, that because the two issues were
29 running in tandem, or parallel, at the time, that Davy's wished to -- or Davy
12:53:51 30 Hickey Properties wished to disassociate themselves of it. Now, I have no

- 12:53:55 1 evidence to the effect that anybody may have said such a thing to Mr. Lawlor.
2 They may well have done. No such thing was ever said to me.
- 3 Q. 382 Well, did anybody come to you, Mr. Dunlop, on -- from either Davy Hickey, that
4 is either Mr. Hickey or Mr. Shubotham, and say that this is not a feasible
12:54:18 5 project, it has failed its' feasibility study and for that reason we have
6 declined to involve ourselves in the ongoing project?
7 A. Yes. At a date, an unknown date, having indicated relatively quickly after the
8 controversy that took place on the floor of the Dublin County Council in
9 relation to what was happening on the 20th.
- 12:54:46 10 Q. 383 Um,?
11 A. Which was the first instance and then the 27th and then followed by the 6th.
12 So the window of opportunity, to use your phrase of last Friday, is within that
13 period for an expression of doubt, concern, and even a possible disassociation
14 from the project. I would add probably for ease of Davy Hickey Properties
12:55:20 15 perhaps. But that some of the comments that I made publicly in relation to the
16 matter might not have helped.
- 17 Q. 384 Which particular comments would you see as ones which reflected badly from
18 their point of view?
19 A. Well, I don't particularly want to reprise some of the comments, some of them
12:55:38 20 which wouldn't be suitable for a distinguished audience such as this. But
21 certainly in the immediate aftermath of the votes at Dublin County Council, I
22 made some comments to the effect that really I couldn't give a damn about this,
23 that there would be another day. And if there was a shilling to be made I'd
24 make it elsewhere.
- 12:56:00 25 Q. 385 But as much as that would say, Mr. Dunlop, surely is that to that point Dunlop,
26 Davy Hickey Properties and you, Mr. Dunlop, were linked with Mr. Byrne and
27 Mr. Lawlor throughout until this point?
28 A. Absolutely.
- 29 Q. 386 It was a joint effort. And then if you couldn't advance it you would be
12:56:20 30 pulling out as well. So everybody was pulling out rather than one party

12:56:24 1 pulling out because it wasn't feasible?

2 A. Well they were -- their orientation on it, which goes back specifically to my

3 then understanding and my continuing understanding, they would become involved

4 on a capital resource basis.

12:56:43 5 Q. 387 Yes?

6 A. If I succeeded in doing what I very nearly succeeded in doing.

7 Q. 388 Yes?

8 A. But that was the genesis of their scraping away all the detail, hyperbolæ or

9 whatever in relation to the involvement or otherwise of Mr. Lawlor and whatever

12:57:01 10 else. That was the genesis of my involvement with them and their involvement

11 with me.

12 Q. 389 Well, I mean, that all depends on the definition of the word "involvement" ...

13 A. Yes.

14 Q. 390 And how broad it encompasses the activities of the parties?

12:57:14 15 A. Yes, I do, I fully accept that.

16 Q. 391 Involvement to this point in time, from the point of view of Davy Hickey, for

17 example, included paying for the initial option for the lands?

18 A. Correct.

19 Q. 392 The 5,000 pounds initially. Nominating the firm of solicitors who were to act

12:57:29 20 for Pennine Holdings?

21 A. Correct.

22 Q. 393 Communicating with those solicitors on the issues of Pennine Holdings and

23 partnership agreement throughout a period of some two years or so?

24 A. That is correct.

12:57:43 25 Q. 394 Meeting with you, meeting with consultants, meeting with Mr. Lawlor, on any

26 number of occasions, funding the entire operation to this point in time?

27 A. That is correct.

28 Q. 395 So that the involvement that they didn't become involved in is the same

29 involvement that you didn't become involved in. And that is you didn't

12:58:05 30 exercise the option and go on to fund the project, isn't that right? I'm not

12:58:10 1 saying your involvements are identical. But the involvements that you didn't
2 get involved in were the exercise of the option?

3 A. For an awful moment there, Mr. O'Neill, I thought you were Donald Rumsfield.
4 But you are correct.

12:58:26 5 Q. 396 What had occurred here was that to the extent that anybody was involved in this
6 project, to this point in time, you all appear to be deeply involved, albeit
7 not involved in financing the ultimate 25 million pounds or 50 million pounds
8 development of this site because nobody exercised that option, isn't that
9 correct?

12:58:51 10 A. Correct.

11 Q. 397 And that is the reason why you didn't become further involved, isn't that
12 correct?

13 A. That is correct.

14 Q. 398 I wonder if this is a convenient time ...

12:59:01 15
16 CHAIRMAN: Yes. Just in relation to parties cross-examining Mr. Dunlop.
17 Possibly in the afternoon. Perhaps it would be useful if they were to agree
18 amongst themselves the order in which they would cross-examine. Perhaps if
19 they did that over lunch. And then when we get to that point things would move
12:59:21 20 a little bit ...
21
22
23 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**
24
25
26
27
28
29
30

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

- 13:00:29 1
- 2
- 3
- 4 MR. O'NEILL: Mr. Dunlop, in relation to the last of the Council meetings
- 14:03:57 5 which we were considering on the 6th of May. The decision taken at that
- 6 meeting was to allow for a site visit to take place on the 19th of May, which,
- 7 at which all councillors were invited to attend and to inspect the lands and to
- 8 see what their status for rezoning or development would be. And that, of
- 9 course, was effectively without prejudice to the law agents' opinion as to
- 14:04:27 10 whether or not the motions that would allow for the reconsideration of rezoning
- 11 Baldoyle were valid, isn't that so
- 12 A. That is correct, yes.
- 13 Q. 399 And to that point, you had received favourable opinions from counsel and you
- 14 could have I suppose a reasonable expectation that things could go your way,
- 14:04:53 15 isn't that right?
- 16 A. Yes.
- 17 Q. 400 But unfortunately from your point of view the opinion received by the law agent
- 18 was supportive of the decision advised by the Manager at the meeting of the
- 19 27th, and that was that Councillor O'Halloran's and Councillor Liam Cosgrave's
- 14:05:10 20 motion was out of order and consequently Councillor Healy's motion was valid
- 21 and it could not be revisited for a period of six months or so, isn't that so?
- 22 A. Correct.
- 23 Q. 401 The effect of that would have been to take the motion outside a period where it
- 24 could reasonably be disposed of within the available time in the 1993 review?
- 14:05:36 25 A. Correct.
- 26 Q. 402 Isn't that right? And so effectively matters failed at that stage. That
- 27 opinion, I think, was an opinion which was provided to you by somebody within
- 28 the Council, you were able to?
- 29 A. Yes.
- 14:05:56 30 Q. 403 That is Senior Counsel's opinion, received by the law agent. You were able to

14:06:01 1 have that considered by your own counsel who didn't express a different view,
2 although he had a different focus perhaps on it. And effectively that avenue
3 was then closed off, isn't that correct?

4 A. Correct.

14:06:23 5 Q. 404 Though I think a last gasp effort was made by writing a further letter. And I
6 just wonder whether you could confirm that this also was a letter of which you
7 were the author. It's at page 2301. It's on the letter heading of the Fingal
8 area committee addressed to Councillor Ridge. "We wrote to you on the 12th of
9 May, copy attached. Those copies would have been, I think, the letter we've
10 referred to earlier asking you to confirm our interpretation of the Standing
11 Orders in respect of the sequence of motions. You replied on the 25th saying
12 that you'd forwarded our letter to the Manager for response from the law agent.
13 To date we've not received this response in the interim, however, a copy of the
14 opinion of Mr. John Gallagher, Senior Counsel with regard to questions he had
14:07:04 15 been asked by the Manager to advise upon had been made available to us" and
16 they go on then to deal with some sequence of dates that they believed to be
17 significant. I don't think they were or are. But looking at that letter, is
18 that also a letter drafted by your --

19 A. Yes.

14:07:24 20 Q. 405 And what did you hope to attain by writing this letter?

21 A. I really don't know, to be honest with you, Mr. O'Neill. I think we were
22 coming to a sort of a natural conclusion in relation to the whole matter. But
23 I suppose some vein hope that there might be a possibility that something
24 further could be done. But, I mean, I -- I put it in the context all the time,
14:07:53 25 from the 20th of April onwards notwithstanding all of the actions that were
26 taken by me and others was that possibilities were not good.

27 Q. 406 Right. The letter, as we'll see at page 2302. It concludes, "we'd request an
28 early meeting with you to have this matter resolved amicably". Perhaps a pious
29 hope but you were hoping that some avenue might open itself to you, is that
14:08:22 30 right?

14:08:22 1 A. Yes.

2 Q. 407 Again this is a matter upon which the Manager advised the Chairperson and she

3 in effect could not alter what was clearly set out in the legal advices given,

4 isn't that right?

14:08:35 5 A. Correct. Whatever her disposition towards me at the time.

6 Q. 408 Yes?

7 A. Or whatever support that she may have wished to give me. I mean, she could not

8 defy without appearing to be doing so blatantly.

9 Q. 409 Right?

14:08:48 10 A. The advice of the law agent and the Manager.

11 Q. 410 Yes. One would have thought that matters would then be at an end as regards

12 any Council involvement. But we'll see that there was a tragic event which

13 happened about two weeks later where a young boy was drowned in Baldoyle as a

14 part of the flood relief works that were going on there. And apparently, this

14:09:11 15 was used or appears to have been used as an opportunity to try and reopen

16 matters.

17

18 You'll see at page 2315.

19

14:09:20 20 This document, it runs, if we look briefly to 2316. And 2317. 2318. It seems

21 to be a form of address which is going to be made by councillors Creaven and/or

22 Cosgrave or both to the Manager with a view to having the Manager reconsider

23 the letter of the 12th and its content.

24

14:09:53 25 Now, I see that the typeface of this document is different from the one we

26 would usually have associated with you. Can you tell us who drafted these

27 documents and what they were about effectively

28 A. Yes, well, I'm not aware. Maybe it is available to you there, Mr. O'Neill.

29 But it's not available to me. But notwithstanding that. I know exactly the

14:10:14 30 provenance of this document. If it is. I suspect very strongly that that is a

- 14:10:18 1 fax or a is a copy of a fax.
- 2 Q. 411 Yes. It is a fax. It's dated the 14th of June?
- 3 A. Yes, but it doesn't give the provenance. But the source is Mr. Liam Lawlor's
- 4 office.
- 14:10:29 5 Q. 412 Yes. Right. And can you explain to us what exactly this was about, it might
- 6 help if we look at 2319 which seems to address itself firstly as an narration
- 7 which was intended to be made to the Chairman, obviously in the course of a
- 8 meeting rather than in correspondence, isn't that right?
- 9 A. Yes.
- 14:10:55 10 Q. 413 And in some meeting, either or both or one or other of these councillors was to
- 11 stand up and to make use of the suspension of Standing Orders to advance the
- 12 cause of Pennine rezoning in the context of a discussion to take place on
- 13 Baldoyle, is that?
- 14 A. In the context of a discussion on flooding.
- 14:11:19 15 Q. 414 Yes?
- 16 A. Arising, as you rightly point out, about - - arising out of a tragedy. There
- 17 was a flooding issue. There was an ongoing issue in the Baldoyle area in
- 18 relation to flooding and surface water issues and had been for some time.
- 19 Q. 415 Yes?
- 14:11:36 20 A. And that this was conceived as a possible way of raising the issue again
- 21 outside of the context of the normal agenda. Because this would have to be
- 22 proposed in the course of an ordinary Council meeting, as distinct from the
- 23 course of a development plan meeting because if you follow the technicalities
- 24 in relation to the Development Plan meeting, the motion had been ruled out of
- 14:12:05 25 order.
- 26 Q. 416 Absolutely. We'll see in the first paragraph here that the mover of this was
- 27 to say, "Chairman I thank you and the rest of the councillors for an
- 28 opportunity under the suspension of Standing Orders to raise the disastrous
- 29 flooding crisis that occurred in Baldoyle on Saturday morning last. I know
- 14:12:25 30 that I speak for the council and management in expressing our heartfelt

14:12:29 1 sympathy to the named parties on the tragic loss of their 14 year old son".
2
3 This was from the hand of Mr. Lawlor, is that right?
4 A. That's right, yes.

14:12:37 5 Q. 417 Who identified the opportunity as being one where in the course of Standing
6 Orders being suspended he could then try and re-enter the matter, is that
7 right?
8 A. I think without appearing to operate under the Dureese principle. I'm sure
9 you've done this. If you compare and contrast some of the documents that I
14:12:59 10 have discovered previously in relation to my contacts with Mr. Liam Lawlor, you
11 will find that the font and the typeface and format is the same.
12 Q. 418 Yes?
13 A. So that is a document generated in Liam's office by his secretary and faxed
14 over to me.

14:13:13 15 Q. 419 Yes. And we'll see on page 2318. That what was to be proposed was the
16 suspension of Standing Orders to allow the elected members discuss the serious
17 surface water flooding and to give the Council and the management the
18 opportunity to know of the frustrations etc. of the residents.
19

14:13:37 20 But this was all intended to reopen the situation vis-a-vis your project being
21 the solution to this.
22 A. Correct.

23 Q. 420 Isn't that right. Was that ever vented in the Council do you know?
24 A. I think an attempt was made.

14:13:53 25 Q. 421 Yes?
26 A. Whether it's documented or not, Mr. O'Neill. But certainly I think an attempt
27 was made and as you have pointed out, and it's on the document, the relevant
28 signatures would have been required.

29 Q. 422 Uh-huh?
14:14:06 30 A. And in they were to be obtained I would have obtained them, not Mr. Lawlor. I

14:14:12 1 cannot definitively say to you that I obtained them but I do have a residual
2 recollection that the matter was raised in some fashion or other on the floor
3 of the chamber.

4 Q. 423 I see. I think Mr. Dunlop, that will be the last occasion upon which we can
14:14:28 5 trace any direct involvement of any councillors in the course of the efforts to
6 rezone the Pennine holding lands in the 1993 plan, save the adoption of the
7 general plan in the meeting of the 29th of September. And ultimately on the
8 10th of December it was formally adopted. But you still appear to have had
9 some expectation or belief that you could swing things, if I can use that
14:14:58 10 phrase, because Mr. Gore Grimes and Mr. Byrne were assured that you held the
11 key to this development and this appears to have been something which was said
12 to them at a meeting on the 29th of June and adopted or certainly not disavowed
13 by Mr. Liam Lawlor, who was at that meeting?

14 A. He was present, yes.

14:15:27 15 Q. 424 What was your basis for making the statement at that time despite everything
16 we've seen here, that you were the key to this and it would happen?

