

**THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY,**

**24TH JANUARY 2007, AT 2:00 P.M:**

13:20:56 1  
2  
3  
4 CHAIRMAN: Good morning, Ms. Dillon.

14:07:21 5  
6 MS. DILLON: Good afternoon.

7  
8 CHAIRMAN: Good afternoon, I should say. I think this morning we're starting  
9 a new Module.

14:07:27 10  
11 MS. DILLON: That's correct.

12  
13 There are a number of new parties before the Tribunal this afternoon, Sir.

14  
15 And I understand that there are a number of applications for representation. I  
16 think Mr. Seamus Wolf appears on behalf of Mr. Laden and Mr. O'Donnell.

17  
18 MR. WOLFE: Good afternoon.

19  
20 I would like to apply for representation on behalf of Mr. Barry O'Donnell and  
21 Mr. Joseph Laden, who are involved in this Module of the Tribunal Mr. Chairman.

22  
23 CHAIRMAN: All right.

24  
25 MR WOLFE:: Seamus Woods, Senior Counsel and with me Mr. Pat O'Dwyer BL  
26 instructed by Dockrell Farrell Solicitors.

27  
28 CHAIRMAN: All right. Thank you.

29  
30 CHAIRMAN: Any other applications for representation?

14:08:19 1  
2 MR O TUATHAIL: Mr Chairman, good afternoon, Seamus O'Tuathail with Gerard  
3 Humphreys BL instructed by Edge Manning Solicitors for Senator Lydon.  
4  
14:08:26 5 CHAIRMAN: Certainly, granted.  
6  
7 CHAIRMAN: All right.  
8  
9 MR. O'DULACAHAIN: I appear with David Burke instructed by Vivian Matthews of  
14:08:37 10 O'Mara Geraghty McCourt in respect of the Estate of the late Tom Hand.  
11  
12 CHAIRMAN: Very good. Thank you.  
13 MR. REDMOND: Mr Chairman, Aidan Redmond on behalf of Mr. Dunlop and Frank  
14 Dunlop & Associates Limited instructed by L K Shields.  
14:08:50 15  
16 CHAIRMAN: All right. Thank you.  
17  
18 MS. DILLON: I understand that Mr. Aidan Kenny, who is one of the witnesses  
19 who won't be attending during the course of the Module but will be attending  
14:08:58 20 subsequently.  
21  
22 I understand that Thomas Donaghy & Co. are his solicitors. They are also  
23 present and probably have an application for representation.  
24  
14:09:06 25 SOLICITOR: Mr Michael Byrne and Mr Noel Cosgrove are counsel that are  
26 making an application for representation on his behalf. He is not actually  
27 present today.  
28  
29 CHAIRMAN: All right. Granted. Thank you.  
14:09:19 30

14:09:19 1 CHAIRMAN: All right. Granted. Thank you.

2

3 All of these grants of representation are grants that are referred to as

4 limited grants of representation in the sense that they are limited to this

14:09:33 5 particular Module. All right.

6

7 SOLICITOR: I appear from William Fry Solicitors instructed on behalf of

8 Tesco Ireland.

9

14:09:43 10 CHAIRMAN: Very good. All right. Thank you. Granted.

11

12 MS. DILLON: Opening statement in connection with the Pye Lands.

13

14 Before I give the formal opening statement. I would like to enter two caveats

14:10:10 15 if I may.

16

17 One is that the ownership of the particular pieces separate portions or pieces

18 of land in relation to the make up of the Pye Lands in Dundrum are complicated

19 and complex. And what we have attempted to do in the opening statement is

14:10:23 20 reduce that to its simplest form. So I am prepared to take any amendment that

21 might come from any of my colleagues in relation to the ownership of the land.

22

23 The second matter that I think I should say at the opening, is that the

24 planning history of the Pye Lands is probably one of the most complex planning

14:10:41 25 histories that this Tribunal has had to deal with.

26

27 Now, it will necessitate, I think, that when Ms. Collins is giving her evidence

28 later this afternoon, that it will be necessary to go into in some detail the

29 individual motions that deal with the lands because on one occasion 14 motions

14:10:57 30 were lodge in the connection with these lands. So subject to those two

14:11:00 1 caveats, I will proceed to open the Module.

2

3 CHAIRMAN: All right.

4

14:11:04 5 MS. DILLON: If I could have the location map at 2489, please.

6

7 This is the location map of the what was formerly known as the Pye Lands,

8 Dundrum. Now known as Dundrum Town Centre. And these are the lands that were

9 formerly known as the Pye Lands, which had been used

14:11:32 10

11 CHAIRMAN: All right.

12

13 MS. DILLON: It had been originally used partially for a laundry subsequently

14 for the Pye factory in the 60's and then for some sort of limited commercial

14:11:41 15 use in the 80's going into the 90's where the Dundrum Town Centre stands now is

16 effectively on a substantial portion of what were the Pye Lands.

17

18 The ownership of the lands is set out on map form for ease of reference at page

19 1964, please.

14:12:01 20

21 Now, this map, the lands that are outlined with a thick red line are the lands

22 that were the subject matter of the rezoning application in the review of the

23 1983 Development Plan. The lands the subject of the rezoning motion which are

24 to the right of the proposed Dundrum bypass were shaded brown, black, yellow,

14:12:23 25 green, yellow and white. Other Pye Lands were located to the left of the

26 proposed Dundrum bypass shaded blue and red and were not the subject of any

27 rezoning application. The Module will be concerned primarily with what

28 happened to the lands that are to the left of the Dundrum -- sorry, to the

29 right of the Dundrum bypass.

14:12:41 30

14:12:41 1 The White lands to the south of the site were purchased from Pye Ireland plc by  
2 Albare Limited, a wholly owned subsidiary of Power Supermarkets Limited who  
3 had a supermarket premises at that location. In 1984 Albare Limited  
4 purchased the two yellow triangular portions of land to the immediate north of  
14:13:00 5 their existing supermarket from Pye. The lands the subject of the rezoning  
6 motion had therefore essentially two lands owners; Pye Ireland plc and its  
7 successors in title and Power Supermarkets, otherwise known as Crazy Prices.

8  
9 Due to financial pressure in 1987 culminating in agreements in 1988, Pye  
14:13:22 10 disposed of much of its interest in the remaining Pye Lands. At that time in  
11 1987 and 88 the lands excluding the Albare yellow and white lands outlined on  
12 the map on screen were disposed of primarily to companies connected with either  
13 Mr. Joe Laden and Dr. Barry O'Donnell on one hand or Mr. Aidan Kelly and Liam  
14 Dillon-Digby on the other hand.

14:13:45 15  
16 Dr. Liam Dillon-Digby is deceased. A small portion of land known as the Mill  
17 House had been sold by Pye to Dillon-Digby's mother, Jean Digby, in June 1980  
18 and these lands did not form part of the agreements made between Mr. Laden and  
19 Mr. O'Donnell of the one part and Mr. Kelly of the other part in 1988.

14:14:06 20  
21 The 1988 land transfers.  
22  
23 1. The green lands on the map on screen were acquired by Cabriole Construction  
24 Limited (Cabriole).

14:14:16 25  
26 2. The black lands were acquired by Dundrum Property Investment Company  
27 Limited (DPIC).  
28 3. The brown lands were acquired by Cabriole.  
29 4. The blue northern lands were acquired by Cabriole.  
14:14:31 30 5. The blue southern lands were acquired by Dalehall Limited (Dalehall).

14:14:31 1 6. The red lands were acquired by Prisdine Construction Limited (Prisdine).

2

3

In November 1991 following differences between the parties there was a division of the Pye Lands between companies owned and controlled by Messrs. Laden and

4

14:14:49 5

O'Donnell on the one hand and companies owned and controlled by Mr. Kelly on the other hand.

6

7

8

Cabriole, Dalehall, DPIC became in effect companies owned or controlled by

9

Mr. Kelly subject to a minority interest held by Pye. Prisdine became

14:15:05 10

effectively a company owned and controlled by Mr. Laden and Mr. O'Donnell.

11

12

In addition after November 1991 a company wholly owned and controlled by

13

Mr. Laden and O'Donnell, Don-Lay Limited, had a charge over the lands owned by

14

Mr. Kelly's company as security for monies due to Don-Lay. After November 1991

14:15:25 15

Mr. Laden and Mr. O'Donnell's continuing interest in the Pye Lands which were

16

the subject matter of the rezoning motion was limited to their interest in the

17

security for monies due to their company Don-Lay which was secured by way of a

18

charge over the lands owned by Mr. Kelly's companies.

19

14:15:42 20

Suresun Limited, (Suresun), a company effectively owned and controlled by

21

Mr. Kelly became the owner of 80% of Cabriole and DPIC, with a balance of 20

22

percent being owned by Manor Lands plc formerly Pye. Suresun also owned 100

23

percent of Dalehall.

24

14:15:59 25

In 1991 the Agricultural Credit Corporation became bankers to Suresun and the

26

related and connected companies. The agreement provided for the appointment of

27

a receiver in certain circumstances.

28

29

On the 17th of January 1996 the ACC appointed Mr. David Hughes as receiver over

14:16:19 30

the lands the subject matter of the mortgage, including all of the lands

14:16:22 1 outlined on the map at 1964 on screen owned by Cabriole, DPIC and Dalehall. In  
2 May of 1996 the ACC, through Mr. Hughes, disposed of all of these lands with  
3 the exception of a small portion of the green lands immediately north of the  
4 yellow triangle which had already been developed. These lands were transferred  
14:16:45 5 to Alice Developments Limited, (Alice) a company incorporated on the 18th of  
6 December 1995 for a purchase price of in excess of 6 million. In August 2000  
7 Alice transferred these lands to Crossridge Investments Limited, (Crossridge)  
8 for a purchase price of 15 million pounds.

14:17:02 10 It may well be that the shareholding in Alice changed between the purchase of  
11 these lands and their onward sale in 2000 to Crossridge. The Mill House lands  
12 were also transferred first to Alice and thereafter to Crossridge.

14 14 The zoning of the Pye Lands.

14:17:18 15 1423, please.

18 In the 1983 Development Plan for Dublin the Pye Lands were zoned A,  
19 residential. E, industrial. And C, town or district centre. The C zoning  
14:17:31 20 related to the Crazy Prices location at the south of the site.

22 In 1988 Mr. Laden, Mr. Kelly, together with their planning consultant Kieran  
23 O'Malley had meetings with officials of Dublin County Council to inform them of  
24 the proposed developments on the Pye Lands.