17 A. Well, I think basically that we are now in June of 1993. By the end of 1993
18 the plan is going to be finalised so there is no way that this matter is going
19 to be dealt with in that context. By the 1st of January 1994 we are going to
14:15:53 20 have a new Council. And that's going to be Fingal, in whose area this
21 particular land lay. And the two councillors that had been the proposers and
22 seconders of the motion, notwithstanding that any of the motions or documents
23 generated in relation to it were generated by me, were councillors in that
24 particular area. And if you reprise the vote pattern that took place, albeit
14:16:22 25 some of them were abstentions, that you will see that there was a level of
26 support for the project on an ongoing basis, even though it was expressed in
27 some peculiar ways towards the end. By that I mean that people abstained
28 rather than voted.

29 Q. 425 Right. When it -- so what you're saying is that when you discussed that on the
14:16:45 30 29th of June you were not talking of a rezoning which would occur in the course

14:16:49 1 of that particular Development Plan but rather in relation to a local area plan
2 that would arise when the Council had been divided into three and when the
3 councillors who had supported you to date would probably have a greater
4 influence within the smaller Council than they had in the larger Council, which
14:17:10 5 comprised of 78 members or so, is that right?

6 A. That's correct, yes. And then just on two issues in relation to your overview
7 of that. One is that certainly, the matter was over in the context of the
8 Development Plan in the larger Council because matters had to move on. They
9 still had to complete the plan. The second matter is that it was well known.
14:17:31 10 I don't think it had been publicly announced but certainly it was well known by
11 some of the elected representatives that it was the intention of the new
12 councils, not only Fingal but the new councillors, to immediately indulge in a
13 Development Plan in their own right as soon as they were established.

14 Q. 426 The involvement then of any of the councillors who you've mentioned by name as
14:18:00 15 being the recipients of funds from you is unlikely to have occurred after the
16 date we're talking of?

17 A. Yeah.

18 Q. 427 In and around June?

19 A. That is correct.

14:18:10 20 Q. 428 So we can telescope the period of payments to sometime between March and June?

21 A. Correct.

22 Q. 429 Right. And just before I leave that. Mr. Lawlor and yourself, of course, went
23 on to have further negotiations with Mr. John Byrne in respect of the lands,
24 presumably, intended to insure that a further agreement would be entered into
14:18:36 25 that might have application for the local area plan under the new Council
26 rather than under this scheme, isn't that right? You, I think, sold your
27 interest under the option, is that right?

28 A. Yes.

29 Q. 430 Or disposed of it?

14:18:49 30 A. I apologise for this, Mr. O'Neill. But I can't. I have a difficulty in

14:18:53 1 actually putting the chain of events together in a coherent way in this
2 particular instance. I do know that Mr. Lawlor and I met Mr. Byrne alone. I
3 do know that there was either a question of the option running out and being
4 either renegotiated with Mr. Byrne on foot of my receiving the option from DHP.
14:19:23 5 But that all culminated -- there was no. There was never any effort by me and
6 I cannot speak for Mr. Lawlor. But certainly he was not acting for me if it
7 was the case. There was never any further action by me in relation to it with
8 Fingal County Council. And I then -- I think in, sorry, in April of 1994 I
9 sold the option on.

14:19:55 10 Q. 431 Yes. The opportunity of effectively obtaining rezoning of these lands within
11 the remaining period available in the original five year option was spent
12 effectively, isn't that correct?

13 A. Correct.

14 Q. 432 There was no practical way in which one could do that.

14:20:16 15
16 So just to revert then to the involvement of the councillors themselves.
17 You've indicated to us what they did for you?

18 A. Uh-huh.

19 Q. 433 You've indicated now that the payments are probably within that period, between
14:20:31 20 March and June. You have been unable to identify any individual payment or
21 place or time, though you believe that each of six received a similar amount,
22 probably in the same location by either being handed an envelope or having
23 something put in their coat or by meeting them in the, at the desk, in the
24 porters desk or otherwise?

14:20:57 25 A. Yes.

26 Q. 434 And you have no particular recollection to aid you in relation to when that
27 might happen. Equally, I think it's correct to say that from analysis of your
28 accounts, it is not possible to identify any cash withdrawal during that period
29 of time from which one can identify a seven to 8,000 pound payment to
14:21:23 30 individuals, isn't that so?

- 14:21:24 1 A. Yes, correct.
- 2 Q. 435 So to that extent, all of that is undocumented as regards source of funds?
- 3 A. Correct.
- 4 Q. 436 Your belief is that the sum of 10,000 pounds was paid to you in January of
- 14:21:40 5 1992. By that account, 14 months, at a minimum, and up to 16 months before the
- 6 date upon which those funds were expended on councillors?
- 7 A. Yes.
- 8 Q. 437 Probably more accurate to say the date upon which funds were paid to
- 9 councillors, isn't that right?
- 14:22:00 10 A. Correct.
- 11 Q. 438 Right. And so it would appear that the funds which were paid to councillors, I
- 12 suggest, were probably not the identical sum which had been received in January
- 13 1992 or February 1992 perhaps but rather another sum?
- 14 A. Yes. I would say that that is correct.
- 14:22:24 15 Q. 439 I want to move now, if I can, Mr. Dunlop, to deal with the fundamental basis
- 16 upon which you became involved in this process with, amongst others, Mr. Byrne,
- 17 Mr. Liam Lawlor, Mr. David Shubotham and Mr. Brendan Hickey.
- 18
- 19 I think it's correct to say, and you indicate in your statement that the, some
- 14:22:51 20 of those parties had already had a relationship in relation to another property
- 21 at City West
- 22 A. Yes.
- 23 Q. 440 And those parties effectively are all, save Mr. Byrne, isn't that right?
- 24 A. Correct.
- 14:23:04 25 Q. 441 All right. And the City West project, in time, predated the Baldoyle scheme by
- 26 possibly a year, there or thereabouts?
- 27 A. Yes, it was in 1990, if my memory serves me right.
- 28 Q. 442 Yes?
- 29 A. In relation to a material contravention to the then land.
- 14:23:24 30 Q. 443 Yes. Now, in your most recent statement you indicated that the involvement in

14:23:31 1 Baldoyle probably started after the successful Section 4 rezoning of the City
2 West lands?
3 A. Yes.
4 Q. 444 That's how you express it. But I don't think that that is accurate. And
14:23:43 5 you'll probably agree with me when you see the dates involved. Because it was
6 not until March of 1991 that the Council approved the Section 4?
7 A. Correct.
8 Q. 445 Motion?
9 A. Yes.
14:23:54 10 Q. 446 Whereas we can see from the documentation that as of late January 1991 the
11 5,000 pounds was paid in respect of the option agreement for Baldoyle?
12 A. That's correct.
13 Q. 447 So that we can set aside the Section 4 success state as being the trigger for
14 your involvement, isn't that right?
14:24:20 15 A. Other than my involvement leading to -- sorry. I'm putting that wrongly. To
16 assist you.
17 Q. 448 Can I put it another way?
18 A. Yes.
19 Q. 449 You were involved with the Baldoyle project and the City West project at a time
14:24:37 20 when both of them were moving towards obtaining rezoning?
21 A. Correct.
22 Q. 450 Yes. And I think that you may be in agreement with me that Mr. Lawlor has
23 always claimed that -- sorry, did you want to correct something?
24 A. Sorry Mr. O'Neill. I have just a slight doubt. I'm not questioning. I'm not
14:25:00 25 doubting anything that you're saying at all. I just have a slight doubt.
26 Q. 451 Yes?
27 A. In the Development Plan, it had a specific start date.
28 Q. 452 Yes?
29 A. From 1991 to 199 -- the end of 1993.
14:25:14 30 Q. 453 Are you talking about the review?

- 14:25:15 1 A. Yes, the review. The Development Plan. What colloquially was referred to by
2 everybody in the business as the plan.
- 3 Q. 454 Well, there was the 1991 plan?
- 4 A. Correct.
- 14:25:27 5 Q. 455 Which was the plan and map which went on public display in September 1991?
6 A. Correct.
- 7 Q. 456 And it was current from the point of view of submission until December of 1991
8 and then submissions had to be made in relation to that prior to a date I think
9 in March 1992 and then it was first considered in relation to Baldoyle in April
10 1993?
- 11 A. Slight cross purposes, sorry, and it's my fault. I beg your pardon. I just
12 want to establish the exact time frame vis-a-vis the start of the review.
- 13 Q. 457 October 1987?
- 14 A. Yes.
- 14:26:06 15 Q. 458 Yes.
16 A. The 1991 to 1994 period began.
- 17 Q. 459 Well, the public display?
- 18 A. You see --
- 19 Q. 460 The public display of what was agreed. In other words, the?
- 14:26:25 20 A. The reason I ask the question Mr. O'Neill. The reason I ask the question is
21 that in May of 1991, early May -- or sometime in May 1991.
- 22 Q. 461 Yes?
- 23 A. There was a vote which was of crucial importance in the context of another
24 Module, which we won't open. It's already opened but we haven't proceeded with
14:26:45 25 it. The Tribunal hasn't proceeded with it at the moment. So the Development
26 Plan process was underway during the course of 1991.
- 27 Q. 462 Yes?
- 28 A. Okay. The - had been you could not -- you would have had to have a vote in
29 relation, a material contravention to the then existing plan.
- 14:27:09 30 Q. 463 Yes?

- 14:27:09 1 A. Either up to that point, at the beginning of the review. Maybe legally I may
2 be incorrect in this. This was my understanding of it. That you would have a
3 material contravention to the then plan which didn't obviously fall within the
4 review. And it is within the review that most of the activity in relation to
14:27:30 5 what this Tribunal is looking at took place.
- 6 Q. 464 Yes. With the exception of, if we're just touching on City West for the
7 moment. City West attained its alteration in zoning status outside the 1993
8 plan?
- 9 A. Correct.
- 14:27:45 10 Q. 465 It was an amendment to the 1981 plan?
- 11 A. Correct.
- 12 Q. 466 And it was achieved in 1991?
- 13 A. Right.
- 14 Q. 467 So it was brought within the period during which a review of the 1981 plan was
14:27:58 15 taking place?
- 16 A. Correct.
- 17 Q. 468 But it was done as with quite a number of Section 4 motions at the time, it was
18 done notwithstanding that the review period was in being at the time and I
19 think that in many of the cases in which that happened the Manager's advice was
14:28:17 20 that this is matter which is coming up for review in any event. It should be
21 done in the process of the review of the 1991 -- '81 plan as a matter of
22 course?
- 23 A. Yes.
- 24 Q. 469 And it should not be the subject of a Section 4. In any event, it went on in
14:28:32 25 this instance, isn't that right?
- 26 A. That's correct, yes.
- 27 Q. 470 And I just want to try and establish what the relationship of yourself and
28 Mr. Lawlor was at that time in relation to that project. I think you've
29 already given evidence that -- or certainly you've indicated to the Tribunal in
14:28:52 30 your correspondence and interviews that this City West plan was the first one

- 14:28:57 1 that you actually had any significant involvement in dealing with councillors
2 with, isn't that correct?
- 3 A. That's correct, yes.
- 4 Q. 471 And that your involvement came as a result of Mr. Lawlor contacting you in that
14:29:10 5 regard?
- 6 A. That is correct.
- 7 Q. 472 And as with Baldoyle, this again was an ambitious project which could not get
8 off the ground unless it was rezoned?
- 9 A. Correct.
- 14:29:20 10 Q. 473 Isn't that right? And it was successfully rezoned in this instance. And that
11 rezoning took place in March 1991 by way of a Section 4?
- 12 A. Yeah, 50 votes to one I think or 52 votes to one Mr. Lawlor in his dealings
13 with the Tribunal has claimed that this idea was his, it was his plan, I'm
14 talking now about City West.
- 14:29:46 15 Q. 474 It was his plan that he contacted the then landowner there Mr. Killeen, that he
16 was instrumental in introducing Davy's to become involved in the project. That
17 he involved you in the project. And that between all of you, you successfully
18 brought it to a conclusion?
- 19 A. Yes. Well certainly the latter part is correct. That he involved me in the
14:30:10 20 project.
- 21 Q. 475 Yes?
- 22 A. From my close association with Mr. Lawlor, my understanding always was that it
23 was Mr. Lawlor who had brought the project to, as they then were, because Davy
24 Hickey Properties wasn't established.
- 14:30:28 25 Q. 476 Exactly?
- 26 A. Was to Davy Stockbrokers. And that it is certainly true that I attended
27 meetings in Davy Stockbrokers prior to any establishment of separate offices by
28 DHP in relation to City West with Mr. Lawlor.
- 29 Q. 477 Yes. So they probably date from the beginning or maybe the end of 1989 and the
14:30:49 30 beginning of 1990?

- 14:30:51 1 A. That is possible, yes.
- 2 Q. 478 Yes. And that is at a time, indeed, before Mr. Brendan Hickey was ever brought
3 on board, isn't that right?
- 4 A. Mr. Hickey was brought on board specifically for the purposes of
14:31:04 5 establishing -- well maybe that's not correct and I'll allow Mr. Hickey to
6 explain that himself. But from my point of view, he was brought on board
7 subsequent to the interest being expressed in the City West lands by Davy
8 Stockbrokers.
- 9 Q. 479 Yes. And I think we can date his involvement to mid 1990 when the company
14:31:27 10 Bedale was in being and it changed its name to Davy Hickey Properties limited
11 in and around that time. But you had this involvement and contact with
12 Mr. Lawlor in a number of fields before the involvement ever of Davy Hickey
13 Properties Limited in either of these two projects that I'm now talking about.
14 One is City West and the other Baldoyle?
- 14:31:50 15 A. Yes, I was very closely associated with Mr. Lawlor. I cannot say to you that I
16 was involved in specific projects with him prior to that particular time.
- 17 Q. 480 Right?
- 18 A. Sorry, he -- I did become very heavily involved with him in the context in the
19 immediate lead up to, we'll say, the 1991 Local Elections. We'll say from
14:32:13 20 early 90 until the 1991 Local Elections when he lost his seat on the Council.
21 That the association proceed between us. Proceeded, albeit in a different
22 manner, because he was no longer a member of the Council but was still
23 influential.
- 24 Q. 481 Yes. As regards trying to establish the genesis of either of these two
14:32:32 25 projects. Is it correct to say that both of them are Liam Lawlor originated
26 projects?
- 27 A. Yes, I would say so, yes.
- 28 Q. 482 From inception?
- 29 A. Yes.
- 14:32:49 30 Q. 483 And it was then his woe to see if he could assemble people together with their

14:32:49 1 various talents to bring the matter to fruition?

2 A. I make the point, Mr. O'Neill. I'm coming to this all of the time in the

3 context of my involvement.

4 Q. 484 Yes, of course?

14:32:58 5 A. I cannot but say that yes, I was contacted by Mr. David Shubotham and then

6 subsequently by Mr. Shubotham and Mr. Hickey. But the originator, as far as

7 I'm concerned, was Mr. Lawlor. Mr. Lawlor either recommended me to

8 Mr. Shubotham and to Mr. Brendan Hickey.

9 Q. 485 Right. We might see at page 509 on screen, please what, Mr. Lawlor has said to

10 us in relation to the original City West.

11

12 This document is one of a series of documents which were provided to the

13 Tribunal by Mr. Lawlor in the course of a discovery process in which he was

14 required to provide to the Tribunal documentation in relation to business

14:33:46 15 ventures with which he was involved. And in this particular document he is

16 identifying Mr. Brendan Hickey and Mr. David Shubotham as persons with whom he

17 had contacted.

18

19 And he sets out history of dealings between LAL or anyone on LAL's behalf with

14:34:06 20 addressee or associated companies of addressee. "Through a mutual contact a

21 meeting was arranged with the above personnel. Due to the lack of an

22 International type business park to provide jobs on the west side of Dublin and

23 as Council management were suggesting a substantial area of corporal demense, a

24 regional park should be promoted as a job creation location. I suggested the

14:34:31 25 above executives should explore the possibility of setting up an an

26 International business park on lands owned by the late Dick Killeen, who had

27 approached me outlining difficult family circumstances. The parties went

28 forward and provided what is today, City West Business Park. It is my

29 recollection that I recommended Mr. Frank Dunlop to Davy Hickey Properties.

14:34:53 30 Davy Stockbrokers supported me in my election campaigns etc. etc."

14:34:57 1
2 Now, he may be incorrect in what he says there as regards -- well possibly less
3 than complete in saying that he recommended you to Davy Hickey Properties.
4 Because you were already involved in this intended project to the extent of
14:35:13 5 having discussed it with him and agreed to be involved, isn't that so
6 A. Yes. Well, again, as far as I recollect and I'm very -- fairly clear in my
7 mind as to the details of this and that is that Mr. Lawlor identified this body
8 of land.
9 Q. 486 Right?
14:35:32 10 A. Identified it to Davy, Mr. Shubotham or Mr. Brendan Hickey. The thing I find
11 difficult to understand in relation to that statement is that if Mr. Brendan
12 Hickey was not involved at the time that the issue was first raised.
13 Q. 487 Yes?
14 A. It was only Mr Shubotham.
14:35:51 15 Q. 488 Yes?
16 A. And that Mr. Lawlor told me that he had made a proposal to Mr. Shubotham and
17 that I would either be contacted by Mr. Shubotham or get a telephone call from
18 him to go and see him and to discuss it.
19 Q. 489 Right. Do you know whether or not Mr. Hickey was headhunted for the task?
14:36:11 20 A. Yes, I think he was.
21 Q. 490 Why. He was?
22 A. Sorry, I should say that's anecdotal but that's my belief.
23 Q. 491 Do you believe that he had been an employee of another firm to the point that
24 he came in effectively as the managing director of this combination of Davy's
14:36:28 25 and a building company to carry out this project?
26 A. Correct, yes.
27 Q. 492 Which would be financed, I think, by persons who had high net worth and were
28 prepared to get into the property business at the time, is that right?
29 A. Yes, I think he had a senior role with another well known identifiable entity.
14:36:48 30 Q. 493 Right. Now, that project I think started ahead of the Baldoyle project. It

- 14:36:56 1 was successful to the extent that your involvement with councillors was
2 productive?
- 3 A. Yes.
- 4 Q. 494 As of March 1991 we know that the Section 4 was brought before the Council and
14:37:13 5 it was passed. I think there was only one vote abstaining?
- 6 A. Correct.
- 7 Q. 495 Or one vote opposing, I should say?
- 8 A. Against.
- 9 Q. 496 And it went on to obtain planning permission through Dublin County Council. It
14:37:27 10 was appealed to An Bord Pleanala and was successful on the appeal. And all of
11 that took place in 1991, isn't that correct?
- 12 A. That's correct.
- 13 Q. 497 The area in which you were most directly involved in that project was in
14 relation to the liaison with the councillors, isn't that right?
- 14:37:48 15 A. Correct.
- 16 Q. 498 And that effectively ceased once planning permission was given by the Council,
17 isn't that's correct?
- 18 A. That's correct.
- 19 Q. 499 The appeal to An Bord Pleanala was not a matter of which you would have a
14:38:06 20 particular interest, there's no lobbying involved in that and certainly not by
21 you, isn't that correct?
- 22 A. That's correct.
- 23 Q. 500 So effectively as regards City West, your role insofar as you had one, in
24 promoting the project, ceased in and around the first half of 1991, isn't that
14:38:20 25 so?
- 26 A. There were one or two tangential issues, if I may describe them as that. And I
27 think there are documents to sustain that. But any heavy involvement was
28 passed.
- 29 Q. 501 Yes. I think there was a promotional aspect involved in opening a bridge?
- 14:38:39 30 A. Correct.

- 14:38:40 1 Q. 502 Across the Naas Road which you were engaged in?
- 2 A. Yeah.
- 3 Q. 503 In your PR capacity and you billed for that through Frank Dunlop & Associates?
- 4 A. Correct.
- 14:38:47 5 Q. 504 But I think that in that instance you had your reward and you retain your
6 reward through a shareholding in that venture, isn't that right?
- 7 A. That is correct.
- 8 Q. 505 Right that. That is something that continues to date?
- 9 A. Correct.
- 14:39:04 10 Q. 506 I think it has been a profitable venture, isn't that correct?
- 11 A. Laterally, yes.
- 12 Q. 507 Yes. But it was one that you always felt would be a success and certainly
13 there's no indication that you ever felt that you'd been sold a pup by getting
14 a shareholding rather than fees, isn't that right?
- 14:39:24 15 A. No, but one could not foretell given the economies or the nature of the
16 business or the nature of the economy that it would be successful. As it
17 turned out it was. I never felt that I had been sold a pup. There were
18 specific circumstances in which the matter was dealt with in that way.
- 19 Q. 508 Well, certainly as of 1992?
- 14:39:47 20 A. Yes.
- 21 Q. 509 You wanted to increase your shareholding and to borrow 100,000 pounds to make a
22 personal investment in the larger project, isn't that right?
- 23 A. Yes, I think to avoid dilution. There was a possibility of dilution.
- 24 Q. 510 Certainly. But, I mean, if you had any qualms at that time about the viability
14:40:06 25 of that project the last thing you would be doing would be trying to borrow
26 more money for it and that was what you were trying to do, isn't that correct?
- 27 A. Correct.
- 28 Q. 511 In that arrangement, that is in relation to City West, did you have a formal
29 terms of engagement as between yourself and the promoters of City West?
- 14:40:30 30 A. Yes, I believe I did.

- 14:40:32 1 Q. 512 Yes?
- 2 A. I believe there was a letter from David Shubotham to me.
- 3 Q. 513 Yes?
- 4 A. At some stage fairly early on after initial contact in which a discussion took
- 14:40:51 5 place in relation to fees.
- 6 Q. 514 Yes?
- 7 A. And that Mr. Shubotham replied to me. The discussion having taken place,
- 8 replied to me. Now, I do not think that letter has been.
- 9 Q. 515 It hasn't?
- 14:41:08 10 A. Discovered. But you can take it as absolutely definitive, as far as I'm
- 11 concerned, that such a letter did exist. What I did with or where it has gone
- 12 in the interim, I just can't tell you. But, I mean, there was a letter, to the
- 13 best of my recollection it related to a fee which would be payable in
- 14 circumstances of a nominal sum in advance, a sum we'll say in the middle of the
- 14:41:40 15 project and what would broadly be described as a success fee. Though I'm not
- 16 absolutely certain that that phrase was used in the letter. But certainly
- 17 there was an arrangement.
- 18 Q. 516 Well, certainly putting this in the chronology of events. Since we know that
- 19 the Section 4 didn't pass until March of 1991, it follows that there were no
- 14:42:00 20 fees paid prior to that date by way of success fee, isn't that right?
- 21 A. Absolutely, by way of success fee, no.
- 22 Q. 517 No. But your brief had been enlarged because you now had the Baldoyle brief
- 23 also, isn't that correct?
- 24 A. That's correct.
- 14:42:16 25 Q. 518 And that is something that you endeavoured to date for us in your statement, I
- 26 think probably inaccurately now as you realised, by saying that it followed
- 27 upon the successful Section 4. It probably is before it?
- 28 A. It probably is before it.
- 29 Q. 519 Yes?
- 14:42:31 30 A. Now that you -- I would have said, that's the reason I was asking you in

14:42:34 1 relation to the detail about the development -- the beginning of the
2 Development Plan.

3 Q. 520 Yes?

4 A. And it is a confusion in relation to the material contravention taking place on
14:42:43 5 the basis of one plan and the review of the plan taking place.

6 Q. 521 Yes?

7 A. But certainly the window is in the period late 1990 early 1991.

8 Q. 522 Yes?

9 A. When the vote took place, as you have pointed out to me, in March of 1991.

14:43:08 10 Q. 523 Right. Well in January 1991, Mr. Lawlor and Mr. Byrne are in agreement that a
11 meeting took place at Davy's offices?

12 A. Yes.

13 Q. 524 And that it was a meeting attended by Mr. Shubotham, Mr. Hickey, Mr. Lawlor,
14 Mr. John Byrne and yourself?

14:43:18 15 A. Yes.

16 Q. 525 Both Mr. Shubotham and Mr. Hickey don't recall such a meeting taking place.
17 But are you?

18 A. I can absolutely categorically say to you that I never attended a meeting in
19 Davy Stockbrokers at which Mr. Byrne was present.

14:43:33 20 Q. 526 I see?

21 A. Never.

22 Q. 527 You weren't introduced?

23 A. Never.

24 Q. 528 At that meeting as having any role?

14:43:38 25 A. I was not -- I was not at -- I was at many meetings in Davy Stockbrokers.

26 Q. 529 Yes?

27 A. With, and I was at some meeting in Davy Stockbrokers at which Mr. Lawlor was
28 present. I was never present at a meeting with the personnel that you've just
29 outlined.

14:43:55 30 Q. 530 I see?

- 14:43:55 1 A. Particularly Mr Byrne.
- 2 Q. 531 All right. When did you first meet Mr. Byrne in the context of the Baldoyle
3 option for Pennine and where was that?
- 4 A. I can't -- I certainly didn't meet him in Davy Stockbrokers. I either met him
14:44:17 5 in my own office or in John Gore Grimes office, one or the other. I have been,
6 as I think I alluded to on Friday. I have been at at least one and maybe only
7 one, but at least one meeting in Mr. Byrne own home, on my own, with no other
8 person present.
- 9 Q. 532 Right?
- 14:44:37 10 A. But I, in relation to -- I cannot specifically. It certainly wasn't in Davy
11 Stockbrokers and it certainly -- the meeting that I had with him in his own
12 home was later.
- 13 Q. 533 Very good. Well perhaps I can come at it another way Mr. Dunlop?
- 14 A. Yes.
- 14:44:58 15 Q. 534 You agree that there was an arrangement reached which involved all of those
16 four, five parties. Let's leave the location of it out for the moment. But
17 there was to be an arrangement where all of these parties would have the same
18 aspiration in relation to the lands at Baldoyle. Namely, that within the
19 period of 1993 review, the lands would be rezoned for residential and golf
14:45:26 20 course and hotel development, isn't that right?
- 21 A. That is correct.
- 22 Q. 535 And when I say '93. I mean that it would be adopted as part of the 1993 plan.
23 And we know that the 5,000 pounds for the option was paid out of the account of
24 Mr. Shubotham on the 28th of January 1991. So we may take it that there must
14:45:50 25 have been some arrangement before that date involving the parties. What is
26 your first recollection of what was to happen as between those four or five
27 parties and this land?
- 28 A. Yes. Well in broad terms, and if you --
- 29 Q. 536 Yes?
- 14:46:06 30 A. And I'm sure you will in relation to specifics. In broad terms was that

14:46:11 1 Mr. Hickey either on his own initiative or with the assistance of Mr. Lawlor or
2 by via the introduction of Mr. Lawlor, was to meet Mr. Byrne and on foot of an
3 arrangement already entered into by Mr. Lawlor and Mr. Byrne as to the
4 possibilities of this taking place, was to buy an option from Mr. Byrne on
14:46:34 5 parts of the lands in Baldoyle with a view to development.

6 Q. 537 Yes?

7 A. Mr. Hickey negotiated such an option with Mr. Byrne. I was not party to that
8 negotiation of that option.

9 Q. 538 When did that take place?

14:47:02 10 A. Well, I -- only in the context of what you've just said in relation to the
11 payment of the option of the 5,000 pounds, in relation to it in January of
12 1991. It presupposes that there was arrangements in relation to this or
13 meetings in relation to this prior to that date.

14 Q. 539 Yes?

14:47:23 15 A. Yes.

16 Q. 540 You record a series of meetings?

17 A. Yes.

18 Q. 541 In Davy's, in the early part of 1991?

19 A. That is correct.

14:47:30 20 Q. 542 Do you think that those meetings were common to both City West, which was
21 current at that time, and to Baldoyle or can you distinguish one from the
22 other?

23 A. Yes. Well I would have said and I take the point that you have made quite
24 readily. I would have said that the matter in relation to City West was an
14:47:59 25 ongoing issue.

26 Q. 543 Yes?

27 A. But there is no doubt, there can be no doubt in my mind now that both issues
28 were live, as it were, to use a phrase, which one was predominant or not is
29 immaterial. But certainly both of them were live at the time. Yes.

14:48:16 30 Q. 544 Well, what do you remember about the roles that were to be played by the

- 14:48:21 1 respective parties. Obviously Mr. Byrne is the owner of the land. He was to
2 retain his ownership in that land, albeit subject to an option?
- 3 A. Yes.
- 4 Q. 545 That option being a five year option which gave the option holder the right to
14:48:41 5 exercise a right to acquire 250 of the approximately 430 odd acres that were
6 there, isn't that right?
- 7 A. That's correct, yes.
- 8 Q. 546 And that option could be exercised in parts, in tranches, the first to be 50
9 acres and the others undefined. And the option price was to be 30,000 provided
14:48:58 10 it was operated by a certain date?
- 11 A. Yes.
- 12 Q. 547 And 37,500 if triggered in the last year of the option, isn't that right?
- 13 A. That is correct.
- 14 Q. 548 Now, we know that the option expired on, I think, it's the 25th of January of
14:49:14 15 1995, isn't that right?
- 16 A. That's correct, yes.
- 17 Q. 549 Sorry, that's '96?
- 18 A. Because it's five years, from 1991.
- 19 Q. 550 Yes?
- 14:49:21 20 A. Yeah.
- 21 Q. 551 So it's likely that the agreement was made on the 25th of January of 1991, on
22 that basis, if it's a five year option?
- 23 A. Yes. And contingent on the fact that Mr. Shubotham paid -- or Davy Hickey
24 Properties.
- 14:49:37 25 Q. 552 Paid the?
- 26 A. Paid the option deposit.
- 27 Q. 553 Yes?
- 28 A. Or the option price.
- 29 Q. 554 Yes?
- 14:49:41 30 A. In January of 1991.