14:17:47 25  
26 The proposal envisaged housing development on the lands coloured red on the map  
27 at 1964 and the development of a commercial and leisure centre on the lands  
28 between the Mill House and Crazy Prices. In other words, the green lands on  
29 1964. The Council did not provide any encouragement in connection with the  
14:18:05 30 retail element of the proposal and pointed out that this would amount to a

14:18:09 1 material contravention.

2

3 Don-Lay applied for and obtained planning permission to build 86 two storey  
4 houses on the red Pye Lands with access from the Sandyford road. Planning

14:18:20 5 permission conditioned Don-Lay to provide access from the Sandyford Road

6 through a link road on to the Dundrum bypass, all of which was to be

7 constructed by Don-Lay. These lands were not the subject of any rezoning

8 application.

9

14:18:33 10 In a letter to the Revenue Commissioners in November 2003 Mr. Kelly alleged

11 that a planning application on this land was "bought off" as opposed to buying

12 planning and that why he knew this to be the case and the parties involved he

13 did not have documentary proof.

14

14:18:50 15 Mr Kelly has advised the Tribunal that at a meeting sometime in or around 1980

16 or '83 arranged for him by an accountant with a third party who worked in the

17 Council and whose name he has forgotten sought a substantial cash payment in

18 order to sort out the Pye planning problems. To the best of his recollection

19 this sum was 5,000 pounds, which he refused to pay.

14:19:11 20

21 Mr. Kelly will tell the Tribunal that sometime later during a Garda

22 investigation into planning irregularities he reported this matter to Mr. Al

23 Smyth, who advised him that there was no point in pursuing the matter. On a

24 subsequent visit to a local authority office, not a planning office, he saw

14:19:28 25 this third party at his employment in that office

26

27 Mr. Smyth does not recollect any such complaints being made to him as suggested

28 by Mr. Kelly. It is Mr. Smyth's view that had any information capable of being

29 investigated been provided to him he would have reported the matter to the

14:19:45 30 Gardai. Mr. Kelly will tell the Tribunal that planning problems continued and



14:19:49 1 eventually a meeting was arranged with Mr. George Redmond to "resolve all  
2 issues"  
3  
4 Mr. Kelly will tell the Tribunal that not being sufficiently competent in the  
14:19:59 5 area he brought a third party to that meeting. The meeting he alleges was a  
6 total waste of time and no sooner was he back at his office than when he was  
7 telephoned by Mr Redmond who said "George Redmond here, Mr. Kelly, the next  
8 time you are coming to see me come alone" or words to that effect. He says  
9 that he had no further contact with Mr. Redmond.

14:20:19 10  
11 Mr. Redmond has told the Tribunal that he had no specific recollection of any  
12 meeting with Mr Kelly yet he has no reason to doubt his statement that a  
13 meeting took place. Neither has he any recollection of any third party who  
14 Mr. Kelly says he brought with him to any such meeting. Mr. Redmond retired  
14:20:35 15 from the local authority on the 26th of June 1989 and from 1979 to his  
16 retirement in 1989 Mr. Redmond had no planning functions delegated to him. In  
17 1988 Mr. Paddy Hickey was Chairman of Dublin County Council and later co-signed  
18 a motion with Ms. Olivia Mitchell seeking the rezoning of the subject lands.  
19 It would appear in 1988 that Mr. Hickey had at least one meeting with  
14:21:01 20 Mr. George Redmond about the Pye Lands. One other meeting at least took place  
21 in 1988 in the office of the then Chairman, Paddy Hickey, attended by  
22 Mr. Willie Murray, planner of Dublin County Council.  
23  
24 By late 1990 an application for rezoning of Cabriole's green lands, on the map  
14:21:27 25 at 1964, please, to commercial was made on behalf of Mr. Laden by Kieran  
26 O'Malley. Mr. Laden was also considering a planning application but in  
27 December 1990 he received advices from Mr. Kieran O'Malley that he should get  
28 the lands rezoned in the review of the Development Plan prior to making any  
29 application for planning permission. Mr. Laden also appears to have been  
14:21:41 30 discussing matters with Mr. Paddy Hickey, then a member of Dublin County

14:21:45 1 Council. The end result appears to have been the preparation of a motion which  
2 was received by Dublin County Council on the 17th of January 1991 seeking the  
3 rezoning of 15 acres of the Pye Lands from E, A and C1, that is from  
4 residential, industrial and retail to C. And if I could have the map at 717,  
14:22:09 5 please.

6  
7 Beside that if I could have the motion at 716.

8  
9 This is the January 1991 motion signed by Councillor Olivia Mitchell and  
14:22:31 10 Mr. Paddy Hickey which sought the rezoning of all of the lands outlined on the  
11 map from their 1983 zoning to a new C zoning, which would have permitted retail  
12 development on the lands.

13  
14 On the 4th of April 1991 Mr. Kelly and Mr. Laden attempted to resolve their  
14:22:47 15 difficulties by entering into a Heads of Agreement which provided amongst other  
16 matters that Mr. Laden would continue, at a fee to be agreed, to negotiate with  
17 the Department of The Environment, local politicians and planners up to the  
18 point planning approval was obtained.

19  
14:23:02 20 Mr. Laden had been seeking a fee of 35,000 pounds for his continued work in  
21 relation to the zoning and planning permission and ultimately a fee was agreed  
22 of the order of 15,000 pounds. By May of 1991 Mr. Laden, through Cabriole, was  
23 proposing to submit a planning application in July or August 1991 in connection  
24 with the entire site to include a redevelopment of the Quinnsworth Crazy Prices  
14:23:29 25 lands with the agreement of Quinnsworth.

26  
27 On the 31st of May 1991 Councillor Hickey's motion, as proposed by him and  
28 seconded by Councillor Olivia Mitchell was passed by Dublin County Council.

29  
14:23:41 30 According to Councillor Olivia Mitchell she signed the motion at the request of

14:23:46 1 Councillor Hickey. It seems that Mr. Laden was also in communication at this  
2 time with at least the following councillors.

3  
4 Mr. Paddy Hickey, Olivia Mitchell and Ms. Eithne Fitzgerald. The Manager had  
14:23:58 5 recommended that the motion not be passed.

6  
7 The effect of this vote was to rezone for the first display of the 1991 Draft  
8 Development Plan 15 acres of the Pye Lands to C, namely, to protect, provide  
9 for and/or improve town/district centre facilities.

14:24:15 10  
11 Mr. Tony Fox, the late Mr. Tom Hand, Mr. Hickey, Mr. Donal Lydon and Councillor  
12 Olivia Mitchell all voted in favour of the motion. Councillor Eithne  
13 Fitzgerald voted against the motion.

14  
15 The first public display of the Dublin Draft Development Plan took place  
16 between the 1st of September 1991 and December 1991.

17  
18 On the 27th of November 1991 certain written agreements were entered into which  
19 resolved the disputes between Mr. Kelly and Mr. Laden. Essentially Mr Kelly  
14:24:50 20 through a number of corporate structures took control of DPIC, Cabriole and  
21 Dalehall companies subject to a minority interest held by Pye in two of these  
22 companies. Mr. Laden took control of Prisdine. Suresun acquired Mr Kelly's  
23 shareholding in DPIC, Dalehall and Cabriole and the loan to Suresun by ACC was  
24 secured by charges which provided for the appointment of a receiver over the  
14:25:14 25 lands.

26  
27 The review in 1992 of the 1991 Dublin Draft Development Plan.

28  
29 On the 30th of April 1992 the first of Councillor Olivia Mitchell's motions  
14:25:26 30 were lodged. On this day she lodged five motions. The first of which was to

14:25:31 1 create a new zoning objective, E1, which was to provide for "light industry  
2 and/or restricted commercial use".

3

4

Page 964, please.

14:25:42 5

6

You will see that the first matter suggested there on that motion was a new

7

zoning of E1, which would relate only to map 23. And therefore, would not be

8

something that would apply throughout Dublin. It would apply to map 23 and the

9

Dundrum Town Centre lands were on map 23.

14:26:03 10

11

Such a proposed zoning would not permit any retail. The second motion proposed

12

by Councillor Mitchell proposed that the small northern portion of the Pye

13

Lands. Page 1442, please.

14

14:26:19 15

Now, the lands outlined in red, if they could be increased, please.

16

17

Those lands form the small northern portion of the Pye Lands. And Councillor

18

Mitchell in her second motion proposed that those which had been zoned E in the

19

1991 Draft Plan be zoned C.

14:26:43 20

21

The third motion by Councillor Mitchell sought to rezone the land occupied by

22

Crazy Prices to C1 due to its current use and the map showing that is outlined

23

at 1444, please.

24

14:26:53 25

And again, if we could increase the portion where it is outlined in red. The

26

lands outlined in red there were the Crazy Prices portion of the Pye Lands.

27

And she was seeking, according to the motion, to have these rezoned to C 1.

28

29

The fourth motion by Councillor Mitchell, map 1446, please, sought to have the

14:27:18 30

portion of the Pye Lands outlined in red. And this is the portion between the

14:27:22 1 E zoning and the Crazy Prices land zoned E1, which was the new zoning she was  
2 proposing in her first motion.

3  
4 In summary, motions 2, 3 and 4 dealt with the entire of the Pye Lands. Motion  
14:27:36 5 2 sought to zone those lands to C. Motion 3 sought to rezone the Crazy Prices  
6 element to C1. And motion 4 sought to rezone the balance of the lands to E1.

7  
8 Motion 5 from Councillor Mitchell on that day proposed that the lands north of  
9 the Pye Lands. Map at 1448, please., and which do not form part of the Pye  
10 Lands, and which had been designated for town centre retain that zoning but  
11 with the use or class of shops, major sales outlet moved from the not permitted  
12 category to the open for consideration category.

13  
14 The lands outlined on the map at 1448 were the lands which had been rezoned in  
14:28:15 15 the 1983 development for town centre use at Dundrum.

16  
17 What Councillor Mitchell was proposing in this motion was that they would  
18 remain designated for town centre zoning but they would be permitted to have  
19 major shops or major shopping on it, which was not permitted under the then  
14:28:33 20 designation.

21  
22 On the 8th of May 1992 Councillor Mitchell replaced her motion No. 5 with a new  
23 motion No. 5 which proposed that the Dundrum Town Centre or district lands  
24 retain the C zoning but with a new specific objective as to the special  
14:28:50 25 characteristic of a town or village. She last requested that the zoning sought  
26 on her motion No. 2 which she had already changed from C to C2 be changed back  
27 to C.

28  
29 On the 13th of May 1992 Councillor Eithne Fitzgerald lodged a motion with  
14:29:06 30 Dublin County Council dealing with a portion of the Northern town centre lands

14:29:10 1 and separately, but on the same motion paper, the Pye Lands. For the Northern  
2 lands she was seeking a C2 zoning and for the Pye Lands an E1 zoning.  
3  
4 1458, please.