- 14:49:43 1 Q. 555 Right. Now, you have given us a brief outline of what Mr. Hickey's role in
2 this was. And that was to negotiate the option. You believe he did so
3 successfully. You may be aware of the fact that Mr. Hickey says that you were
4 the person negotiating the option and that he assisted you because of, you
14:50:02 5 know, his greater technical knowledge in these matters, is that correct?
6 A. Yes. No, I beg to differ with Brendan Hickey on that. That I have no
7 recollection of any meeting with John Byrne in relation to an option in
8 relation to these lands. And in furtherance of that, that I was not aware of
9 the detail of the acreage payment in the context of the option until
14:50:29 10 subsequently.
- 11 Q. 556 Yes?
12 A. When I became the owner of the option myself.
- 13 Q. 557 Yes. Well, I just want to try and establish just what everybody intended to
14 get out of this deal on the day they started?
14:50:42 15 A. Uh-huh.
- 16 Q. 558 Mr. Lawlor had the aspiration of involving himself with Mr. Byrne in this
17 project. Of bringing in a financier. Of bringing in somebody who would be the
18 interface with councillors. You were the interface with councillors. Davy
19 Hickey Properties were going to be the persons through whom finance might be
14:51:01 20 raised. Mr Byrne was going to provide the property, isn't that so
21 A. That's so.
- 22 Q. 559 Mr. Lawlor's role was to strategise the matter and he did so with you
23 throughout, isn't that correct?
24 A. Correct.
- 14:51:14 25 Q. 560 Now, how were these parties, there was certainly four defined interests here.
26 How were each of them to benefit out of this? One can see in the context of
27 Mr. Byrne being the grantor, that he was to get a certain figure per acre.
28 Capitalised at 30,000 pounds per acre, if it was exercised at a certain time,
29 for every one of the 250 acres that he was selling. So one can identify
14:51:43 30 readily what he was going to get out of it. He was going to get that value.

- 14:51:48 1 Equally, he was going to get the benefit of somebody doing the rezoning on the
2 remaining 150 acres or so, which would remain in his ownership even though the
3 exercise of the option might take place, isn't that?
- 4 A. So that's correct, yes.
- 14:52:02 5 Q. 561 And for that apparently there is reference to a hotel and golf course being
6 built on these lands. And the obligation on the option holder was to bring
7 that to fruition?
- 8 A. Correct.
- 9 Q. 562 So Mr. Byrne was going to get that benefit also?
- 14:52:17 10 A. That's correct.
- 11 Q. 563 Now, what benefit was Mr. Lawlor going to get out of all of this?
- 12 A. Well, that I can not tell you. I do not know of, I did not know of then and I
13 do not know of now, any arrangement that I certainly was party to, because I
14 wasn't. Of any involvement by Mr. Lawlor on any beneficial basis in relation
15 to this.
- 16 Q. 564 Right.
- 17 A. Sorry.
- 18 Q. 565 Just so that we can establish what his involvement is, would it be fair to say
19 that it involved, amongst other things, an almost daily contact with you on the
14:52:56 20 detail of this project over a period of two and a half years or more?
- 21 A. Correct.
- 22 Q. 566 It involved his attendance at numerous meetings. It involved his selection of
23 the consultants whose advices were to be sought in the preparation of
24 submissions?
- 14:53:13 25 A. That is correct.
- 26 Q. 567 It involved the drafting of motions and the general overview of this project,
27 isn't that right?
- 28 A. Absolutely.
- 29 Q. 568 Are there any circumstances in which you believed that Mr. Lawlor would have
14:53:34 30 engaged in this level of activity without reward?

- 14:53:34 1 A. Knowing Mr. Lawlor, the answer to that question is no.
- 2 Q. 569 Well, what sources can the rewards come from, if we analyse it, presumably,
- 3 Mr. Byrne could pay him?
- 4 A. Yes.
- 14:53:41 5 Q. 570 For having introduced Davy Hickey Properties?
- 6 A. Correct, yes.
- 7 Q. 571 Davy Hickey Properties could pay him for having introduced them to the
- 8 opportunity?
- 9 A. That is correct.
- 14:53:51 10 Q. 572 Of being involved. And also could be paying him for the fact that he is
- 11 diligently pursuing a joint aim of their's, isn't that?
- 12 A. Correct, yes.
- 13 Q. 573 You yourself could be sharing some level of your fee with him?
- 14 A. Correct.
- 14:54:08 15 Q. 574 But you don't know of any one of these as being -- coming fruition or being the
- 16 reality?
- 17 A. Well, the only one that I can speak to you with authority about is my own.
- 18 Now, I have already given evidence to the effect that I have given.
- 19 Q. 575 Yes?
- 14:54:26 20 A. And continue to give monies to Mr. Lawlor in a variety of formats and for a
- 21 variety of reasons down through -- over a long number of years, let me just put
- 22 it that way.
- 23 Q. 576 Yes?
- 24 A. I certainly had no arrangement with him in relation to Baldoyle, in relation to
- 14:54:48 25 paying him for his involvement, advice, support or assistance in any way.
- 26 Q. 577 Uh-huh?
- 27 A. And in ease of Mr. Lawlor's position, I do not recall ever being asked by him
- 28 for anything in relation to that same involvement.
- 29 Q. 578 That -- sorry. In relation to that involvement meaning?
- 14:55:14 30 A. Baldoyle.

- 14:55:15 1 Q. 579 Baldoyle.
- 2 A. I do not recall Liam Lawlor saying to me, to take the point that you made
- 3 laterally in your question, that I could have had an arrangement with him in
- 4 relation to his fee.
- 14:55:29 5 Q. 580 Yes?
- 6 A. In relation to my fee, I beg your pardon.
- 7 Q. 581 Yes?
- 8 A. There was no such arrangement. There was -- there were occasions previously in
- 9 which Mr. Lawlor did say to me I know that you're getting X and I need Y.
- 14:55:42 10 Q. 582 Yes?
- 11 A. Yes. But I have -- I am adamant to the point that almost to boring people to
- 12 death in relation to it, there was no such arrangement between him and me on
- 13 this particular occasion.
- 14 Q. 583 Right. Are we talking now about your initial involvement in 1991?
- 14:56:03 15 A. Yes.
- 16 Q. 584 When you all started off on the same route. At that point there was no
- 17 agreement in place as between yourself and Mr. Lawlor?
- 18 A. Correct.
- 19 Q. 585 At that time. You do tell us though, that the following year a call is made on
- 14:56:17 20 you for funds by him?
- 21 A. That's correct.
- 22 Q. 586 And you paid that money in connection with a number of projects, including
- 23 Baldoyle?
- 24 A. That is correct.
- 14:56:24 25 Q. 587 Of which you pay him 25,000 pounds?
- 26 A. That is correct.
- 27 Q. 588 Yes. But if we can revert to what the arrangement was initially. You say as
- 28 between yourself and Mr. Lawlor you were both venturers hoping to benefit at
- 29 the end of it but not hoping or not intending to take anything from each over,
- 14:56:43 30 isn't that right?

- 14:56:44 1 A. Yes.
- 2 Q. 589 Now, what about your own arrangement, how were you to be recompensed for this?
- 3 A. Well, to go back to what I said five minutes ago. In relation to -- I had an
- 4 arrangement with Mr. Shubotham. I believe I was paid a nominal fee. I can't
- 14:57:04 5 be absolutely certain that it was 5,000 pounds. But I'm virtually certain that
- 6 it was 5,000 pounds. And that there was to be a payment midway and then there
- 7 was to be a payment subsequently on the basis of success.
- 8 Q. 590 Right. Are we talking about. Sorry. Are we talking about City West?
- 9 A. Yes.
- 14:57:21 10 Q. 591 Sorry. I was talking about the arrangement in relation to Baldoyle?
- 11 A. I beg your pardon. I'm sorry Mr. O'Neill, it's a bit ...
- 12 Q. 592 We had gone through City West and your arrangement there you have indicated was
- 13 one where you were to be paid a fee ...
- 14 A. Apologies.
- 14:57:38 15 Q. 593 I'm talking about Baldoyle where the disparate interests come together, you and
- 16 Mr Lawlor have a joint interest in the outcome. You have no interchange
- 17 between yourselves as regards one paying the other but I want to know who was
- 18 to pay you and what was the rate of your remuneration in this project?
- 19 A. Yes, sorry.
- 14:57:57 20 Q. 594 How were you to right the situation?
- 21 A. Sorry. The arrangement with me goes to the core of the relationship in
- 22 relation -- with Davy Hickey Properties in relation to Baldoyle. They would
- 23 only become involved if the land was rezoned. They would buy the option. They
- 24 would pay for the option, I should say. They would undertake miscellaneous
- 14:58:20 25 expenses and they would give me an initial sum, which they did. Of 10,000
- 26 pounds. And that, there was no -- there was no further detailed arrangement
- 27 with him in relation to what would eventuate finally if the lands were rezoned.
- 28 That would be the subject of negotiation or discussion between us at that
- 29 stage.
- 14:58:45 30 Q. 595 So the parties would sit down after the event of the successful rezoning and

14:58:52 1 then decide what the shareholding was to be, is that the position?

2 A. No, no, no. For accuracy I would sit down. Whatever any other party would do.

3 Q. 596 Yes?

4 A. My orientation on this was as I have outlined. That in eventually if the

14:59:06 5 matter was rezoned Davy Hickey Properties would become involved and they and I

6 would negotiate and discuss and come to an arrangement.

7 Q. 597 Is there any reason why, Mr. Dunlop, one wouldn't do that in advance. I mean,

8 as we know, even on the smallest of contracts parties can fall out about what

9 their legitimate or otherwise entitlement is in a contract. And generally,

14:59:30 10 before one embarked upon the project at all, one works out the parameters of

11 the task and the shareholding that each party will have, so as to avoid

12 "misunderstandings", which might arise at a later stage. We're talking here

13 about a project that had a minimum beneficial value to its promoters of 10

14 million pounds, isn't that correct.

14:59:54 15 A. Yes.

16 Q. 598 The 10 million that was talked of in the newspaper was in fact conservative if

17 you looked at the thing realistically?

18 A. Very conservatively.

19 Q. 599 Are you saying that the parties to this ten million pounds agreement were

15:00:06 20 prepared to allow the matter to progress to a stage where Pennine Holdings

21 would have the benefit of the option but that they would then come and try to

22 negotiate as between themselves as to how they should share?

23 A. Yes, I can only deal with the matter with you from my point of view. I cannot.

24 Q. 600 Yes?

15:00:25 25 A. Talk at all about other parties.

26 Q. 601 All right?

27 A. And you have used the phrase parties. I can only speak for myself. There was

28 no formal arrangement between Davy Hickey Properties, either in the persons of

29 David Shubotham or Brendan Hickey, individually or collectively with me in

15:00:47 30 relation to what I would get ultimately when the -- if the lands were

- 15:00:52 1 rezoned and they became directly involved, as distinct from being peripherally
2 involved from a public point of view.
- 3 Q. 602 Yes. Did you discuss it even in rough terms, I know that when you're talking
4 about ten million, even 1 percent is a substantial amount of money?
- 15:01:10 5 A. Yes.
- 6 Q. 603 But were you talking in terms of it being a 50/50 arrangement, 25/75, 10
7 percent/5 percent?
- 8 A. Yeah, no, I don't think any such figures were discussed between us at all. It
9 was a question of we will become involved. We will pay for the option. We
10 will pay for the miscellaneous expenses. We will give you some money and we
11 will see what happens. If the land is rezoned, then, of course, that's a
12 different matter.
- 13 Q. 604 If the land is rezoned and if you happen to be the owner of the company that
14 was effectively the rezoner of those lands?
- 15:01:51 15 A. Yes.
- 16 Q. 605 If there is no shareholding vested in Davy Hickey Properties, they are relying
17 upon your goodwill to get anything, isn't that right?
- 18 A. Yes.
- 19 Q. 606 And you could dictate the terms to them, isn't that right?
- 15:02:05 20 A. Logically, yes.
- 21 Q. 607 And is that not a highly uncommercial arrangement for anybody to enter into,
22 much less those guiding our financial affairs in the stock market and pension
23 funds and what have you? Is there any reality in that Mr. Dunlop, that a
24 company such as Davy Hickey Properties, should fund the entire enterprise and
15:02:30 25 then wait until the end to see what terms they might be able to negotiate with
26 you in a position of strength and they having nothing other than expenses on
27 their sheet?
- 28 A. I think sometimes, 0as we have seen in the past here, Mr. O'Neill, in this
29 room, reality is sometimes a little more real than what we think it is. I can
15:02:54 30 only say to you somebody show me the document, show me the formal arrangement,

15:03:00 1 show me the percentages in relation to shareholding, beneficial interest, what
2 would obtain in the event of the lands being rezoned.

3 Q. 608 Yes?

4 A. No such document to my knowledge exists. Yes, there are various -- there have
15:03:19 5 been various allusions to shareholding and all the rest of it and what was
6 owned and what was not owned. The fact of the matter is that there was no such
7 arrangement to my knowledge with Davy Hickey Properties.

8 Q. 609 Uh-huh?

9 A. Now ...

15:03:35 10 Q. 610 You're going a bit further Mr. Dunlop, than saying that there is no document in
11 existence. You are saying that there is no fundamental agreement in principle
12 even, between the parties as to what their likely benefit would be other than
13 Mr. Byrne who was to get his clearly defined share through the exercise of the
14 option?

15:03:54 15 A. Correct.

16 Q. 611 And the benefit of zoning?

17 A. Yes.

18 Q. 612 Everybody else was at large as regards what they might get. Mr. Lawlor was at
19 large as to what he could claim as his legitimate entitlement. You in the same
15:04:07 20 position and Davy Hickey's ditto?

21 A. Well, I can't speak for Davy Hickey. I can speak for myself and I can speak
22 for Liam Lawlor, from my point of view only.

23 Q. 613 Right.

24 A. But while not speaking for Davy Hickey. All I can say to you in the
15:04:23 25 circumstances is that the only discussion that I had with either party,
26 individually or collectively, was in the context that I have outlined to you.

27 Q. 614 Right. But it would follow that if there was an agreement with any one of
28 those three persons, that's yourself, Mr. Lawlor or Davy Hickey, the other two
29 would have to know about it because it wouldn't be operational unless they did,
15:04:48 30 isn't that correct?

- 15:04:48 1 A. Yes, they did.
- 2 Q. 615 So it seems to follow logically from that. That the only conclusion one can
3 draw that is if you didn't an agreement with anybody, nobody else, as far as
4 you are concerned, had an agreement either, save the option agreement.
- 15:05:02 5 A. With one another.
- 6 Q. 616 With one another?
- 7 A. Yes. Other than -- I can't at for any arrangement or agreement between any
8 other party other than what I'm saying to in relation to myself and the
9 parties. I've gone through Mr. Byrne and Mr. Lawlor and Davy Hickey
10 Properties. I certainly had no arrangement with Mr. Byrne. I certainly had no
11 arrangement with Mr. Lawlor. That only leaves Davy Hickey Properties and to
12 all intents and purposes and, as we've gone through on Friday and this morning,
13 I was the front man for the Davy Hickey Properties project in Baldoyle.
- 14 Q. 617 Yes. But as you say in circumstances where the press release. Insofar as we
15 can treat the apology as that, was one in which they indicated that they would
16 only become involved if there was rezoning?
- 15:05:40 17 A. Yes.
- 18 Q. 618 Right. Which allowed you, on record, to be the entire owner of this place
19 without any attachment whatsoever. And had the rezoning gone through, Davy
20 Hickey would have had not a leg to stand on as regards saying that they had an
21 agreement with you under which you were to bring them in on the deal. Because
22 there wasn't such agreement on your evidence, isn't that correct?
- 23 A. Yes and on the face of it what you say is correct.
- 24 Q. 619 But is that not extraordinary commercial terms that the parties should proceed
25 forward in a venture such as this, over two and a half years or so, having the
26 benefit of accountancy advice and certainly the benefit of a solicitor setting
27 up a corporate entity to be the nominal advancer of this project and yet not go
28 the other step, the basic step, one would have thought of agreeing matters in
29 advance?
- 15:06:46 30 A. Yes.

- 15:06:46 1 Q. 620 You say that?
- 2 A. Well I'm saying no. And without being naughty, I have no evidence or knowledge
- 3 of any other arrangement between any of the other parties to the exclusion of
- 4 me.
- 15:07:00 5 Q. 621 Uh-huh. You've heard reference, I think, or perhaps in the opening, if you
- 6 were here for it, certainly in the brief of documents that are before you, of
- 7 your having a specific shareholding here, isn't that right?
- 8 A. That's correct, yes.
- 9 Q. 622 We see two references to that. Firstly, there is a reference in documentation
- 15:07:23 10 which was prepared by Allied Irish Banks at the time when you were seeking to
- 11 raise the funds so as to avoid dilution of your interest and make a capital
- 12 injection in City West?
- 13 A. In City West, yes, that's correct.
- 14 Q. 623 And on that occasion you indicated as part of your assets that you held eight
- 15:07:40 15 percent in Baldoyle?
- 16 A. Yes.
- 17 Q. 624 Can you explain that reference?
- 18 A. Well, the reference is there in somebody else's handwriting.
- 19 Q. 625 It is, yes. It's Mr. Eddie Kay?
- 15:07:48 20 A. Kay, yes.
- 21 Q. 626 Who was the bank manager involved?
- 22 A. Yes.
- 23 Q. 627 And to whom you had gone selling the benefits of the project itself, seeking
- 24 the finance and obviously outlining to him, whose bankers like to know these
- 15:08:02 25 things, what sort of collateral you had. And that collateral by your account
- 26 was eight percent of Baldoyle?
- 27 A. Yes.
- 28 Q. 628 Now, am I correct in saying that so far your evidence has been that you had no
- 29 interest in Pennine Holdings, beneficial or otherwise?
- 15:08:21 30 A. Correct.

15:08:21 1 Q. 629 Right. And no other means or vehicle through which you held the shareholding
2 in the option lands at Baldoyle, isn't that correct?
3 A. Correct.
4 Q. 630 How could you then say to Mr. Kaye that you had eight percent of Baldoyle?
15:08:34 5 A. I don't believe I did.
6 Q. 631 All right?
7 A. Sorry.
8 Q. 632 Right?
9 A. Sorry. I don't believe that I did but I have to point out to you that I
15:08:40 10 believe that the meeting with Mr. Kaye was attended by another person.
11 Certainly, if not in full, for the full meeting, then certainly at a certain
12 stage.
13 Q. 633 Yes?
14 A. Mr. Lawlor was present.
15:08:51 15 Q. 634 Yes?
16 A. I can't account for an appearance on a document of an attendance note mentioned
17 saying that I had eight percent of balance development. I never had eight
18 percent of Baldoyle.
19 Q. 635 Yes?
15:09:06 20 A. And, you know, I find extraordinary -- it's quite a specific figure. It's not
21 ten percent and it's not five percent. It's eight percent. And I find it
22 quite extraordinary that that should appear on a piece of paper in relation to
23 a position in 1992, I think it was.
24 Q. 636 Is that correct?
15:09:27 25 A. That's correct.
26 Q. 637 That I had eight percent of Baldoyle. So Mr. Kaye might have got it wrong, is
27 that it?
28 A. Well he may have got it wrong.
29 Q. 638 Yes?
15:09:36 30 A. Or it may have been intimated to him by another that I had eight percent of

- 15:09:41 1 Baldoyle.
- 2 Q. 639 But you say that that isn't so?
- 3 A. It is not so.
- 4 Q. 640 And Mr. Lawlor himself indicated in his statement to the Tribunal that your
- 15:09:50 5 interest was ten percent and that subsequent to Davy Hickey Properties pulling
- 6 out that it became 100 percent?
- 7 A. Well, if we take it from the latter point of view.
- 8 Q. 641 Yes?
- 9 A. The latter point of view is that when Davy Hickey Properties pulled out they
- 15:10:06 10 handed me the option. The option agreement with Mr. Byrne.
- 11 Q. 642 All right?
- 12 A. In relation to Mr. Lawlor saying that I had ten percent. I never had a
- 13 discussion with Mr. Lawlor in relation to any allegation of shareholding,
- 14 percentages or otherwise in relation to Baldoyle. Liam Lawlor could have had
- 15:10:26 15 40 percent for all I know. But I don't know. I have no knowledge of what he
- 16 had. And he certainly had no knowledge of what I had, which was nothing.
- 17 Other than being the owner of Pennine Holdings.
- 18 Q. 643 All right. We know that a firm of solicitors, Eugene F Collins & Co. were
- 19 nominated to act on behalf?
- 15:10:46 20 A. Yes.
- 21 Q. 644 Certainly they founded the company called Pennine Holdings Limited. But on
- 22 exactly whose instruction is something that is to be explored I think with the
- 23 individuals. Because there is an issue here as to who it was who caused them
- 24 to do that. Right?
- 15:11:05 25 A. Well, it can only be one of two people.
- 26 Q. 645 Well, it could be you?
- 27 A. Yes.
- 28 Q. 646 It could be Mr. Lawlor?
- 29 A. No.
- 15:11:11 30 Q. 647 It could be Mr. Hickey?

15:11:12 1 A. Yes.

2 Q. 648 Or it could be Mr. Shubotham?

3 A. No.

4 Q. 649 No?

15:11:16 5 A. It's either Mr. Hickey or me. One or the other.

6 Q. 650 And why do you say that?

7 A. Well, it's certainly not Mr. Lawlor. I would find it quite extraordinary that

8 Anthony or Eugene F Collins would be -- would have any dealings with.

9 Q. 651 Right?

15:11:36 10 A. Well, let me just park that. I don't believe that is the case.

11 Q. 652 Right?

12 A. Secondly, the -- Mr. Hickey was the executive, if I may use that term loosely,

13 was the executive in connection with the operational element of anything to do

14 with Baldoyle.

15:11:59 15 Q. 653 Yes?

16 A. It wasn't Mr. Shubotham.

17 Q. 654 But that doesn't necessarily carry with it the inference that that person would

18 be the controller. I mean, we have seen many instances of companies being

19 controlled nominally by offshore entities, running Irish operations where in

15:12:17 20 fact the instruction was coming from Ireland to the nominal directors who

21 signed the respective minutes, as the case may be, and it generally is not the

22 executive on -- at the end?

23 A. Yes, it could be a shadow director either.

24 Q. 655 Yes. Perhaps if we examine what the evidence to date?

15:12:37 25 A. Yeah.

26 Q. 656 In relation to what has been. We heard the evidence of Mr. Collins, the

27 solicitor who took the initial instruction. And it was his belief that the

28 recommendation of his firm had come through Mr. David Shubotham because of a

29 personal relationship that they had. Is there anything in that that runs

15:12:59 30 contrary to what you know?

- 15:13:00 1 A. No. I mean it could well be the case. I don't know of any relationship
2 between Anthony and David. I mean, that's a matter for them.
- 3 Q. 657 Mr. Shubotham for his part, says that he recommended that Mr. Collins will
4 become involved because he knew, he knew Mr. Collins and that Mr. Collins had a
15:13:21 5 working relationship or perhaps more with Mr. John Gore Grimes, who is the
6 solicitor. Sorry, I think he said Mr. Anthony Gore Grimes, who was the
7 solicitor acting for Mr. Byrne. And therefore, for that reason it might be a
8 good reason to involve him?
- 9 A. Yes.
- 15:13:37 10 Q. 658 Again, you wouldn't be disputing that?
- 11 A. No.
- 12 Q. 659 Mr. Collins himself says that the persons who came to him initially were
13 Mr. David Shubotham and Mr. Hickey, though perhaps not in that order. And that
14 he had no dealings with you initially?
- 15:13:55 15 A. Well, I couldn't but concur with that.
- 16 Q. 660 Right.
- 17 A. Because my involvement with Mr.-- with Anthony was a -- arose out of my
18 becoming involved with Davy Hickey Properties.
- 19 Q. 661 Yes. And we will see as of the 22nd of August 1991 correspondence passed from
15:14:17 20 Eugene F Collins, to Mr. Hickey, which has been made available to the Tribunal.
21 And in that documentation it appears clear that Mr. Collins is writing to
22 Mr. Hickey, of Davy Hickey Properties Limited, effectively as his client,
23 seeking his instruction in relation to putting the new company, Pennine, into
24 the names of those who will operate it and control it in lieu of the nominal
15:14:49 25 directors and shareholders who were employees of Eugene F Collins who had
26 formed the company at the request of their client?
- 27 A. Correct.
- 28 Q. 662 Isn't that right?
- 29 A. That's correct, yes.
- 15:14:58 30 Q. 663 And that documentation, sorry, is -- if we can put it on the screen. It is

15:15:06 1 page -- You may be aware that Mr. Collins' file is not available to the
2 Tribunal. And this documentation has come in a very limited amount of
3 documentation which has survived their system of culling their documents after
4 the lapse of time.

15:15:28 5
6 But this document here indicates that Mr. Collins is writing to Brendan Hickey.
7 The directors and secretary are acting as such on your instructions and the
8 shares were being held for you and your nominee.

15:15:43 10 Now, you may be aware from the brief that Mr. Hickey indicates that on receipt
11 of this letter he could see that the solicitors were in error in believing that
12 he was the client and that he contacted you thereafter, advised you of the
13 solicitors error and confusion and that as a result of that they rectified that
14 by putting you in and Mr. Byrne as the directors and shareholders

15:16:12 15 A. Yes.

16 Q. 664 Have you a recollection of Mr. Hickey coming to you and saying that the
17 solicitors have got it wrong. It's your company, Mr. Dunlop, it's not mine.
18 Did that happen?

19 A. It's quite possible it did. I don't have a recollection of it. But if you
15:16:28 20 fast forward to the fact that I have said that I did have one meeting at least
21 with Mr. Collins -- Eugene F Collins, in relation to the signing of necessary
22 documentation, I think it was in relation to the company.

23 Q. 665 Yes?

24 A. But I don't recollect Brendan Hickey ringing me specifically and saying Eugene
15:16:48 25 F Collins has got it wrong, the company should be in your name not mine.

26 Q. 666 Yes?

27 A. I didn't generate the initial contact with Eugene F Collins, which is the core
28 point as far as I'm concerned, that I was not the generator of that
29 relationship. It was as per Anthony's own evidence that it was either
15:17:10 30 Mr. Shubotham or Mr. Hickey.

- 15:17:13 1 Q. 667 That was because I take that you are not Pennine Holdings at the time?
- 2 A. Yes.
- 3 Q. 668 And were not intended to be Pennine Holdings at the time?
- 4 A. Yes.
- 15:17:20 5 Q. 669 Now, something changed between this date, the 22nd, and the 2nd of September,
6 when you became the director with your employee, Ciaran O'Byrne, isn't that
7 right?
- 8 A. Yes.
- 9 Q. 670 And could I indicate or suggest to you that the only reason that that change
10 would come about is if you were now acting in a representative or nominee
11 capacity as director of this company?
- 12 A. Yes.
- 13 Q. 671 Isn't that so?
- 14 A. Yes, that is correct.
- 15:17:51 15 Q. 672 All right. And you can't be a nominee unless you're a nominee for somebody
16 else, isn't that right?
- 17 A. That's correct.
- 18 Q. 673 And who are the persons for whom you were going to act? Obviously it's not
19 yourself because if you had wanted to set up a company which was going to be
15:18:07 20 the option holder and to be the ultimate beneficiary of all of this you would
21 have done so yourself?
- 22 A. Correct.
- 23 Q. 674 Right. Equally, there would have been no reason for Mr. Brendan Hickey to set
24 up such a company if he wasn't to be the beneficiary of such an enterprise?
- 15:18:27 25 A. Yeah.
- 26 Q. 675 But he did set up a company and you didn't?
- 27 A. Correct.
- 28 Q. 676 And as far as you're concerned, you did not correct an error in coming on board
29 as a director?
- 15:18:34 30 A. As far as I'm concerned?

- 15:18:36 1 Q. 677 Yes?
- 2 A. The Pennine holdings in essence, perhaps the language is imprecise from company
3 law terms ...
- 4 Q. 678 Uh-huh?
- 15:18:45 5 A. Mr. O'Neill, but nonetheless, we will run with it, but in essence that Pennine
6 Holdings was recommended by either David Shubotham or Brendan Hickey arising
7 out of a contact between one or other or both of them and Anthony Collins. And
8 that this company was established and for the purposes that -- for -- that the
9 company was to be created, was to promote the lands at Baldoyle.
- 15:19:15 10 Q. 679 Yes?
- 11 A. And the person who was going to promote the lands at Baldoyle was Frank Dunlop,
12 not Brendan Hickey or David Shubotham. They wouldn't have anything to do with
13 that.
- 14 Q. 680 Well, promoting the interests is perhaps a function that was entirely your own
15 insofar as the promotion via publicity generated in respect of the project was
16 exclusively yours?
- 17 A. Well I'm aware that the promoter. I'm using the word "promoter" in the PR
18 sense that. That is promoting the lands.
- 19 Q. 681 Yes?
- 15:19:49 20 A. That are now in the ownership of an entity known as Pennine Holdings.
- 21 Q. 682 Sure?
- 22 A. We produced headed notepaper with Pennine Holdings on top.
- 23 Q. 683 Yes?
- 24 A. In which we issued various documents, briefing and otherwise, in relation to a
15:20:08 25 variety of audiences as coming from Pennine Holdings.
- 26 Q. 684 Right. But that again, could I suggest, is not exclusive in the sense that it
27 is not only Pennine who was doing anything. I mean, Pennine?
- 28 A. Oh, no.
- 29 Q. 685 Was the corporate entity. In fact, I think you hardly even referred to Pennine
15:20:26 30 by name in the course of your actual dealings with this development. It was

15:20:30 1 called East View. You treated it as East View in your notes. Pennine was used
2 in your dealings with third parties?

3 A. Correct.

4 Q. 686 Such as residents associations, the Council itself?

15:20:43 5 A. Yes.

6 Q. 687 But as between yourselves, this was the East View project as the other project
7 had been the City West project?