14:29:21 5  
6 This map again outlines in red the two pieces of land and Councillor Fitzgerald  
7 was, similarly to Councillor Mitchell, looking for an E1 zoning for the Pye  
8 Lands.  
9

14:29:39 10 The portion of the motion relating to the Pye Lands was withdrawn by her on the  
11 14th of September 1992. And the balance of the motion was withdrawn at the  
12 meeting of Dublin County Council on the 16th of October 1992.  
13

14 On the 13th of May 1992 Councillor Mitchell again requested Ms. Collins to  
14:29:57 15 replace her previous motion No. 4 with a new motion No. 4 provided by her. And  
16 also to withdraw her previous motion No. 3 which she said was now included in  
17 her new motion No. 4.  
18

19 Essentially, the text of the motion remained the same and the text sought to  
14:30:14 20 rezone the lands to E1, but the map was changed to include the Crazy Prices  
21 portion of the lands which had been included in the previous motion No. 3.  
22

23 On the 20th of May 1992, Councillor Mitchell furnished another motion to Dublin  
24 County Council in connection with the proposed Wyckham bypass.

14:30:32 25  
26 On the 28th of May 1992 Councillor Mitchell provided what she described as her  
27 "final instructions" to Ms. Collins. She provided a fall-back motion in the  
28 event of her first motion being unsuccessful. This fall-back motion sought to  
29 return the mid portion of the Pye Lands i.e. the area beneath the E zoning and  
14:30:51 30 above Crazy Prices back to its original zoning of E and A.

14:31:05 1  
2 She also supplied another motion asking the Council to consider the alignment  
3 of the Wyckham bypass and she also supplied a motion seeking to extend the C2  
4 zoning from the Northern lands into the lands identified on that map, at page  
14:31:11 5 1470.

6  
7 Those lands were east and south of the then existing Dundrum Town Centre lands  
8 and did not form part of the Pye Lands.

9  
14:31:19 10 Councillor Mitchell also supplied another motion which proposed that the  
11 Council adopt the draft C2 zoning for Dundrum Village with the inclusion that  
12 the shops or major outlets be permitted.

13  
14 It seem that Mr. Aidan Kelly was not happy with the proposals put forward by  
14:31:37 15 Councillor Mitchell and he made compromised proposals at a meeting with  
16 Councillor Mitchell on 27th of May 1992 which she rejected. He also engaged in  
17 correspondence with local councillors and local groups.

18  
19 On the 3rd of September 1992 what ultimately came to be the key or defining  
14:31:55 20 motion was lodged with Dublin County Council. This was a motion signed by  
21 Councillors Eithne Fitzgerald and Olivia Mitchell. And the motion is at 1473  
22 and the map is at 1474.

23  
24 This motion sought that the 1983 Development Plan zoning be retained on the Pye  
14:32:12 25 Lands excluding the small northern portion zoned E, industrial. This motion  
26 also proposed for the first time an amendment to the written statement that it  
27 would become Council policy to encourage and promote the development of the  
28 area for tourism, recreational and light industrial uses which would be  
29 complimentary to the commercial function of Dundrum Main Street. The lands,  
14:32:35 30 the subject matter of this motion, included the Crazy Prices lands which had

14:32:39 1           been zoned C1 in the 1983 Draft Development Plan.  
2  
3           Councillor Mitchell wrote to Mr. Kelly informing him of this and later she sent  
4           him a copy of the motion she had submitted. Mr. Kelly sought advices from  
14:32:53 5           Mr. Kieran O'Malley who suggested a compromise. Namely, that the Northern half  
6           of the Pye Lands would be zoned as per Councillor Mitchell's motion and the  
7           other half being the southern end, would remain C1.  
8  
9           The introduction of Mr. Dunlop.  
14:33:07 10  
11           Although Mr. Dunlop says in his statement to the Tribunal that he became  
12           involved in the Pye Lands in April or May 1992, it is not yet known when  
13           precisely he was retained by Mr. Kelly. But it appears likely to have been  
14           prior to or in or around this period of time in view of the difficulties then  
14:33:25 15           facing Mr Kelly in his attempts to get the Pye Lands rezoned.  
16  
17           The first recorded contact between Mr. Kelly and Mr. Dunlop is a telephone  
18           message to Mr. Dunlop from Mr. Kelly on the 28th of September 1992. That he,  
19           Mr. Kelly, would be 15 or 20 minutes late for a meeting and later "that he  
14:33:45 20           wanted to distribute some around the area of the two councillors", which is  
21           likely to be councillors Mitchell and Fitzgerald. He sought Mr. Dunlop's  
22           opinion on this.  
23  
24           There is an entry in Mr. Dunlop's diary for the 28th of September 1992 for  
14:34:01 25           Mr. Kelly followed by a meeting with Tom Hand at Chinatown.  
26  
27           It is clear that by virtue of the number and complexity of motions that have  
28           been received by Dublin County Council at this time, namely, September 1992,  
29           that the rezoning of the Pye Lands and the Dundrum village Centre had become a  
14:34:20 30           contentious matter at least locally. It is clear from Mr. Dunlop's diary and



14:34:24 1 telephone messages that there was contact between Mr. Kelly and Mr Dunlop in  
2 September and October 1992. It also appears to be the motion that by the 5th  
3 of October 1992 Mr. Richard Lynn then a planning consultant with Monarch  
4 Properties, had also been in touch with Mr. Kelly. On the 9th of October 1992  
14:34:42 5 Mr. Kelly wrote to councillors seeking their support.

6  
7 It appears also by this time that no counter motion had been proposed i.e. a  
8 motion to counter the Mitchell Fitzgerald proposal. Such a motion was likely  
9 to have been necessary to protect the interests of the owners of the Pye Lands  
14:34:59 10 and to prevent them being rezoned back to the 1983 Development Plan status.

11  
12 On some date prior to the 16th of October 1992 another motion concerning the  
13 Pye Lands and a portion of the Northern Dundrum Town Centre lands in the name  
14 of Councillors Tom Hand and Donald Lydon was lodged with Dublin County Council.

14:35:22 15  
16 1475, please. And 1476 together. This is the Hand Lydon motion. And the map  
17 to which it relates, the northern lands were the Dundrum Town Centre lands or  
18 the Dundrum Village and the Southern lands which are the larger lands, were the  
19 Pye Lands, including the portion outlined in blue. And effectively what was  
14:35:53 20 being suggested by this motion was that all of the lands outlined in red would  
21 be zoned C, but the portion in the centre outlined in blue would be zoned E.

22  
23 It is not yet known who prepared this motion or how Mr. Hand or Mr. Lydon came  
24 to sign it. And it is not known whether Mr. Dunlop or Mr. Lynn had an  
14:36:15 25 involvement in the preparation of the motion or in the obtaining of the  
26 signatures.

27  
28 When Mr. Dunlop first gave evidence to the Tribunal commencing in April 2000  
29 and also in May of 2000 he was asked by the Tribunal to provide a list of all  
14:36:29 30 persons or entities from whom he was in receipt of monies that would account

14:36:32 1 for the sources of lodgements to certain bank accounts that were then the  
2 subject matter of public inquiry. On the 9th of May 2000 Mr. Dunlop provided a  
3 list to the Tribunal entitled "1991 - 1993 inclusive" wherein he set out at  
4 items one through to 13 a list of the persons or parties from whom he had been  
14:36:53 5 in receipt of funds which had been lodged to certain bank accounts, including  
6 the Rathfarnham bank account, then the subject of scrutiny. That list which  
7 Mr. Dunlop had apparently prepared prior to attending the Tribunal on the 9th  
8 of May 2000 did not include the Pye Lands, Cabriole Construction Limited,  
9 Mr. Kelly or any other person or entity associated with the Pye Lands as being  
14:37:17 10 a contributor of monies to him.

11  
12 At interview on the 12th of March -- 12th of May 2000 Mr. Dunlop told the  
13 Tribunal that the rezoning of the Pye Lands was hugely controversial at the  
14 time and that he did have a recollection of speaking with Mr. Kelly. He also  
14:37:32 15 recollected that Mr. Richard Lynn might have had an involvement in the  
16 development. Mr. Dunlop did not in the course of those meetings disclose that  
17 he had received money from Mr. Kelly in connection with the Pye Lands nor did  
18 he make any allegations that he had made distributions to any councillors in  
19 connection with seeking or achieving the rezoning of the Pye Lands. In October  
14:37:53 20 2000 Mr. Dunlop provided his first statement to the Tribunal in which he  
21 advised the Tribunal of the existence of the system then in operation in Dublin  
22 County Council of paying councillors for their support in terms of signing  
23 motions and otherwise. The Pye Lands were referred to in that statement. He  
24 listed the cases and circumstances in which he co-operated with this system.  
14:38:13 25 He used an asterisk placed beside a particular development to indicate his  
26 belief that monies were given to him by the developer with regard to the  
27 development, in the full knowledge that payments to councillors were required  
28 to achieve support. Such an asterisk was placed beside the Pye Lands.

29  
14:38:31 30 In his initial statement to the Tribunal of the 9th of October 2000 Mr. Dunlop

14:38:37 1 disclosed for the first time that he had received a sum of approximately 5,000  
2 pounds from Mr. Kelly in connection with the development in Dundrum. He says  
3 that he paid Mr. Don Lydon and Mr. Tony Fox a sum of 1,000 pounds each for  
4 their support and a sum of 2,000 pounds to the late Mr. Tom Hand in respect of  
14:38:55 5 his support. No such allegation had been made previously. He identified  
6 Mr. Don Lydon as being one of the signatories on the motion although he does  
7 not say that he, Mr. Dunlop, drafted the motion. Nor does he say that he  
8 sought and/or obtained the signatures of either the late Mr. Hand or Mr. Don  
9 Lydon to the motion.

14:39:14 10  
11 Whilst in his private interview on the 12th of May 2000 he had told the  
12 Tribunal that Mr. Kelly came to him. He did not then make any allegation  
13 against Mr. Kelly as to Mr. Kelly's state of knowledge of the system that then  
14 pertained. Nor did he make any allegation against any Councillor. Nor did he  
14:39:32 15 seek to suggest then to the Tribunal that he had made any payments in  
16 connection with the development of the Pye Lands.

17  
18 Again, whilst in his statement of October 2000 he identifies Mr. Tom Hand as  
19 being paid 2,000 pounds for his support for the development and whilst he  
14:39:47 20 identifies Mr. Hand as a signatory to the motion he does not state that he  
21 obtained Mr. Hand's signature and at the earlier interview he did not identify  
22 Mr. Hand as being in receipt of or seeking any monies in connection with the  
23 support for this particular development.