8 A. Right.

9 Q. 688 And within both of those structures, there was a whole series of corporate --
15:20:56 10 well in relation to City West. There was a whole series of corporate holdings
11 that ultimately constituted the owners of the land, isn't that right?

12 A. In relation to City West, yes.

13 Q. 689 In relation to City West?

14 A. Yes.

15:21:09 15 Q. 690 And had this project been successful, you have no reason to believe that it
16 wouldn't have been identical as regards its structures, isn't that right?

17 A. I have no reason to believe that it wouldn't have been otherwise. I have no
18 reason then or now to know that any such structure had been put in place,
19 particularly in the circumstances where the reaction to the story in the
15:21:31 20 independent was so vehement.

21
22 JUDGE FAHERTY: Mr. Dunlop, would you mind Mr. O'Neill if I just clarified
23 something

24 A. Yes.

15:21:37 25
26 JUDGE FAHERTY: You talked about the reaction to the story on the 27th of
27 April

28 A. Yes.

29
15:21:42 30 JUDGE FAHERTY: But last Friday you were here. You gave evidence, Mr. Dunlop,

15:21:46 1 that the rezoning motion was first scheduled for the 20th of April

2 A. Yes.

3

4 JUDGE FAHERTY: And your evidence last Friday was that you were reasonably

15:21:54 5 optimistic, I think those were your words

6 A. Yes.

7

8 JUDGE FAHERTY: Now, it was deferred to the 27th and we know that the

9 Independent article happened. But leave that for a moment. As I understand

15:22:03 10 it, I'm sure Mr. O'Neill will correct me, as of the 20th of April when the

11 matter was on the floor of the Council effectively and you were reasonably

12 optimistic and this was the owners of the option was Pennine Holdings

13 A. Yes.

14

15:22:19 15 JUDGE FAHERTY: And as I understand it as of the 20th of April 1993, the

16 shareholders in Pennine Holdings was yourself

17 A. Correct.

18

19 JUDGE FAHERTY: And Mr. Ciaran O'Byrne, whom I believe was an employee of

15:22:32 20 your's

21 A. That's correct.

22

23 JUDGE FAHERTY: I think where Mr. O'Neill is coming from, had that motion

24 passed on that day, as of that date, a date you were reasonably optimistic.

15:22:44 25 You would have been enriched to the tune of the sum figures here. And indeed

26 Mr. O'Byrne on paper

27 A. Yes, on paper.

28

29 JUDGE FAHERTY: To the tune of 10 million pounds. And I think what

15:22:55 30 Mr. O'Neill, I think I'm correct in that my summation is a pretty -- obviously

15:22:59 1 it's only a summary. But what Mr. O'Neill is asking you is are you asking us
2 to say, to accept that no arrangement had been made among the people as to how
3 that would have been divided up, up to that point in time?

4 A. Well ...

15:23:22 5
6 JUDGE FAHERTY: Now, maybe, I may be over simplifying the matter

7 A. No.

8
9 JUDGE FAHERTY: As I understand it as of the 20th of April, yourself and
10 Mr. O'Byrne, I don't know him but he was an employee of yours, I think, on
11 paper would have been the proud owners of the option on Mr. John Byrne's lands

12 A. Correct.

13
14 JUDGE FAHERTY: And you could have exercised that in the way that the
15 agreement

15:23:46 16 A. No, that is exactly what Mr. O'Neill --

17
18 JUDGE FAHERTY: No, I am putting it in a slightly different way, maybe in
19 balder terms --

15:23:54 20 A. Sometimes in balder terms it's easier to answer. In the sense that yes, the
21 answer is yes. There was no arrangement between either Mr. Shubotham,
22 Mr. Hickey, I am discounting any other parties because I cannot speak for any
23 other party, include building Mr Byrne and Mr. Lawlor. There was no
24 arrangement between Mr. Lawlor and Mr. Hickey and Mr. Shubotham and myself in
15:24:17 25 relation to the beneficial ownership of these lands. I certainly had a piece
26 of paper or was the nominee director in Pennine Holdings. But I had put up
27 no -- I bought nothing. I put up nothing. I didn't pay for any option. I
28 didn't pay for any miscellaneous expenses. I paid for nothing. This was
29 Brendan Hickey and David Shubotham. Davy Hickey properties, I hesitate to use
15:24:52 30 the word but since you yourself, Judge, have used it. If you put it in blunt

15:24:57 1 terms, was taking a punt on the possibility that these lands in Baldoyle would
2 be rezoned as a result of an option agreement that they entered into, that
3 certainly it was negotiated by Mr. Hickey in relation to these lands.
4

15:25:11 5 CHAIRMAN: But who was the beneficial owner? Who was going to benefit?

6 A. Forgive me, but I haven't, I want to be careful about the language that I use.
7 I don't know too much about company law yet. The beneficial owner, as far as I
8 was concerned, on an ongoing basis was Davy Hickey Properties.
9

15:25:32 10 CHAIRMAN: But he says that he wasn't

11 A. Yes. They paid for the option. They paid for the miscellaneous expenses.
12

13 CHAIRMAN: But you're aware --

14 A. They paid me --

15:25:42 15
16 CHAIRMAN: But you're aware that Mr. Hickey says that he wasn't aware of any
17 beneficial ownership in Davy -- in Pennine Holdings.

18 A. Well, he established -- well, he established Pennine Holdings. Well he
19 initiated Pennine Holdings, let me use that phrase.

15:26:04 20
21 CHAIRMAN: But you say that he was, he and Mr. Shubotham were the beneficial
22 owners

23 A. Well I certainly wasn't a beneficial owner. I take Judge Faherty's point in
24 relation to had the zoning taken place on the 20th of April 1993 and it had
15:26:21 25 been -- and it was in the name of Pennine Holdings. That Pennine Holdings qua
26 Pennine Holdings would then be the proud possessor of rezoned land in Baldoyle
27 to the tune of 230 -- 280 acres, I can't remember the exact ...
28

29 CHAIRMAN: And the position would be, if we are to believe everything that
15:26:42 30 we're told, that all of the people that could possibly be associated with the

- 15:26:46 1 company would deny that they had any beneficial ownership of the --
- 2 A. Well, then the only conclusion that I can come to, Chairman, without being
- 3 facile about it was that then nobody owned it. Everybody is at odds. The
- 4 history of the matter, as far as I'm concerned, is relatively simple. That
- 15:27:05 5 Pennine Holdings was established as the front company to claim ownership of
- 6 lands in Baldoyle which were purported to be rezoned-- the purpose of which was
- 7 to have them rezoned. Following such a rezoning, certainly as far as I'm
- 8 concerned, and I can't speak for anybody else, that an arrangement would
- 9 eventuate between Davy Hickey Properties and myself.
- 15:27:34 10
- 11 Q. 691 We discussed a number of the parties involved here, Mr. Dunlop. And in
- 12 particular, the role which Mr. Lawlor was playing. And you may be aware that
- 13 Mr. Hickey and Mr. Shubotham say that Mr. Liam Lawlor had no involvement
- 14 whatsoever in relation to Pennine or in relation to the Baldoyle options of
- 15:28:04 15 lands. Can you accommodate for that belief on the part of either Mr. Hickey or
- 16 Mr. Shubotham, given the level of recorded communication between you and them
- 17 and Mr. Liam Lawlor and his attendance at meetings and involvement to the
- 18 extent that has been outlined over the past day and a half of evidence
- 19 A. Well I think the documentary evidence, Mr. O'Neill, speaks for itself.
- 15:28:33 20 Firstly, in the level of contact between Mr. Lawlor and myself. Two, I have
- 21 never resiled from the belief and as I know it, to be a fact, that Mr. Lawlor
- 22 introduced the Baldoyle lands to me as something of a possible project. Three,
- 23 he did attend a meeting, at least one meeting, I believe more meetings, in
- 24 Davy Stockbrokers in relation to this particular project known as East View.
- 15:29:07 25 He was the one who actually named it East View to avoid the connotations that
- 26 related to Mr. Byrne's relationship with the lands.
- 27 Q. 692 I think you indicated to the Tribunal that East View was his genesis or he was
- 28 the genesis of East View, is that right?
- 29 A. Yes.
- 15:29:25 30 Q. 693 Not a matter of him coming into a project which was identified, selected,

- 15:29:31 1 evaluated by Davy Hickey Properties?
- 2 A. No.
- 3 Q. 694 And you were then involved at their request?
- 4 A. No, no, no, no, no.
- 15:29:37 5 Q. 695 But rather you and they came into this project in which he was the originator?
- 6 A. Correct.
- 7 Q. 696 As regards the thought process initially and the engagement of persons
- 8 subsequently, isn't that right?
- 9 A. Correct.
- 15:29:48 10 Q. 697 And insofar as we've seen many, many references to contacts with you, that take
- 11 place in and around the times of your contacts with Mr. Hickey or Mr. Shubotham
- 12 on such issues as motion, content, and strategy. You've told us that these
- 13 were contacts which, in which you would have conveyed to all of the parties the
- 14 subject matter of your discussion with Mr. Lawlor and his views on the issue?
- 15:30:20 15 A. Yes.
- 16 Q. 698 So that there was uniformity. There was an agreed agenda as between all
- 17 parties, include Mr. Byrne, Mr. Shubotham, Mr. Hickey, Mr. Lawlor and yourself?
- 18 A. Yes.
- 19 Q. 699 On all major issues throughout the two and a half years of your involvement
- 15:30:36 20 here with Davy Hickey Properties?
- 21 A. Correct.
- 22 Q. 700 Yes?
- 23 A. I mean, sorry Mr. O'Neill.
- 24 Q. 701 Sorry. I was just summarising or encapsulating what I understood to be the
- 15:30:47 25 effect of all of this documentation combined with your evidence and to ask you
- 26 again can you offer any view as to why it is that at this point in time both of
- 27 those gentlemen are denying any involvement of Mr. Lawlor in this project?
- 28 A. No, I can't offer a view.
- 29 Q. 702 No?
- 15:31:05 30 A. I think that's matter for them.

- 15:31:07 1 Q. 703 To deal with the mechanics of the incorporation of the company. We've seen the
2 involvement of Eugene F Collins in setting up the company, putting in their
3 nominee directors, nominee shareholders. They are substituted on the 2nd of
4 September by yourself?
- 15:31:24 5 A. Yeah.
- 6 Q. 704 And Mr. O'Byrne in the joint capacities where you are now both the
7 shareholders and the owners. And as Judge Faherty said, if that situation
8 represented the beneficial as well as the legal ownership it would mean that
9 whatever windfall came at the end of the day it would be entirely a matter
10 owned by both of you and none of the other participants could have any
11 legitimate claim in law, would have difficulty in establishing one, in the
12 absence of any documentation to support, isn't that right?
- 13 A. Well if I knew as much about law as I know now then I certainly would have a
14 difficulty.
- 15:32:03 15 Q. 705 And Mr. Lawlor, could I suggest, is somebody upon whom this fact would not be
16 lost?
- 17 A. Mr. Lawlor, yes.
- 18 Q. 706 To allow somebody to move forward in circumstances where I think we've seen in
19 other Modules, he may have had his fingers burnt in his relationships with
20 others, it would suggest that he would have put in place a system to maintain
21 his interest, isn't that right?
- 22 A. Yes, I think so. I think that's fair.
- 23 Q. 707 And I think that in relation to another leisure project he did have an
24 arrangement where you were to hold in the event of the latter being successful.
25 You were to be the holder of 25 percent of the shareholding for his benefit,
26 isn't that correct?
- 27 A. That's correct, yes.
- 28 Q. 708 Now, I know that that didn't come to fruition. But by way of example, it is an
29 illustration of circumstances in which he did not wish to be personally
15:33:01 30 identified to the extent of being on the paperwork, if I can call it that?

- 15:33:02 1 A. Yeah.
- 2 Q. 709 That is the paperwork which is readily accessible through the Companies Office.
- 3 But nonetheless would have had an arrangement where you would in effect be his
- 4 nominee to that extent?
- 15:33:14 5 A. Yes.
- 6 Q. 710 Of 25 percent of the shareholding?
- 7 A. Yes.
- 8 Q. 711 In that instance, yes?
- 9 A. Yes.
- 15:33:20 10 Q. 712 Do you know of any reason why he wouldn't have put in place something similar
- 11 here or you indeed mightn't have put in place something similar. Where all of
- 12 your interests might have been represented by, say, a limited company or a
- 13 trust or something of that nature. A partnership owned by a company. We have
- 14 seen the pyramidic structure that can exist. Is there any particular reason
- 15 why that was not considered by you in this instance?
- 16 A. Well, the only answer I can give you to that is that it wasn't considered by me
- 17 in this instance.
- 18 Q. 713 Right.
- 19 A. And notwithstanding the example that you have given, which is absolutely
- 15:33:59 20 accurate, on foot of documentation that I think that I have supplied to the
- 21 Tribunal, that, no, I had no such arrangement in this instance with Mr. Lawlor.
- 22 Q. 714 Although, obviously, the opportunity of bringing one into being was every
- 23 extant, isn't that right?
- 24 A. Oh, yes, very extant, yes.
- 15:34:22 25 Q. 715 And more particularly when it came to the 2nd of September here where on your
- 26 account of events you're standing in, in a nominee capacity?
- 27 A. Yes.
- 28 Q. 716 This really would be the time to have in place some form of a shareholders
- 29 agreement or trust?
- 15:34:37 30 A. Correct.