24  
14:40:06 25 Again, insofar as Mr. Tony Fox is concerned, while Mr. Dunlop in his statement  
26 of October 2000 identifies Mr. Fox as a Councillor who was paid in connection  
27 with his support for the Pye Lands, he had not, prior to this statement of  
28 October 2000, so identified Mr. Fox.

29  
14:40:21 30 Mr. Dunlop gave evidence to the Tribunal on the 4th of February 2003 in the

14:40:25 1 course of the Carrickmines 1 Module. On that occasion identified the Pye Lands  
2 in a list as lands in respect of which he had received a sum of 5,000 pounds.

3  
4 In May of 2001 Mr. Dunlop informed the Tribunal that Mr. Kelly might have had a  
14:40:41 5 connection with the company called Cabriole Limited, which company may have  
6 applied for planning permission in connection with the Pye Lands.

7  
8 In September 2001 Mr. Dunlop provided further information to the Tribunal in  
9 connection with the Pye Lands, namely,

- 14:40:57 10
- 11 1. That he believed that he had been paid the 5,000 pounds in cash by  
12 Mr. Kelly.
  - 13
  - 14 2. That he believed that the payment was made in or around April 1992.
  - 15
  - 16 3. That he believed that it had been made in or around the Royal Dublin Hotel.
  - 17

18 Mr. Dunlop also told the Tribunal that in September 2001 that insofar as the  
19 alleged payments to councillors were concerned, he believed that those payments  
14:41:19 20 were made by cash in or around April 1992 when he believed the motion in  
21 question may have been voted upon.

22  
23 He also stated that insofar as Mr. Lydon was concerned, he believed that the  
24 payment may have been made to him at St. John of God's or at Dublin County  
14:41:35 25 Council.

26  
27 Insofar as Mr. Fox was concerned, his belief was that the payment was made  
28 either at Dublin County Council or in the Royal Dublin Hotel. He did not  
29 provide any information in relation to the locus of the alleged payment to  
14:41:48 30 Mr. Tom Hand.

14:41:50 1  
2 The councillors response to the allegations of Mr. Dunlop.  
3  
4 The position of Mr. Tony Fox.

14:41:55 5  
6 It is Mr. Tony Fox's position, as already stated by him in evidence to the  
7 Tribunal, that he did not receive any payments from Mr. Dunlop, either in  
8 connection with any rezoning matter or otherwise.  
9

14:42:06 10 The position of Mr. Don Lydon.  
11  
12 Mr. Lydon accepts that he was a signatory to two motions. The first of which  
13 proposed the rezoning of the subject lands and the second of which sought to  
14 undo a zoning that had been attached to the subject lands. He rejects the  
15 allegations made by Mr. Dunlop and feels that it was likely that he was  
16 canvassed by Mr. Kelly. He would have signed the first motion at the request  
17 of the late Councillor Tom Hand.  
18

19 The position of the late Councillor Tom Hand is not known.

14:42:34 20  
21 The position of Mr. Kelly.  
22  
23 Whilst there is no specific denial by Mr. Kelly to the allegation that he was  
24 aware of Mr. Dunlop's activities, including making corrupt payments to  
14:42:45 25 councillors, the general tenure of Mr. Kelly's communications and  
26 correspondence is that he was not aware of any such activity and it is likely  
27 that Mr. Kelly will strongly deny any such guilty knowledge as is attributed to  
28 him by Mr. Dunlop. Mr. Linnane, who worked with Mr. Kelly, denies having any  
29 dealings with any person in connection with the Pye Lands, which presumably  
14:43:08 30 includes Mr. Dunlop.

14:43:09 1  
2 The position of Messrs. Laden and O'Donnell.  
3  
4 Both Mr. Laden and Mr. O'Donnell state that they did not engage Mr. Dunlop or  
14:43:17 5 his company. Indeed, both gentlemen assert that they believe that they have  
6 not even met Mr. Dunlop.  
7  
8 Mr. Dunlop does not make any reference to meeting either Mr. Laden or  
9 Mr. O'Donnell. Mr. Dunlop only refers to meeting with Mr. Kelly. Mr. Laden  
14:43:33 10 denies making any payments to councillors.  
11  
12 The Accounts of Mr. Frank Dunlop.  
13  
14 The Tribunal will examine the bank accounts of Mr. Dunlop and his related and  
14:43:48 15 connected companies to see whether there were funds available to Mr. Dunlop at  
16 the critical periods. The accounts of the councillors.  
17  
18 There are certain lodgements to the financial and bank accounts of these  
19 councillors which are the subject of present inquiry.  
14:43:59 20  
21 The Tribunal will inquire in public into the source of certain lodgements in  
22 respect of which questions still remain. Lodgements in respect of which there  
23 are unanswered questions will require to be explained by the account holder  
24 which may not in all cases be one of the above persons.  
14:44:15 25  
26 The special meeting of Dublin County Council of the 16th of October 1992.  
27  
28 All of these motions came to be considered at the meeting of the Council on the  
29 16th of October 1992, over which Councillor Eithne Fitzgerald as Chairman  
14:44:30 30 presided.

14:44:31 1  
2 The Manager recommended that the Pye Lands revert to their original 1983 zoning  
3 and that the Dundrum Shopping Centre or Village Centre, the lands north of the  
4 Pye Lands, should be zoned C2.

14:44:44 5  
6 The first motion which was proposed was proposed by Councillor Mitchell and  
7 seconded by Councillor Fitzgerald. And that is the motion at pages 1471 and  
8 1472.

14:44:56 10 Which provides for the adoption of a draft C2 zoning for Dundrum Village but  
11 including major sales outlet as a permitted use.

12  
13 The area covered by the map to which this motion was attached was all of the  
14 proposed C2 lands i.e. the Northern lands above the Pye Lands, which had been  
14:45:16 15 called the Dundrum Village Centre lands. Together with the addition of two  
16 other portions which were proposed to have the C2 zoning, namely, the E zoned  
17 lands north of the Pye Lands and a portion to the east of the then existing  
18 centre. In other words, the area proposed for by this motion was slightly  
19 greater than the Dundrum District Centre lands as outlined in the 1983 plan.

14:45:42 20  
21 This motion was passed unanimously. And this motion did not deal with the Pye  
22 Lands, save to the small northern portion. The effect of this motion was that  
23 the C2 zoning on the town centre lands was confirmed and that major sales  
24 outlets could be considered as suitable on those lands. Councillor Lydon  
14:46:03 25 contributed to the discussion.

26  
27 The next motion considered by the Council was proposed by Councillor Mitchell  
28 and seconded by Councillor Fitzgerald. And this is the motion at page 763 and  
29 764.

14:46:16 30

14:46:16 1 Proposing that the 1983 zoning be retained on the Pye Lands together with the  
2 change to the written statement proposing that the area should be developed for  
3 tourism related recreation and light industry uses.

14:46:30 5 This was passed by a vote of 30 to 23 with one abstention.

7 Councillors Lydon and Hand contributed to the debate and voted against the  
8 motion.

14:46:39 10 The map attached to this motion included all of the Pye Lands excluding the  
11 small Northern portion which had already been dealt with in the first motion  
12 from Councillor Mitchell.

14 All of the lands which were the subject matter of the motion by Councillors  
14:46:54 15 Lydon and Hand had now been dealt with by the Council and therefore, the  
16 Lydon/Hand motion fell because it referred to lands already dealt with by the  
17 previous motion.

19 In other words, what happened was there was never a vote on the Lydon/Hand  
14:47:09 20 motion because the lands to which it related had already been dealt with  
21 completely by the two previous motions and the two previous successful motions  
22 had also proposed changes effectively to the written statement. One, providing  
23 for leisure and tourism related conduct on the Pye Lands and permitting in the  
24 Northern lands, the town centre lands, major retail.

14:47:34 25  
26 The effect of these motions was that the Dundrum Town Centre lands, the  
27 Northern lands, together with the two additional portions were then zoned C2  
28 with an amendment to the written statement to permit in principle major sales  
29 outlet. The southern portion or the majority of the Pye Lands reverted to the  
14:47:52 30 1983 zoning of C, E and A together with an amendment to the written statement



14:47:57 1 providing that it would be Council policy that the area would be developed for  
2 tourism recreational and light industrial use. This was a serious setback for  
3 the Pye land owners.  
4

14:48:08 5 At some stage after February 1993 Mr. Kelly obtained the names and addresses of  
6 all members of Dublin County Council and it may very well be that he set about  
7 contacting all of the members to seek support for his position. There is  
8 nothing in Mr Dunlop's documentation to indicate that after his involvement in  
9 1992 he continued to be retained by Mr. Kelly in 1993.

14:48:30 10  
11 Mr. Richard Lynn.

12  
13 Mr. Richard Lynn, who has already given evidence to the Tribunal during the  
14 Cherrywood Module, will tell the Tribunal that he was approached by Mr. Kelly  
14:48:40 15 in late 1992, early 1993 and asked if he would be interested in assisting him  
16 in the development of the former Pye Centre, Dundrum.

17  
18 Mr. Kelly advised Mr. Lynn that the site had turned from having a zoning for a  
19 District Centre which provided for a mixed use development back to the 1983  
14:49:02 20 zoning of a mixture of industrial, residential and neighbourhood shops, which  
21 in Mr. Kelly's opinion was commercially unsustainable. Mr Kelly sought Mr  
22 Lynn's assistance in recovering the original proposal

23  
24 CHAIRMAN: Mr Lynn will tell the Tribunal he accepted the offer and sought to  
14:49:15 25 garner support for proposals which had local backing. Mr. Lynn made contact he  
26 says with locally elected members of the council and kept them informed as to  
27 the proposals for the overall area of Dundrum. It was Mr. Lynn's recollection  
28 that he probably drafted the motion to revert to the initial zoning i.e. to  
29 zone the lands for District Centre and thus allow a mixed use development take  
14:49:36 30 place.

14:49:37 1  
2 He would have sought cross party support for this proposal. Mr. Lynn says that  
3 his motion was successful and should have allowed for the comprehensive  
4 development of the area for the uses outlined.

14:49:48 5  
6 However, a motion containing written -- changes to the written statement was  
7 passed by the Council which adversely effected the site. A fact which only  
8 became apparent after a planning application was made on the lands. It is  
9 understood that Mr. Lynn is referring to the vote on the written statement at  
10 the special meeting held on the 12th of November 1993.

11  
12 According to Mr. Lynn he was a consultant with PDS Limited, which company was  
13 retained by Mr. Kelly or Cabriole to assist him with the Pye site. He believes  
14 that in October, that is Mr. Lynn believes, that in October 1994, 34,848 pounds  
15 was received by PDS Limited from Cabriole. This fee would have partly covered  
16 his work to date on the zoning and planning of the Pye site. He says that  
17 there were significant fees outstanding.