- 15:34:37 1 Q. 717 To represent everybody's view, isn't that correct?
- 2 A. Correct, yes.
- 3 Q. 718 And indeed, the letter which went to Mr. Hickey, in the first instance, on the
- 4 22nd of August from Mr. Collins, was addressing the question of there being a
- 15:34:52 5 shareholders agreement to come into play as between the persons he understood
- 6 to have an interest at that time?
- 7 A. Sorry.
- 8 Q. 719 Are you aware of that?
- 9 A. No, sorry, I do apologise. I'm not following you there.
- 15:35:06 10 Q. 720 I'll start again?
- 11 A. Yes.
- 12 Q. 721 The question of there being a shareholders agreement?
- 13 A. Yes.
- 14 Q. 722 Behind a limited liability company so as to give effect to a nominee
- 15:35:16 15 arrangement where the parties could have shareholdings which would not be
- 16 identifiable by consulting the public register in the Companies Office?
- 17 A. Yes.
- 18 Q. 723 Is something which was considered by the solicitor who set up Pennine Holdings
- 19 and he referred to that in his letter of the 22nd of August where we see at
- 15:35:36 20 page 1490, he says "I have had a brief discussion with both you and David
- 21 Shubotham about a shareholders agreement. I feel this should now be dealt with
- 22 in the reasonably near future".
- 23
- 24 So not only did you identify the possibility of this being the opportunity to
- 15:35:56 25 put such an arrangement in place if there was to be one. But it also, hardly
- 26 surprisingly, was something that was in the mind of the solicitor at the time
- 27 A. At the time, yes.
- 28 Q. 724 And a copy of this letter went to you, albeit, it was not sent to you by the
- 29 solicitor. Because you weren't in the loop at that point in time from the
- 15:36:15 30 solicitor's point of view. But we'll see that it is cc'd to you, I believe,

- 15:36:20 1 from Mr. Hickey's secretary, page 1488. 'CC: F Dunlop' in manuscript on the
2 top corner there?
- 3 A. Yes.
- 4 Q. 725 And does that probably trigger a memory of your having seen this letter before
15:36:38 5 at some point in time?
- 6 A. Yes, I probably did. I more than likely did, yes.
- 7 Q. 726 And if you did, amongst the matters addressed there, would have been the
8 shareholders arrangement that I spoke of earlier, isn't that right?
- 9 A. Yes.
- 15:36:52 10 Q. 727 And if that were so, I would have thought the normal reaction would be to say
11 now David and Brendan what should we be doing about this shareholders
12 agreement. In fact, I see that you and David have discussed it and I seem to
13 be outside the loop but I should be brought into it?
- 14 A. Uh-huh.
- 15:37:12 15 Q. 728 At a minimum, isn't that right?
- 16 A. Yes, that sounds eminently logical as far as I'm concerned, yes.
- 17 Q. 729 So it is illogical that anybody would have ignored it but you say that it was
18 ignored?
- 19 A. All I can say to you is that I was not then aware and I'm not now aware of a
15:37:28 20 shareholders agreement in relation to the division of anything to do with the
21 Baldoyle lands.
- 22 Q. 730 Right. We know that the formalities of putting you as director and shareholder
23 and Mr. O'Byrne. I take it as your nominee, he wasn't going to do more than
24 you?
- 15:37:51 25 A. I can't remember what his status was at the time, but he was certainly that
26 somebody that I just asked him and he agreed.
- 27 Q. 731 Yes. You never intended that he actually would have any input, either in the
28 direction of the company?
- 29 A. No.
- 15:38:03 30 Q. 732 Or in the ownership, in the event that it became asset rich?

- 15:38:07 1 A. And neither did he.
- 2 Q. 733 And neither did he. Because he signed over his interest without any problems,
3 isn't that right?
- 4 A. Correct.
- 15:38:14 5 Q. 734 And whilst you were still involved in the company or you were now involved as
6 the director of the company, it seems clear that Mr. Hickey was still involved
7 and engaged with Eugene F Collins. Notwithstanding the fact that he indicates
8 that there was an error on their part. Because we'll see on the 2nd of October
9 1991, a month after your formal involvement here, at page 2617. The solicitors
10 were saying "I confirm that the relevant minutes, resolutions and associate
11 documentation has been finalised. The above company has been transferred to
12 yourself and Mr. O'Byrne as requested by Brendan Hickey. I am enclosing the
13 following documentation in relation to the company and it sets out all of the
14 original documentation"?
- 15:39:05 15 A. Yes.
- 16 Q. 735 But this is as a request from Mr. Hickey that you are getting it, not in your
17 capacity as being a person who is entitled to whose command that it be
18 delivered to you?
- 19 A. As a director.
- 15:39:20 20 Q. 736 As a director?
- 21 A. Yeah.
- 22 Q. 737 And I think again in 1993 there was, the position is, at page 2125.
23
24 That Mr. Hickey's role in this is still recognised by the solicitors. At
15:39:39 25 page -- this was the letter dealing with the resignation of Mr. O'Byrne. And
26 new director coming on board. You might remember that
- 27 A. Yes, I do, particularly because Mr. O'Byrne was very -- became very uneasy
28 about some of the publicity that was attaching to what was happening.
- 29 Q. 738 Yes. And he wanted out?
- 15:40:00 30 A. Yes.

- 15:40:00 1 Q. 739 And he came out. And the solicitor who put in place all of the documentation
2 to reflect that and to bring Frank McKenna in?
3 A. Malachy.
4 Q. 740 Malachy McKenna, I beg your pardon who exactly was he?
15:40:18 5 A. He was an employee of mine then.
6 Q. 741 Again, to play whatever nominee role that Mr. O'Byrne formally played, isn't
7 that's correct?
8 A. That's correct.
9 Q. 742 We'll see at page 2127 that the solicitor was saying that you will notice that
15:40:33 10 I am sending a copy of this letter with its enclosures to Brendan Hickey?
11 A. Yeah.
12 Q. 743 Mr. Hickey at this time being neither an employee of the company, a director of
13 the company in any form or a shareholder?
14 A. Yeah.
15:40:48 15 Q. 744 The documentation is being copied to him. Well, can you offer any explanation
16 to see why that should be. You are the director of the company, it's a matter
17 for you to decide who it is that receives its communications, who should be
18 informed of directors, changes and shareholding allocation. Why is it that the
19 solicitors were sending this documentation in copy to Mr. Hickey if he was not
15:41:20 20 a person who had an interest in the company, do you know?
21 A. I don't. Other than to say to you that it would appear, and I've answered this
22 question to you on a number of occasions by using the word "logical". So,
23 therefore in, this instance it would appear logical that Anthony, no, Orla
24 O'Dea.
15:41:40 25 Q. 745 I think it's a Ms. O'Dea?
26 A. I see.
27 Q. 746 Yes?
28 A. On Anthony's behalf. Believe that is Mr. Hickey is the person that this
29 documentation should be sent to or certainly copies should be sent to him
15:41:54 30 because he is the generator of the company or he has a role to play.

- 15:41:58 1 Q. 747 Yes?
- 2 A. Or he is paying the fees or there are a number of possible explanations but
- 3 certainly.
- 4 Q. 748 Could I suggest that merely because you pay fees you are not entitled to know
- 15:42:12 5 what the internal workings of a company are.
- 6 A. No, I fully accept that. I agree that that is the case.
- 7 Q. 749 And certainly unless there was a specific direction from the company that the
- 8 documentation should be sent to Mr. Hickey on the basis that he is the person
- 9 who is paying the fees, a solicitor would not take it on themselves to copy the
- 15:42:43 10 internal documentation of the company to others?
- 11 A. To outsiders, yes. To third parties, yes.
- 12 Q. 750 Could I suggest that this is equally inconsistent with a belief that Mr. Hickey
- 13 had in some way corrected the record with the solicitors as to exactly what his
- 14 role was, isn't that so?
- 15:42:52 15 A. That is correct.
- 16 Q. 751 And particularly inconsistent with the belief that any confusion that existed
- 17 in 1991 had been rectified in September 1991 by the appointment of yourself and
- 18 Mr. Byrne as directors, isn't that?
- 19 A. So well certainly this latter documentation, which we are now in 1993.
- 15:43:14 20 Q. 752 Yes?
- 21 A. This latter documentation would certainly seem to counteract that.
- 22 Q. 753 Right. Your relationship with Eugene F Collins in fact was very brief. You
- 23 had this meeting?
- 24 A. Yes.
- 15:43:25 25 Q. 754 In their offices I think which was the formal appointment of yourself and
- 26 Mr. Byrne, isn't that right?
- 27 A. I think one, if only one meeting, there may have been another one. Certainly I
- 28 believe that there was only one meeting in Eugene F Collins.
- 29 Q. 755 I think there are other formal recorded meetings of the company. But they
- 15:43:44 30 happened in your office though the format of the company meeting itself was

15:43:51 1 typed in advance of the meeting and you formally adopted it and its
2 resolutions?

3 A. Correct.

4 Q. 756 As company resolutions, isn't that right?

15:44:00 5 A. Correct.

6 Q. 757 But were you aware that there was an ongoing professional relationship between
7 Mr. Hickey and Eugene F Collins which related to the partnership agreement?
8 Were you aware of that? I can show it to you on screen as to how it came to be
9 billed through Pennine and paid by Davy Hickey Properties and the detail of
10 what was billed for. But as regards your personal involvement, you attended
11 the one meeting on the 2nd of September 1991?

12 A. Yes.

13 Q. 758 You became the director of the company. You are not aware of a shareholders
14 agreement being entered into. And there is apparently an ongoing relationship
15 between Mr. Hickey and the solicitors who are acting as Pennine solicitors,
16 Eugene F Collins. You see at page 1793.
17
18 That between the 17th of December 1991 -- sorry. It might be on screen. 1793,
19 please. The system has crashed I'm afraid.

15:45:18 20
21 JUDGE KEYS: Mine has crashed as well.

22 A. I'll take it, if you tell me I'll.

23 Q. 759 Yes. In hard copy I'll try and give you a copy of it?

24 A. Yes.

15:45:29 25 Q. 760 It's now on screen?

26 A. Yes.

27 Q. 761 Mr. Dunlop. You've seen this document before. It's in the brief?

28 A. It's in the brief, yes.

29 Q. 762 It is one where Davy Hickey are being billed by Eugene F Collins in relation to
15:45:42 30 partnership agreement. It's addressed to J&E Davy's. It says "To professional

15:45:48 1 fee to cover all work done in relation to the partnership agreement between the
2 17th of December 1991 and the 24th of November 1992, including considering the
3 draft of a similar partnership agreement, discussing the same with you,
4 redrafting the agreement. Subsequently discussing the same and providing a
15:46:09 5 further draft together with commentary, professional fees etc."

6
7 This follows on immediately from the signing of the Pennine option agreement on
8 the 4th of November 1991 between Mr. Byrne and Pennine Holdings Limited. And
9 that document was one which was completed by the company formally. The company
10 seal was affixed to it

11 A. Yes.

12 Q. 763 Both your signature and Mr. O'Byrne's signature?

13 A. Yes.

14 Q. 764 Witnessed the fact that the company is a party to it?

15:46:48 15 A. Yes.

16 Q. 765 Now, you've indicated to the Tribunal that you weren't aware of the content of
17 the partnership agreement, indeed, until such time as post the publication in
18 the 27th of April 1993 where disclosures were made of the content of the
19 supposed option agreement with Mr. Byrne, you say that to that point you were
20 unaware of those terms, isn't that right?

21 A. Well, two things I was not aware of.

22 Q. 766 Yes?

23 A. One, I was not aware of the detailed content of the option agreement vis-a-vis
24 price per acre.

15:47:27 25 Q. 767 Yes?

26 A. And any uplift in the price per acre following your particular date. That was
27 an issue that was not negotiated by me. Therefore, I was not aware of it. I
28 was aware, obviously, that there was an option agreement because it had been
29 entered into by Brendan Hickey on behalf of Davy Hickey Properties to this
15:48:04 30 relationship between Mr. Hickey and Mr. Collins, Anthony, in relation to a

15:48:04 1 partnership agreement.

2 Q. 768 Yes?

3 A. As to the content of any such agreement and the involvement of parties in that

4 agreement. I was not aware. Yes, I became aware of the possibility of the

15:48:14 5 existence of some sort of arrangement between various parties under the control

6 of either Davy Stockbrokers themselves or Davy Hickey Properties, in

7 particular. Because the name -- there were names mentioned in the papers.

8 Q. 769 Right.

9 A. Which led on to serious difficulties and then to the apology.

15:48:34 10 Q. 770 Perhaps we can look, first, then to page 1584.

11

12 Which is the front page of the agreement. 1584, please. It's now on screen

13 and I'm handing you a hard copy also Mr. Dunlop. It might be easier to work

14 off

15:49:15 15 A. Thanks.

16 Q. 771 You will see in manuscript at the top of that document there entered the date

17 the 4th of November of 1991.

18 A. Yes.

19 Q. 772 Yes?

15:49:24 20 A. Yes.

21 Q. 773 And if you move to the last page of that, which on screen is 1598. We'll see I

22 think your signature and that of Mr. O'Byrne?

23 A. Correct.

24 Q. 774 And the company, isn't that right?

15:49:39 25 A. Yes. And the witness is my secretary.

26 Q. 775 And witnessed by your secretary. Which would probably suggest that the

27 signature was affixed in your office, isn't that right?

28 A. I would say so, yes.

29 Q. 776 All right. Which it follows logically from that, that you had the document

15:49:58 30 possibly for some time?

- 15:50:01 1 A. I can't say whether I had the document for some time. But obviously I had the
2 document for signature, yes.
- 3 Q. 777 Certainly at a minimum you had the opportunity of reading it and checking it
4 for errors or for detail if you so wished?
- 15:50:13 5 A. Yes.
- 6 Q. 778 Yes?
- 7 A. If I so wished, yes.
- 8 Q. 779 There is no question obviously of Mr. Hickey and Mr. Shubotham not wanting to
9 involve you in the loop as regards information here?
- 15:50:23 10 A. Yes.
- 11 Q. 780 You were the signature to the agreement?
- 12 A. Yes.
- 13 Q. 781 In that document if you had read it, you would have seen all the relevant
14 information as to how much land was involved, what the duration of the option
15 agreement was, how much per acre was to be paid in the event of the exercise by
16 date A and how much by date B, all of that detail was there and available to
17 you?
- 18 A. Yes.
- 19 Q. 782 Is there any particular reason why you didn't look at this agreement to find
15:50:53 20 out what its terms were, vis-a-vis the option which had been negotiated as you
21 say by Mr. Hickey. And he says by you, with his assistance?
- 22 A. Well, no, there is no reason why I wouldn't.
- 23 Q. 783 Yes?
- 24 A. And there is no reason that I can give you that I didn't. Other than that the
15:51:16 25 document was either sent to me by Brendan or by Eugene F Collins for signature.
- 26 Q. 784 Yes?
- 27 A. As the directors of Pennine Holdings.
- 28 Q. 785 Yes. Well, I mean, I don't mean to put words into your mouth. But one of the
29 reasons why one might sign a document without reading its content is if you're
15:51:42 30 receiving it from the person for whose benefit you are acting as a nominee?