18  
19 On the 1st of June 1993 following the earlier decisions of the Council the  
14:50:42 20 Manager proposed amendments and revisions to the written statement. Included  
21 in the proposed amendments to the written statements was paragraph 2.4.6 in  
22 relation to shopping centres and trading areas. Also included under the  
23 general heading development control objectives was a proposed amendment to the  
24 draft written statement in connection with the Pye Lands. Namely, that it was  
14:51:04 25 Council policy to encourage and promote the development of the area for tourism  
26 related recreation and/or light industry use.

27  
28 This arose, of course, as a result of the successful Mitchell/Fitzgerald motion  
29 on the 16th October 1992. Also included in the proposed changes to the draft  
14:51:23 30 written statement was a change to zoning objective C2 in connection with

14:51:27 1 Dundrum only, which provided that in relation to the C2 zoning in Dundrum that  
2 major sales outlet shall be included as being permitted in principle.

3  
4 These proposed changes to the draft written statement were passed unanimously  
14:51:41 5 by the counsel at the meeting 1st of June 1993.

6  
7 The effect of these proposed changes in the written statement and the  
8 successful motions in September 1992 was that the Pye Lands would have to be  
9 displayed in the second public display which took place for one month  
14:51:57 10 commencing on the 1st of July 1993 as changes 10A, 10B, 10C and change 25 on  
11 map 23.

12  
13 The proposed changes are outlined on the map at 873.

14  
14:52:18 15 It seem that Mr. Kelly was fully aware of the proposed changes both to the map  
16 and to the written statement because he consulted Mr. Kieran O'Malley.

17  
18 On foot of instructions received from Mr. Kelly, Mr. Kieran O'Malley prepared a  
19 formal objection to the proposed amendments in connection with the Pye Lands  
14:52:33 20 and this objection or representation argued for linear shopping running the  
21 length of the combined Pye Lands and the Northern Dundrum Town Centre lands and  
22 proposed leisure tourist facilities and hotel. There was an objection to the  
23 proposed amendments in the written statement at Section 3.2 and table 3.8.

24  
14:52:53 25 By late September early October 1993 Mr. Joseph Laden appears to have re  
26 interested himself in the outcome of the zoning of the Pye Lands. At this  
27 stage he was writing to TDs in connection with development proposals and was  
28 also in contact with some of the professional team retained by Mr. Kelly. He  
29 was also in contact with local councillors and appears to have met Mr. Donal  
14:53:23 30 Marren, Olivia Mitchell, Larry Lohan. Mr. Kieran O'Malley was also involved in

14:53:23 1 contacting certain councillors seeking support and Mr. Kelly also circularised  
2 the Council -- councillors.

3  
4 Special meeting of Dublin County Council on the 2nd of November 1993.

14:53:31 5  
6 By the 28th of October 1993 a motion signed by Councillors Hand, Lohan, Lydon,  
7 Fox and Matthews had been lodged with Dublin County Council seeking that  
8 amendments 10A, 10B and 10C on map 23 be disallowed so that the lands would  
9 revert to their zoning in the 1991 Draft Development Plan as C zoning over all  
10 of the lands.

11  
12 The motion did not seek to address any portion of the written statement. A  
13 motion had also been lodged by Councillors Buckley and Doohan seeking to  
14 confirm the changes at 10A, 10B and 10C. In other words, that the Pye Lands  
15 would revert to the 1983 Development Plan zoning.

16  
17 Mr. Donal Marren has advised the Tribunal that he recalled Mr. Kelly calling to  
18 see him on a Saturday afternoon in the Community Centre, Sheelin Avenue,  
19 Ballybrack in the early 1990's at which meeting Mr. Kelly gave a brief  
14:54:08 20 presentation on his proposals for the development of the Pye Lands at Dundrum.  
21 The meeting lasted ten minutes.

22  
23 Mr. Matthews who represented the Dundrum ward on which the Pye Lands were  
24 situated will tell the Tribunal that although he does not remember signing the  
14:54:39 25 Kieran O'Malley motion he had no difficulty in signing and supporting this  
26 motion as the lands constituted a derelict site at the time. Dundrum village  
27 was dying and there was very serious unemployment problems in the area and the  
28 whole area needed to be regenerated and he was pushing for this to happen. He  
29 will tell the Tribunal that it made absolute sense to him in 1993 that the Pye  
14:55:00 30 Lands which could only be described as an eyesore should have an appropriate

14:55:05 1 zoning in order that there could be development for the benefit of Dundrum and  
2 the surrounding area.

3  
4 Mr. Larry Lohan who also signed this motion advised the Tribunal that his  
14:55:13 5 support for the motion on the Pye Lands, Dundrum was based solely on the belief  
6 that it was appropriate for the area.

7  
8 On the 1st of November 1993 Henry J. Lyons and Partners on behalf of Cabriole  
9 lodged an application for planning permission for a mixed retail, residential  
14:55:28 10 and leisure development on the Pye Lands. Parts of the development related to  
11 the lands owned by Power Supermarkets and there was apparently an agreement  
12 between Power Supermarkets and Cabriole about the provision of a new improved  
13 supermarket premises.

14  
14:55:43 15 On the 2nd of November 1993 Dublin County Council came to consider the  
16 amendments proposed to the Pye Lands. Namely 10A, 10B and 10C, which proposed  
17 changing the zoning on the Pye Lands back to the 1983 zoning. Namely, back to  
18 A, residential. E, industrial and C1, village centre.

19  
14:56:05 20 The Manager recommend in the all three cases that the amendment be confirmed.  
21 Councillors Buckley and Doohan proposed a motion that the changes to 10A, 10B  
22 and 10C be confirmed and on a vote this motion was lost. With 27 voting for  
23 the motion and 36 against.

24  
14:56:22 25 The next motion put was that proposed by Councillor Matthews and seconded by  
26 Councillor Fox and signed by Councillors Hand, Lohan, Fox, Lydon and Matthews.  
27 36 voted for the motion and 27 voted against.

28  
29 Changes 10A, 10B and 10C were then deleted from map 23. And the zoning on the  
14:56:43 30 Pye Lands then reverted to its 1991 draft zoning, namely, C.

14:56:47 1  
2 Following this successful outcome, Mr. Laden wrote to a number of political  
3 figures thanking them for their assistance.  
4

14:56:55 5 On the 12th of November 1993 the amendment proposed to the draft written  
6 statement relating to the Pye Lands at Dundrum, namely, that it would be  
7 Council policy to encourage and promote the development of the area for tourism  
8 related recreation and/or light industry uses was confirmed. The Draft  
9 Development Plan for County Dublin was adopted on the 10th December 1993 and  
14:57:18 10 this amendment to the written statement was included. In addition table 3.8 in  
11 connection with zoning objective C2 provided "in relation to the C2 zoning in  
12 Dundrum major sales outlet shall be included as permitted in principle".  
13 Specific local objective four to paragraph 4.923 of the Dublin County  
14 Development Plan written statement also provided to include the use or class of  
14:57:45 15 shops, major sales outlet in the C2 zoning objective for Dundrum Village.  
16  
17 The effect of that was that the zoning on the map that attached to the Pye  
18 Lands following the making of the 1993 plan was a C zoning. But retail was not  
19 permitted by virtue of the amendment to the written statement.

14:58:05 20  
21 The effect of this was that while the zoning on the Pye Lands had reverted to a  
22 C zoning, the written statement, which takes priority over the maps, provided  
23 it would be Council policy to promote the Pye Lands for tourism related  
24 recreational and light industrial uses which would be complimentary to the  
14:58:23 25 village core on Dundrum Main Street. The C2 zoned lands, the Northern non Pye  
26 Lands would be allowed to have major sales outlet.  
27  
28 The events post the 1st of January 1994.  
29

14:58:34 30 Throughout 1994 a number of meetings took place between the officials of Dun

14:58:41 1 Laoghaire/Rathdown County Council and with Mr. Kelly and persons acting on his  
2 behalf. It would appear that in 1994 Mr. Richard Lynn continued to have some  
3 involvement in the matter.  
4

14:58:50 5 On the 19th of December 1994 at a meeting of Dun Laoghaire/Rathdown County  
6 Council the County Manager indicated that while there were many good part to  
7 the proposal, in other words, the planning application lodged in November 1993,  
8 that in view of paragraph 3.2.9 of the 1993 Development Plan the retail element  
9 of the proposed planning application would amount to a material contravention  
10 of that plan.

14:59:15 11  
12 Mr. Laden later described this as overturning the decision of the councillors  
13 of the 16th of September 1993 in connection with these lands.  
14

14:59:25 15 A number of councillors made comments and suggestions at this meeting in  
16 relation to the matter, including Councillors Hand, Gordon, Matthews and Lydon,  
17 who appeared to be broadly supportive or in favour of the proposed development  
18 and to a lesser extent Councillor Mitchell.  
19

14:59:42 20 By the 11th of January 1995 Dun Laoghaire/Rathdown County Council were stating  
21 comprehensively that the proposal was a material contravention in view of the  
22 physical location of the retail element of the development. In other words,  
23 because of its distance from the existing village core of Dundrum.

24 Dunlaoghaire Rathdown County Council did suggest that if the retail element  
15:00:03 25 were flipped and the retail element located at the top end of the Pye Lands  
26 i.e. close to Dundrum Village Centre, this might avoid the necessity for a  
27 material contravention vote.  
28

29 Throughout 1994 and 1995 the ACC were concerned at the failure to resolve  
15:00:19 30 planning issues. The bank were anxious that Mr. Kelly would coordinate his

15:00:24 1 efforts with the County Council with those of Mr. Laden. Mr Laden who was owed  
2 in excess of 700,000 pounds secured by way of a second charge over the Pye  
3 Lands also became involved in advising as to how to have the offending part of  
4 the written statement deleted so as to allow the proposed development including  
15:00:41 5 retail proceed.

6  
7 By the 1st of February 1995 Mr. Laden was writing to Mr. Larry Lohan stating  
8 that a simple majority would delete the offending part of the written  
9 statement.

15:00:53 10  
11 Apparently Mr. Kelly and Mr. Laden agreed in early January 1995 that they  
12 should move as soon as possible to have the portion of the written statement  
13 deleted but felt that they would not be ready in time for the January meeting  
14 but should prepare a motion for February. Mr. Laden was not anxious to  
15:01:10 15 continue discussions with either Quinnsworth or the Council about flipping the  
16 site. It is clear that in or around this time differences were again emerging  
17 between Mr. Kelly and Mr. Laden as to how to proceed.