- 15:51:47 1 A. Yes.
- 2 Q. 786 I mean, if it's not your own business that you're involved in, you might more
- 3 happily sign a document on behalf of somebody else, if you are their
- 4 representative?
- 15:51:59 5 A. Yes.
- 6 Q. 787 But equally this wasn't exclusively the situation in which you were to be a
- 7 nominee. You were ultimately to be one of the parties?
- 8 A. Correct.
- 9 Q. 788 Benefitting at the end of the day?
- 15:52:11 10 A. Yes.
- 11 Q. 789 For all you knew there could have been a clause in this in which your fee was
- 12 set out at 2,000 pounds in the event of success?
- 13 A. Yes.
- 14 Q. 790 At which case you would be stymied?
- 15:52:22 15 A. I would be stymied and very annoyed.
- 16 Q. 791 Yes. But the only way you could be sure that there wasn't such an arrangement
- 17 here was that there wasn't an addendum or supplement or annexed documentation
- 18 regarding beneficial ownership?
- 19 A. Correct.
- 15:52:38 20 Q. 792 Is it not more likely than unlikely that you would have in fact considered this
- 21 document and read its terms?
- 22 A. Yes, I think it is. In fairness, I think it is likely, yes.
- 23 Q. 793 Yes?
- 24 A. I cannot say to you that I did. But it is likely.
- 15:52:52 25 Q. 794 All right. And if so, then you would have been aware of the fact that the
- 26 acreage price was 30,000?
- 27 A. Yes.
- 28 Q. 795 So you are revising in effect your evidence which was on Friday afternoon to
- 29 the effect that until such time as you had seen the newspaper article on the
- 15:53:12 30 27th of April 1993, you were unaware of the terms which had been negotiated by

- 15:53:19 1 Mr. Hickey in relation to the option?
- 2 A. No, no. I think what I said was that I didn't become aware until such time as
- 3 Davy Hickey Properties withdrew and I became.
- 4 Q. 796 Yes?
- 15:53:33 5 A. The owner with the option. I don't think it had anything to do particularly
- 6 with the story. The story related to the names of the people who might have
- 7 been involved. But it related to my becoming the owner of the option. The
- 8 ultimate owner of the option when Davy Hickey Properties withdrew.
- 9 Q. 797 Irrespective of whether it was triggered by the article or triggered by the
- 15:53:56 10 their pull out, I think the content of what you were saying that your knowledge
- 11 of the terms of the option was only gained in 1993?
- 12 A. Yes.
- 13 Q. 798 Whereas I think we'll see here your signature to the document in 1991. Your
- 14 acknowledgement now that you would have read it?
- 15:54:14 15 A. Yes.
- 16 Q. 799 Before you signed it?
- 17 A. I think that --
- 18 Q. 800 And it follows from that, that you did know the details in 1991. For what that
- 19 is worth as regards evaluating the accuracy of your evidence?
- 15:54:26 20 A. The point I would make to you. I think it is quite likely. It would be
- 21 ridiculous to suggest otherwise that if my signature was appended to the
- 22 document on the date that it is appended. I don't think -- the 4th of November
- 23 1991.
- 24 Q. 801 Yes?
- 15:54:40 25 A. That at the request of whomsoever, Mr. Hickey, Mr. Collins, that I signed the
- 26 document. And that in the event of signing that I probably read the document,
- 27 whether I adverted to the totality of all of the detail, I'm not discounting
- 28 that I may have done. But what I have said to you before is that when I had
- 29 the option agreement in my possession, as the owner, after Davy Hickey's
- 15:55:11 30 withdrawal. That the figures impacted on me as to the amount of monies that

15:55:21 1 were being offered in relation to a cheque.

2 Q. 802 Now, I think whilst the date of the 4th of November is in that document. It

3 had been agreed quite some time before, because we saw that in August reference

4 was paid to the fact that Mr. Gore Grimes, who is the solicitor for the option

15:55:40 5 grantor who was going away and consequently there would be some delay in

6 signing the documents. But the meeting of the 2nd of September recorded the

7 fact that the negotiations had in fact been concluded prior to that date.

8 We'll see at page 1538. At the meeting which was held in your offices on the

9 13th of September. And these were the notes which were prepared I think in

15:56:10 10 advance of that meeting which Eugene F Collins?

11 A. Yes.

12 Q. 803 And sent to you?

13 A. For submission.

14 Q. 804 "To be adopted by the company in a formal meeting. It's noted that under the

15:56:18 15 heading option agreement. It was noted that negotiations had been concluded

16 with Endcamp Limited etc. and the company in respect of the completion of a

17 formal option agreement to the agreement. Accordingly it's resolved that the

18 agreement, copy attached, be approved by the company"?

19 A. Yeah.

15:56:36 20 Q. 805 So you'd approved it in a format which was identical to that ultimately signed?

21 A. Yes. Just not that this is of any great relevance if you look at the actual

22 copy and the signature or sorry the date on the top. The 4th of November.

23 Q. 806 Yes?

24 A. That's my handwriting.

15:56:56 25 Q. 807 Yes. So you may well have had it with you between the 13th of September and

26 the 4th of November?

27 A. Correct, yes.

28 Q. 808 And it was then sent back to Eugene --

29 A. To whoever, whomsoever sent. I understand it was Mr. Collins who sent it.

15:57:14 30 Q. 809 Yes. It was Mr. Collins. And I think the solicitor in that firm, Ms. O'Dea

- 15:57:22 1 perhaps, who sent it to you. But that is the background to the other document
2 at page 1793. Which is the one relating to the partnership?
- 3 A. Yes.
- 4 Q. 810 So that as regards the external communication and agreement between the grantor
15:57:43 5 and the grantees, that had now been formalised. What was left to be resolved,
6 if there was a resolution to take place, was surely the arrangement between
7 those within Pennine/the option holders/the promoters of the plan other than
8 Mr. Byrne, isn't that right?
- 9 A. Correct, yes.
- 15:58:04 10 Q. 811 And as I indicated a little earlier, that could have been by way of
11 shareholders agreement, to which you have no recollection of there being such
12 or any discussion of such between you, Mr. Shubotham and Mr. Hickey?
- 13 A. Correct.
- 14 Q. 812 Although apparently they had had such discussions with the solicitor who had
15:58:23 15 formed the company, isn't that right?
- 16 A. As from this invoice.
- 17 Q. 813 Well, as from this invoice it's moved from a shareholders agreement to a
18 partnership agreement?
- 19 A. Yes.
- 15:58:38 20 Q. 814 Prior to this, the discussion was on the subject of a shareholders agreement?
- 21 A. Correct.
- 22 Q. 815 It's now moved to partnership agreement. And you're telling us that you were
23 not involved in this loop?
- 24 A. Well, if you're saying in relation to a partnership agreement.
- 15:58:49 25 Q. 816 Yes?
- 26 A. That I was a partner.
- 27 Q. 817 No, I'm talking about being kept up to speed on the issue of there being a
28 partnership agreement no. For example, being a party to a consideration of the
29 similar partnership agreement which existed and its redrafts?
- 15:59:10 30 A. Yeah.

- 15:59:10 1 Q. 818 And you weren't?
- 2 A. Not to my recollection. Any discussion with either party or with the
- 3 solicitors in relation to a partnership agreement.
- 4 Q. 819 Right. Although you can probably confirm to us that in 1991?
- 15:59:25 5 A. Yeah.
- 6 Q. 820 To your knowledge ...
- 7 A. Yeah.
- 8 Q. 821 Mr. Hickey and Mr. Shubotham had not been involved in any other partnership
- 9 arrangement, save the City West one, with which you were involved?
- 15:59:35 10 A. Well, certainly not to my knowledge.
- 11 Q. 822 Not to your knowledge?
- 12 A. Not to my knowledge. In relation to the parties that you've just mentioned
- 13 Mr. Hickey and Mr. Shubotham. I would not be aware other than the partnership
- 14 arrangement that existed in relation to City West which I became aware of when
- 15:59:55 15 I became a member of the partnership as a result of a non-fee payment
- 16 arrangement.
- 17 Q. 823 Yes. Which was prior to this date where the, where this fee invoice is sent
- 18 out, for example. This is sent out on the 25th of the 11th of '92?
- 19 A. Yes, I can't tell you exactly the date. And for the avoidance of confusion
- 16:00:21 20 here now.
- 21 Q. 824 Of City West partnership?
- 22 A. Of the City West. Of my particular involvement. I can tell you, as I have
- 23 already done about the fee note. Not the fee note but the fee arrangement and
- 24 a letter from Mr. Shubotham, which is no longer extant. And that there was a
- 16:00:38 25 discussion with Mr. Shubotham, particularly with Mr. Shubotham, in relation to
- 26 the payment of the outstanding amount in relation to the fee in which he said
- 27 that the partners, I've discussed with the partners and there is a lot of
- 28 capital expenditure involved. Bottom line, we can't afford it. We're prepared
- 29 to give you a shareholding.
- 16:01:01 30 Q. 825 Well, I just want to put it into the chronology of events here. We know that

- 16:01:06 1 the relationship of Mr. Shubotham and Mr. Hickey is one which did not exist in
2 any partnership or shareholding arrangement prior to mid 1990?
- 3 A. Correct.
- 4 Q. 826 After 1990 a company is formed, Davy Hickey Properties Limited. It goes on to
16:01:25 5 engage in a successful venture in City West?
- 6 A. Correct.
- 7 Q. 827 That company does. As a result of which a partnership is entered into in
8 relation to that on the 25th of October of 1991?
- 9 A. Correct.
- 16:01:39 10 Q. 828 In and around the time that we are talking about here of there being advices
11 given from December 1991 onwards?
- 12 A. Yes.
- 13 Q. 829 Right?
- 14 A. This particular reference is 1992.
- 16:01:53 15 Q. 830 This particular reference to a partnership.
- 16 A. Yes.
- 17 Q. 831 It's a reference to 1992. But it is to dealings or advices given from December
18 1991?
- 19 A. Yes, correct.
- 16:02:04 20 Q. 832 And I was asking you whether you were aware of any other partnership
21 arrangement involving either Mr. Hickey and Mr. Shubotham or Mr. Hickey,
22 Mr. Shubotham and yourself other than the one that was signed in October 1991
23 in relation to City West?
- 24 A. No, not that I am aware of.
- 16:02:23 25 Q. 833 And if there was to be an arrangement between you, if there was to be, either a
26 shareholders arrangement or a partnership arrangement, whereby your interests
27 would be reflected, it would be in a partnership arrangement in and about
28 November to December of 1991 and going on from that date, isn't that right?
- 29 A. Yes, I think that's logical.
- 16:02:45 30 Q. 834 Right. Now, we don't have a partnership agreement. And we are aware of the

- 16:02:52 1 fact that there is a redraft of whatever original document was given to
2 Mr. Collins?
- 3 A. Oh,.
- 4 Q. 835 If we look to this document here. We'll see that he received a draft?
- 16:03:03 5 A. Yes, yeah.
- 6 Q. 836 Having got the draft he discussed its content, tweaked it, it was necessary to
7 reflect what was now involved here?
- 8 A. Yeah.
- 9 Q. 837 And redrafted it, discussed that redraft and then drafted yet another
16:03:20 10 agreement, again, a partnership agreement?
- 11 A. Yes, that seems to be correct.
- 12 Q. 838 An amount of work that was being done. It could not be similar in its terms to
13 City West because City West was reflecting a concluded arrangement where there
14 had been I think an involvement of quite a number of parties, including the
16:03:42 15 investors, isn't that correct?
- 16 A. That's correct, yes.
- 17 Q. 839 They were parties to that agreement and the interests of the partners yourself
18 and Mr. Hickey and Mr. Shubotham was very much a minority interest from the
19 point of view of the capital having been provided by other substantial
16:04:04 20 investors, isn't that right?
- 21 A. Well certainly from my point of view. I can't speak from Mr. Shubotham but
22 certainly from my point of view it was minimal.
- 23 Q. 840 Yes. It translates though into a percentage. It was in percentage terms?
- 24 A. Yes, it was.
- 16:04:17 25 Q. 841 It translates into percentage terms?
- 26 A. Yes, it does.
- 27 Q. 842 So that to the extent that you three had been ever involved in partnership
28 agreement before, it was the City West partnership?
- 29 A. Correct.
- 16:04:28 30 Q. 843 And we know that City West operated in relation to the land owning of City West

16:04:38 1 as a legal entity called City West Limited which was there, we're told by
2 Mr. Hickey, and Mr. Shubotham as one single corporate entity for the purpose of
3 dealing with the legal ownership of the land but behind it there was this
4 pyramidic structure which reflected the individual interests of the
16:05:01 5 shareholders called partners in that venture?
6 A. I can confirm that now.
7 Q. 844 So that if one looked to the record of the legal record, one would see a
8 company being the owner, you would not feature in that at all, though you were
9 an owner, isn't that correct?
16:05:15 10 A. That's correct.
11 Q. 845 And the similar, at the end of the day, Pennine Holdings was somewhat similar
12 in the sense that it was one corporate entity where the interests of
13 Mr. Lawlor, yourself, Mr. Hickey or Mr. Shubotham don't appear although on your
14 evidence they were not to become a reality until after the rezoning, isn't that
16:05:39 15 right?
16 A. With the exception of Mr. Lawlor.
17 Q. 846 Yes?
18 A. You mentioned Mr. Lawlor's name in that context.
19 Q. 847 I did?
16:05:46 20 A. With the exception of Mr. Lawlor, what you say is correct.
21 Q. 848 Well, what you're saying is that you don't know what Mr. Lawlor was to have an
22 interest after the events?
23 A. No, no, what I am saying is that I can only again speak for myself. And as
24 from the time that I was involved and any discussion that I had with Davy
16:06:05 25 Hickey's related to what would occur after the rezoning but that related to me.
26 Mr. Lawlor's name was never mentioned.
27 Q. 849 Yes. You don't know?
28 A. No, I don't.
29 Q. 850 You know of Mr. Lawlor's intended involvement throughout the scheme from its
16:06:23 30 inception to its conclusion. You know that in 1991 as far as you're concerned,

16:06:28 1 everybody knew that Mr. Lawlor was going to be involved. I'm not talking about
2 ownership?

3 A. No, no, that's the only reason I was pausing. Because you said intended
4 involvement. There's no question but that Mr. Lawlor was involved.

16:06:40 5 Q. 851 Yes. What you are unclear of is as to whether or not he was going to be
6 financially involved at the end of the day as a beneficiary?

7 A. Correct, I have no knowledge of any such arrangement if this so existed.

8 Q. 852 All right. And you have a similar lack of knowledge in relation to City West,
9 isn't that correct?

16:06:57 10 A. In relation to Mr. Lawlor.

11 Q. 853 Mr. Lawlor in City West?

12 A. Absolutely.

13 Q. 854 Though again he was the originator of the process. He was involved throughout
14 in relation to advising you and strategising the whole affair. You don't know
16:07:11 15 that he was ever a beneficial owner?

16 A. I don't.

17 Q. 855 At the end of the day. In fact, though you've seen the partnership agreement
18 you cannot identify his ownership or holding in that at all?

19 A. Correct.

16:07:24 20 Q. 856 Isn't that correct?

21 A. That is correct.

22 Q. 857 Nor do you know if at all he was rewarded?

23 A. Correct.

24 Q. 858 Though you do know that he was intimately and deeply involved in that as he was
16:07:33 25 in Baldoyle?

26 A. Yes, he was.

27 Q. 859 I see. I think we'll have to leave it there for today Mr. Dunlop, thank you.
28

29 CHAIRMAN: Is Mr. Dunlop to return tomorrow?

16:07:46 30

16:07:46 1 MR. O'NEILL: Yes.

2

3 CHAIRMAN: And can we give some idea as to when the ...

4

16:07:53 5 MR. O'NEILL: I'm sure Mr. Dunlop will not be back the following day.

6 A. (laughter).

7

8 MR. O'NEILL: Unless the cross-examination is more lengthy than I anticipate.

9

16:08:03 10 CHAIRMAN: Well, will we sit at half ten or?

11

12 MR. O'NEILL: Yes.

13

14 CHAIRMAN: All right. Half ten tomorrow. All right.

16:08:10 15

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19 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**

16:08:36 20 **WEDNESDAY, 6TH DECEMBER, 2006, AT 10.30 A.M.**

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