18  
19 By April 1995 there must have been discussions about the appointment of a  
15:01:25 20 receiver over the Pye Lands. By the 11th of April 1995 Mr. Laden indicated  
21 that he was agreeing not to appoint a receiver, provided a motion was put to  
22 and carried by Dun Laoghaire/Rathdown County Council at its meeting of the 22nd  
23 of May.

24  
15:01:39 25 He also wanted a new planning application to be lodged for the site locating  
26 the Quinnsworth store on the Dundrum side.

27  
28 The ACC viewed the deletion of the offending part of the written statement as a  
29 prerequisite to any progress in the development of the site. Suresun had  
15:01:59 30 severe financial difficulties at this time in terms of cashflow. Richard Lynn



15:02:01 1 continued to be retained in this matter at this time although it is not  
2 entirely clear from whom he was getting his instructions. It does appear that  
3 there was recorded concern in May of 1995 that financial arrangements should be  
4 made to pay fees to Mr. Lynn. There appears to have been disagreement between  
15:02:19 5 Mr. Kelly on the one part and Mr. Laden and the bank of the other part as to  
6 the best way to proceed. Mr. Laden was of the view that the best way to  
7 proceed was to have a motion passed by Dun Laoghaire/Rathdown County Council to  
8 delete the portion. The advice to Mr. Kelly from his "zoning consultant,  
9 Mr. Lynn" was that a planning application should be lodged before any attempt  
15:02:41 10 was made to make any deletion to the written statement.  
11  
12 Mr. Kelly records Mr. Laden as being confident from his political connections  
13 of success in having the motion passed  
14  
15:02:51 15 Mr. Kelly was being advised that if the development was flipped or turned with  
16 the retail element being closer to Dundrum Village Centre then the Council  
17 would regard that development as complimentary to the existing Dundrum Village  
18 Centre and there would be no necessity for a motion or amendment to the written  
19 statement. Mr. Laden apparently was of the view that a motion was required.  
15:03:12 20 The ACC Bank became increasingly patient.  
21  
22 The June 1995 motion to alter the written statement.  
23  
24 In or around 12th of June 1995 a motion was lodged with Dun Laoghaire/Rathdown  
15:03:25 25 County Council seeking to initiate a variation procedure on the 1993 Dublin  
26 County Development Plan by deleting Section 3.2.9 on page 43.  
27  
28 This motion was signed by Councillors Trevor Matthews and Tony Fox. It seems  
29 that Mr. Kelly, whilst not believing there was any necessity for such a motion,  
15:03:46 30 did so because Mr. Laden threatened to appoint a receiver if a motion was not

15:03:50 1 put to Dun Laoghaire/Rathdown County Council.  
2  
3 There were also regular meetings with the officials of the Council about the  
4 Pye Lands.  
15:03:57 5  
6 At the end of July 1995 Mr. Kelly organised a loan of 85,000 pounds from Power  
7 Supermarkets primarily for the purposes of paying professional fees. These  
8 fees are likely to have been due to PDS Limited Property Development Services  
9 Limited, the company with which Mr. Lynn was a consultant. It would appear  
15:04:16 10 that PDS Limited was seeking 85,000 pounds to be paid between the end of July  
11 1995 and November 1995 in connection with their involvement with the Pye site.  
12  
13 In mid 1995 meetings took place between the officials of Dunlaoghaire/Rathdown  
14 County Council and Mr. Kelly and his professional team following which the  
15:04:35 15 Council position appears to have been that the official position would be to  
16 support the proposed flipped development with the exception of one particular  
17 block which might require a material contravention. The management appeared to  
18 have been in general support of the proposed development. In October 1995  
19 Cabriole, Dalehall and DPIC agreed to sell their Pye Lands for a sum of 5  
15:04:57 20 million pounds subject to certain conditions including the planning permission  
21 would be obtained you by the 30th of September 1996.  
22  
23 On the 17th of January 1996 the ACC Bank appointed a receiver, Mr. David  
24 Hughes, over the land, property and assets charged to the bank by Suresun  
15:05:14 25 limited, namely, the Pye Lands. By that stage although sketched plans for the  
26 flipped development had been presented to the Council, no formal planning  
27 application had been made. Following the appointment of the receiver Mr. Kelly  
28 made an application to the High Court for the appointment of an examiner.  
29 Mr. Laden opposed the application on behalf of Don-Lay which he says was owed  
15:05:37 30 in excess of 950,000 pounds. The application for an appointment of an examiner

15:05:41 1 was not successful and the receivership proceeded.  
2  
3 The receiver disposed of the property to Alice, who in turn disposed of the  
4 properties to Crossridge. An arrangement was entered into between Alice and  
15:05:53 5 Mr. Kelly for the transfer of certain smaller properties to him to prevent  
6 further proceedings.  
7  
8 Among the issues which will arise for consideration in this Module are.  
9  
10 1. Allegations of Mr. Kelly that an un-named official of Dublin County Council  
11 sought payment in return for his support to sort out the Pye planning  
12 difficulties in the late 1970's and 1980's.  
13  
14 2. Mr. George Redmond's contacts with Mr. Kelly.  
15:06:22 15  
16 3. Mr. Albert Smyth's contacts with Mr. Kelly.  
17  
18 4. Mr. Frank Dunlop's allegation that he received money from Mr. Kelly in the  
19 knowledge that he was to pay councillors for their support for the rezoning of  
15:06:30 20 the Pye Lands at Dundrum.  
21  
22 5. The allegation by Mr. Dunlop that he made payments to three named  
23 councillors in order to secure their support for the rezoning of the Pye Lands  
24 at Dundrum in South Dublin County Council.  
15:06:41 25  
26 6. The rezoning of the Pye Lands generally and in particular the role, if any,  
27 played by Mr. Kelly, Mr. Linnane and their connected or associated companies.  
28 Mr. Laden, Mr O'Donnell and their connected and associated companies.  
29 Mr. Frank Dunlop, Mr. Richard Lynn and Councillors Fox, Lydon, the late Tom  
15:07:00 30 Hand, Fitzgerald, Mitchell, Lohan, Gordon and Marren.

15:07:04 1  
2 That concludes the opening statement.  
3  
4 CHAIRMAN: All right. Thank you, Ms. Dillon.

15:07:08 5  
6 In the usual way there is a right of reply to any party who wishes to exercise  
7 that right.  
8  
9 It is an invitation that is not usually taken up. But if any party wishes to  
15:07:18 10 make a reply, they may do so now. Or if they prefer, they can reserve their  
11 position and do so tomorrow morning.  
12  
13 Very well.  
14

15:07:31 15 MR. QUINN: May it please you. Ms. Collins, please  
16  
17 CHAIRMAN: I was going to suggest that perhaps as obviously you are going to  
18 be referring to a lot of motions in the course of Ms. Collins' evidence. That  
19 it mightn't be necessary for her to list the councillors voting for and against  
15:07:48 20 on each occasion. It might take a bit less time.  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

15:07:55 1 **MR. COLLINS, HAVING BEEN SWORN, WAS QUESTIONED**

2 **BY MR. QUINN AS FOLLOWS:**

3

4

15:08:15 5 CHAIRMAN: Good afternoon, Ms. Collins

6 A. Good afternoon.

7

8 MR. QUINN: Thank you, Mrs. Collins.

9

15:08:21 10 Q. 1 Ms. Collins, I think your statement is to be found at pages 1784 to 1799 of the  
11 brief.

12

13 And I think in the, if we could have 1784, please.

14

15:08:31 15 You commence your statement by setting out your background and your experience  
16 involvement in relation to the review of the Development Plan. And you have  
17 given evidence in several other modules, isn't that correct

18 A. Yes.

19 Q. 2 And I think you go on to deal with what might be referred to as land use  
15:08:47 20 zonings namely shopping in relation to the 1983 Development Plan.

21

22 And if we look at page 695. This is an extract from the written statement of  
23 the 1983 Development Plan.

24

15:08:58 25 At 696 we see there zoning C, C1 and D. And I think C refers to a use or an  
26 objective which provides for the protect, provide for and/or improve  
27 town/district centre facilities, isn't that correct

28 A. Yes.

29 Q. 3 C 1 is to protect, provide for and/or improve neighbourhood/local centre  
15:09:21 30 facilities, is that correct?

- 15:09:22 1 A. Yes.
- 2 Q. 4 And I think D is to provide for major town centre activities?
- 3 A. Yes.
- 4 Q. 5 And if we revert to 1784. I think you say that in the Draft Development Plan
- 15:09:32 5 1990, the Draft Development Plan 1991 and the Draft Development Plan 1993
- 6 amendments and the final County Development Plan of 1993 a new zoning namely C2
- 7 was inserted isn't that right? And I think that provided for to protect and
- 8 enhance the special physical and social character of town and village centres,
- 9 is that correct?
- 15:09:52 10 A. Yes.
- 11 Q. 6 And I think the other objectives remained as previously outlined.
- 12
- 13 At 1758 you say permitted classes or uses of activity C, C1, C2 and D were set
- 14 out in the written statement but in general would be fair to say that objective
- 15:10:09 15 C2 had the minimum permitted uses moving on an incremental basis through to C1
- 16 and C and to objective D, is that correct
- 17 A. Yes.
- 18 Q. 7 I think you say in paragraph two in relation to the Pye lands that the Pye
- 19 Lands were situated in Dundrum adjoining on their left-hand side the proposed
- 15:10:24 20 Dundrum bypass. Immediately south of the Dundrum village lands originally
- 21 designated C, Town/District centre in the 1983 plan. And I think the Pye Lands
- 22 were originally located on two maps. That is to say maps 15 and 19 in the 1983
- 23 plan. And there is a composite map I think on screen which at 1424. Sorry, at
- 24 1423, which combines the 15 and 19 of the 1983 plan. And we see there the Pye
- 15:11:02 25 Lands. And they at that stage I think in the 1983 plan held the zoning E, A
- 26 and C1. C1 being at the bottom where the Crazy Prices property was. To the
- 27 north of those were the A zoned lands. And to the north of those again were
- 28 the E zoned lands, is that correct?
- 29 A. Yes.
- 15:11:24 30 Q. 8 And I think the effect of that was that the lands were zoned for industrial,

15:11:29 1 residential and protect and/or provide and improve a neighbourhood/local centre  
2 facilities, is that correct?

3 A. Yes.

4 Q. 9 I think you go on at paragraph three to say that in the 1990 Draft Development  
15:11:41 5 Plan the Pye Lands were on map 23. And you refer to an extract from map 23 at  
6 brief page 1424.

7  
8 And you say that the area denoted C1 within the red hatched lines were the  
9 lands owned by Crazy Prices. The lands shown outlined in blue immediately to  
10 the north of the red hatched Pye Lands were the lands zoned for the Dundrum  
11 District Town Centre in which the 1981 Draft Development Plan were zoned C2 and  
12 that is to protect and enhance the special physical and social character of the  
13 town and village centres. And you say that the Pye Lands shown hatched red on  
14 the 1991 Draft Plan were zoned E industrial, A residential and C1 to protect  
15 and provide for and/or improve neighbourhood/local centre facilities. You say  
16 that this small portion shown outlined in red but not hatched in red,  
17 immediately to the north of the E zoned Pye Lands were also zoned E. And you  
18 say that at a special meeting of Dublin County Council held on the 10th of May  
19 1990 Mr. Conway, who I think was the assistant planning officer for Dublin  
20 County Council, outlined the changes proposed in maps 23 and 24 and maps 23 and  
21 24 were noted by the Council, isn't that correct

22 A. Yes.

23 Q. 10 I think you go on at paragraph four to say in January 1991 the members of the  
24 Council were informed and afforded an opportunity to submit motions in respect  
15:13:01 25 of any of the objectives in the Draft Plan for insertion or wrap up agenda for  
26 consideration by the Council prior to putting the Draft Plan on display. The  
27 final deadline for such motions was the 15th of February 1991.

28  
29 You say that approximately 160 motions were received including a motion in  
15:13:17 30 relation to the Pye Lands. And you say the Dublin County Council received a

15:13:20 1 motion on the 17th of January 1991 in the following terms. Namely, that the  
2 Dublin County Council hereby resolves that the lands at Pye Lands, Sandyford  
3 Road, Dundrum, Dublin 16 outlined in red on the attached map comprising  
4 approximately 15 acres which have been signed for identification purposes by  
15:13:37 5 the proposer and seconder of the motion be zoned for C to protect provide  
6 and/or improve Town/District facilities in the draft review of the Dublin  
7 County Development Plan.  
8

9 We can see that motion at plan at 716 and 717. And that was a motion I think  
15:13:54 10 which was signed by Councillor Paddy Hickey and Councillor Olivia Mitchell,  
11 isn't that correct

12 A. Yes.

13 Q. 11 Now, I think you say that the motion that the map attached to the motion  
14 outlined in the Pye Lands were that the zoning E, A and C1, which would be the  
15:14:10 15 Crazy Prices site in the 1990 Draft Plan. That they would all now be zoned C,  
16 isn't that correct? You say that the motion concerning these lands came on for  
17 consideration before the special meeting of Dublin County Council on the 31st  
18 of May 1991. And at that meeting Councillor Hickey proposed a motion in  
19 connection with the Pye lands and that was seconded by Councillor Olivia  
15:14:31 20 Mitchell.  
21

22 If we look at 590. I think we see an extract from the special meeting. 589  
23 and 590. And we see that motion being voted upon with 26 councillors voting in  
24 favour and three against, isn't that correct? And I don't propose to call out  
15:14:46 25 the councillors voting in favour. But they did include I think councillors  
26 Fox, Hand, Lydon, Mitchell, is that correct?

27 A. Yes.

28 Q. 12 At paragraph five you say that the 1991 Draft Development Plan for Dublin  
29 County was put on public display from the 2nd of September 1991 to the 3rd of  
15:15:07 30 December 1991 within which period it was opened to members of the public,



15:15:10 1 including landowners, to make submissions on the Draft Plan.  
2  
3 In the display Draft Plan the Pye Lands were zoned C, namely to protect provide  
4 for and/or improve Town/District centre facilities and a small portion of the  
15:15:22 5 lands immediately to the north of the upper Pye Lands were zoned E industrial  
6 which the zoning on the upper lands in the 1983 and 1990 Draft Plan, is that  
7 correct?  
8 A. Yes.  
9 Q. 13 You say that at brief pages 1429 and the relevant extract map 23 of the 1991  
15:15:39 10 Draft Development Plan with the Pye Lands zoned C and shown edged and hatched  
11 red in the Dundrum Town/Village centre C2 and shown outlined in blue on the  
12 small portion of the industrial zoned E lands were shown hatched green.  
13  
14 You say that at brief pages 1430 and 1440 we see the relevant extracts from the  
15:16:00 15 draft Dublin County Development 1991 written statement dealing with the zoning  
16 objectives, is that correct  
17 A. Yes.  
18 Q. 14 I think at paragraph six you say that during the currency of the first public  
19 display representations were received by Dublin County Council and that from  
15:16:14 20 the minutes of the subsequent meetings of Dublin County Council the following  
21 representations were referred to as being relevant to the Dundrum Shopping  
22 Centre and/or Pye Lands namely representations 253, which I think was a  
23 representation from Mr. Kieran O'Malley. 303, 395, 507 and 557 which I think  
24 was a Labour Party representation, 606 and 780. You say that representation  
15:16:37 25 253 was a representation submitted by Mr. O'Malley, a town planner on behalf of  
26 the landowner of the Pye Lands. These representations supported the 1991 Draft  
27 Plan zoning of C and small portion of the E zoning to the north.  
28  
29 Representation 557 was representation by the Labour Party being a composite  
15:16:55 30 representation covering a number of discreet parcels of land but referring in

15:16:58 1 paragraph 4 to the Pye Lands.  
2  
3 You say that the balance of the representations which were referred to are  
4 either not relevant or not available.

15:17:04 5  
6 And you refer to copies of those representations at 1110 and 111 of the brief,  
7 isn't that correct?

8 A. Yes.

9 Q. 15 Paragraph 7, you say that from review of the file it would appear that  
10 following the first public display Councillor Olivia Mitchell was responsible  
11 for submitting 14 motions in connection with the Pye Lands at the Dundrum  
12 Village Town Centre and roads in the Dundrum area. You say it also appears to  
13 be the case that Councillor Mitchell made number of amendments to the motions  
14 she had lodged prior to any motion in connection with these lands being  
15 considered by the Council. Other motions relevant to these lands were  
16 submitted by other councillors and received in the following order.  
17  
18 Then I think at 1789 you deal with the motions submitted on the 30th of April  
19 1992, isn't that correct?

15:17:54 20 A. Yes.

21 Q. 16 And if we could have 964, please.  
22  
23 I think the first of those motions is a motion signed by Councillor Mitchell  
24 and Councillor Shatter proposing to create an additional objective E1 zoning in  
25 relation to map 23, isn't that correct

15:18:10 26 A. That's right.

27 Q. 17 And that's on screen?

28 A. Yes.

29 Q. 18 And namely, to provide for light industrial and restricted commercial use,  
15:18:17 30 isn't that correct?

15:18:20 1 A. Yes.

2 Q. 19 Then I think the second motion is a motion dated again the 30th of April 1992  
3 and at 1441.  
4

15:18:28 5 If we could have the map at 1442.  
6  
7 This would be the Northern end of the Pye Lands. I think that that motion  
8 provided that the lands which were zoned E in the 1991 Draft Plan be zoned C,  
9 isn't that correct?

15:18:41 10 A. Yes.  
11 Q. 20 And I think the map and motion as I say is at 1441 and 1442.  
12  
13 Then motion No. 3 again lodged on the 30th of April 1992 and again signed by  
14 Councillor Mitchell proposed that the lands outlined in red on the map, namely  
15 the Crazy Prices portion of the Pye Lands, that is to the south of the Pye  
16 Lands, be zoned C1. And we see that motion and map at 1444, isn't that correct

15:18:56 17 A. Yes.  
18 Q. 21 And then motion No. 4 signed by Councillor Mitchell proposed that the lands  
19 between the Crazy Prices lands and the lands which she had now proposed to be  
20 zoned C and which originally had been zoned E would be zoned E1 in accordance  
21 with her first motion, which was the new proposed zoning, isn't that correct?  
22 And we see that at 1446?

15:19:19 23 A. Yes.  
24 Q. 22 And then I think her fifth motion dealt with lands which weren't the Pye Lands,  
25 but were effectively the Dundrum Town Centre lands. And they are motion No. 5.  
26 It provides that the Dundrum Village Centre lands outlined red on the map  
27 retained its C2 zoning, but that shops/major sales outlets be moved from the  
28 not permitted category to the open for consideration category.  
29

15:19:36 30 ' and we see the text of that motion at 1447.

15:20:00 1  
2 And the map accompanying that is at 1448.  
3  
4 And if we look at the bottom left hand corner of the map I think we see in  
15:20:11 5 manuscript motion No. 5 C2 to C2 plus major shopping, isn't that correct?  
6 A. Yes, yeah.  
7 Q. 23 I think major shopping was not a permitted use under C2 at the time. The  
8 proposal was that the Dundrum Village Centre would have a C2 zoning but that  
9 major shopping would be a permitted use?  
15:20:39 10 A. Yes.  
11 Q. 24 Then I think there were motions received on the 8th of May 1992.  
12  
13 Motion No. 5. On the 8th of May 1992. Again, signed by Councillor Mitchell,  
14 proposed to delete the last motion which we had on screen, motion No. 5, and if  
15:20:51 15 we could have, please, 1450 on screen.  
16  
17 It was proposed that that would be a replacement motion for motion No. 5. And  
18 the new motion No. 5 proposed that the Dundrum Town Centre/District centre  
19 lands outlined in red on the attached map would retain its C zoning together  
15:21:12 20 with the specific objective of a town/village centre with special physical or  
21 social character, is that correct?  
22 A. Yes.  
23 Q. 25 Now, also I think it was proposed that a new motion would replace the original  
24 motion No. 2. At 1790 of your statement you say that in the accompanying  
15:21:35 25 letter, and we see that accompanying letter at 1449. Councillor Mitchell asked  
26 you to undo a change in the original motion No. 2 dated 30th of April 1992 and  
27 she enclosed a new motion No. 2. And we see that new motion No. 2 at 1452.  
28  
29 And new motion No. 2 proposed a C2 zoning on the Northern portion of the Pye  
15:22:01 30 Lands as outlined on the attached map.

15:22:04 1  
2 And then I think further motions were received on the 13th of May 1992. And I  
3 think the first of those was a motion by Councillor Fitzgerald.  
4

15:22:12 5 And we see that at page 1456.

6  
7 Councillor Fitzgerald I think proposed that the lands outlined in orange on the  
8 attached map. And we see the attached map at 1458. We're talking about the  
9 Dundrum Village Centre lands. That those lands be zoned C2, to protect and  
10 enhance the special physical and social character of the town village centre  
11 but with the addition that shops/major sales outlets should be open for  
12 consideration.  
13

14 If we go back again to 1456. We see that the balance of the motion says that  
15 the lands including most of the Pye Lands and approximately half of the  
16 Northern Dundrum District/Town centre lands be also zoned E1, isn't that  
17 correct?

18 A. Yes.

19 Q. 26 And I think also -- sorry. In relation to the Pye Lands. I think that portion  
15:23:06 20 of that motion was withdrawn on the 14th of September 1992. And we see that  
21 written on the motion, isn't that correct?

22 A. Yes.

23 Q. 27 And I think in time when we come to deal with the special meeting at which all  
24 of these motions were considered, that is the 16th of October '92. That motion  
15:23:21 25 in its entirety or what remained of the motion was withdrawn, isn't that  
26 correct?

27 A. Yes.

28 Q. 28 Now, I think also on the 13th of May 1992. At 1459.

29  
15:23:33 30 You received a further request from Councillor Mitchell. And this time she

15:23:38 1 requested you to replace her motion No. 4 with the enclosed motion. And she  
2 asked you to withdraw motion No. 3, isn't that correct?

3 A. Yes.

4 Q. 29 And if we look at 1460.

15:23:51 5  
6 We see that Councillor Mitchell is asking that certain lands be now zoned E1.  
7  
8 And if we go to 1461. We see a map showing the lands which she is now seeking  
9 to have zoned E1, isn't that right? Effectively what she is doing is that she  
10 is amalgamating on that map what I might refer to as the Crazy Prices site to  
11 the bottom of the map, together with the intermediary lands. She is asking  
12 that those entire lands be now zoned C2, isn't that correct

13 A. Yes.

14 Q. 30 And I think that, that proposal effectively amending the map and adding the  
15 Crazy Prices lands effectively amended motion No. 4 by adding the Crazy Prices  
16 lands, which did away with the necessity for motion No. 3, isn't that correct?

17 A. Yes.

18 Q. 31 And then I think on the 20th of May 1992. If we could have 1462.  
19

15:24:43 20 You received a further motion from Councillor Mitchell. This time proposing  
21 that the Wyckham bypass which she had outlined in red be deleted from the  
22 Development Plan and replaced by a more appropriate route which recognised  
23 certain facts, isn't that correct

24 A. Yes.

15:24:58 25 Q. 32 And if we look at the accompanying map.  
26  
27 At 1463.  
28  
29 I think we see the Wyckham bypass, it's the road to the right of the map, isn't  
15:25:11 30 that correct? I think it may be upside down.

15:25:20 1 A. Yeah.

2 Q. 33 Yes?

3 A. Yes.

4 Q. 34 Isn't that correct? We see at the bottom left hand corner of the Crazy Prices

15:25:28 5 site. And we see a road extending to the right from that site and that's the

6 Wyckham bypass, isn't that correct?

7 A. Yes.

8 Q. 35 Now, again, I think on the 28th of May 1992. You had further communication

9 from Councillor Mitchell.

15:25:42 10

11 And if we look at 1464.

12

13 I think we see her correspondence to you. And she is asking you in the first

14 instance if she required a map with her motion No. 1.

15:25:53 15

16 As we recall motion No. 1 sought to introduce a new zoning into the written

17 statement E1, and I think that your advice was no map was required for that?

18 A. That's right.

19 Q. 36 And then at motion No. 2. Which again is signed by her, which is at 1465.

15:26:11 20 Councillor Mitchell is proposing that a motion of the Pye Lands outlined in red

21 by her in the accompanying map would be rezoned to E, its original zoning. But

22 that the industrial uses be confined to light industry and that the Northern

23 portion of the lands referred to its original 1983 A zoning.

24

15:26:30 25 And we see that map at 1466.

26

27 In fact, I think she is probably referring to -- if we go back to 1465. She is

28 referring not to the Northern but the Southern portion because the Southern

29 portion would be the area between Crazy Prices I think and what might be

15:26:47 30 referred to as the industrial zoning, isn't that right

15:26:50 1 A. Yes.

2 Q. 37 It's north of Crazy Prices.

3

4 Then I think there was motion No. 3 again on the 28th of May 1992.

15:26:59 5

6 And that's at 1467.

7

8 And this time Councillor Mitchell was proposing that the Council would consider

9 the alignment of the Wyckham bypass extension if the Minister for the

15:27:06 10 Environment had made a decision on the Southern Cross route prior to the

11 adoption of the Development Plan.

12

13 That -- effectively she was proposing that the Council would revert to consider

14 the matter, isn't that correct?

15:27:21 15 A. Yes.

16 Q. 38 Motion No. 4 again on the 28th of May 1992. and again signed by Councillor

17 Mitchell, which is at 1469 was that the proposed extension of C2 zoning onto

18 the lands attached outlined in red on the map attached.

19

15:27:39 20 And if we look at 1470, these are lands which are not the subject of ownership

21 by anyone involved in this Module. They were to the right of the village

22 centre lands at north and to the right of the Pye Lands, isn't that right?

23 A. Yes.

24 Q. 39 And she was extending effectively the Village Centre zoning to the right, isn't

15:27:59 25 that correct?

26 A. Yes.

27 Q. 40 And then I think motion No. 5. Again, signed by Councillor Mitchell.

28

29 Which is at 1471.

15:28:08 30



15:28:08 1 She was proposing to adopt the draft C2 zoning for the Dundrum Village  
2 including that motion of the lands referred to in the immediately preceding  
3 motion and proposing the inclusion of the used class major sales outlets in the  
4 used class major sales outlet, is that correct

15:28:23 5 A. Yes.

6 Q. 41 And we see that map at 1472.

7

8 So effectively she was seeking that the Village Centre lands would be zoned C2,

9 together with the lands the subject matter of the previous motion also to be

15:28:38 10 zoned C2 would -- with the inclusion of major sales outlet, is that correct

11 A. Yes.

12 Q. 42 Which would allow for shopping?

13 A. Yes.

14 Q. 43 Then I think on the 3rd of December -- 3rd of September 1992 a further motion

15:28:51 15 was received by you, isn't that right? And if we could have 1473, please.

16

17 And this was a motion signed by Councillor Mitchell and Councillor Fitzgerald.

18 And it proposed to retain the 1983 Development Plan zoning on the Pye Lands as

19 outlined in red on the attached map. And it also proposed the addition of a

15:29:15 20 specific objective to the draft written statement namely that it would be

21 Council policy to encourage and promote the development of the area for tourism

22 related, recreations and/or light industrial uses. And that it would be

23 complimentary to the commercial function of the existing village core at

24 Dundrum Main Street. Is that correct

15:29:32 25 A. Yes.

26 Q. 44 And we see the accompanying map to that motion at 1474.

27

28 In fact, that's a significant motion. Because I think it was ultimately

29 successful. And the success of that motion I think at the meeting of the 16th

15:29:47 30 of October effectively resulted in the Lydon/Hand motion, which I'm about to

15:29:53 1 move on to, not being taken, isn't that correct

2 A. Yes.

3 Q. 45 At 1792 of your statement.

4

15:30:00 5 You say that a motion signed by Councillor Hand deceased and Councillor Lydon

6 proposed the extension of the C zoning on a portion of the Pye Lands.

7

8 And if we could have 1475.

9

15:30:18 10 I think we see that motion, isn't that correct?

11 A. Yes.

12 Q. 46 And the accompanying map is at 1476.

13

14 And we see an area outlined in blue on the map but referred to as green in the

15:30:37 15 text of the motion I think where it was proposed that there would be E or

16 industrial zoning, isn't that correct

17 A. Yes.

18 Q. 47 Now, at paragraph eight of your written statement you say that the matters came

19 to be considered by the members of Dublin County Council on the 16th of October

15:30:51 20 1992.

21

22 And if we could have 624, please.

23

24 You say the lands under consideration for the Dundrum Village Shopping

15:30:58 25 Centre/Village Centre and Pye Lands. You say that it was recommended by the

26 Manager that the C2 zoning be retained on the Dundrum Town/Village Centre lands

27 but that the zoning on the Pye Lands to revert to 1983 zoning. You say all of

28 the motions which have been submitted and changed of all of those only four

29 motions directly applicable to these lands were ultimately considered by the

15:31:17 30 Council. And those were as follows.

15:31:20 1  
2 Now, the first motion which we have seen at 1471 and 1472. Namely, a motion  
3 dated 28th of May 1992 of Councillor Mitchell proposing to adopt the draft C2  
4 zoning for Dundrum village but with the inclusion of the use/class shops/major  
15:31:39 5 sales outlets. You say that that vote was put and passed unanimously. The  
6 effect of this motion being passed was that the C2 zoning was retained on all  
7 of the Dundrum Village Centre extended lands with the additional factor that  
8 shops/major sales outlets would be included in the permitted uses on these  
9 lands.

15:31:57 10  
11 You say that objectives C2 to protect and enhance the special physical and  
12 social character of the town and village centres.

13  
14 And then the second motion which was motion No. 2, which we saw a moment ago at  
15:32:10 15 1456 and 1458. A motion by Councillor Fitzgerald.

16  
17 Received by Dublin County Council on the 13th of May 1992 relating to the west  
18 side of Dundrum and which proposed to rezone half of the Dundrum Town/Village  
19 Centre lands and the Pye Lands to C2 was withdrawn by her and this was agreed,  
15:32:28 20 isn't that correct?

21 A. Yes.

22 Q. 48 And then motion No. 3. Which was at 1473 and 1474.

23  
24 A motion by Councillor Fitzgerald and Mitchell received by Dublin County  
15:32:42 25 Council on the 3rd of September 1992 proposing the retention of the 1983  
26 Development Plan zoning on the Pye Lands namely E A and C 1 with a specific  
27 objective to be added to the statement and treated as an integral part of the  
28 zoning designation, that it would be the Council's policy to encourage and  
29 promote the development of the area, that is the Pye Lands, for tourism related  
15:33:03 30 recreational and/or light industrial uses which would be complimentary to the

15:33:07 1 commercial function of the existing village core and Dundrum Main Street. You  
2 say that that motion was put and passed with 30 voting for, 23 against and one  
3 abstention.

15:33:17 5 And if we go to page 630. We see that motion, isn't that correct? And the  
6 vote on the motion?

7 A. Yes.

8 Q. 49 At the bottom of the page.

15:33:25 10 And I think as appears from that page, there were a number of contributions to  
11 the debate in relation to it including contributions from Councillors Mitchell,  
12 Lydon, Hand, Matthews, isn't that correct

13 A. Yes.

15:33:44 15 And I think Councillors Fox, Hand, Lydon all voted against the motion. And  
16 Councillor Mitchell, Marren and Fitzgerald vote in the favour of the motion,  
17 isn't that correct?

17 A. That's correct.

15:34:00 20 I think motion No. 4, as we see at 631, which was the Lydon Hand motion, that  
21 when that came for consideration the Manager advised the meeting that as the  
22 motion proposed by Councillors Mitchell and seconded by Councillor Fitzgerald  
23 was passed, that this motion would -- now fell, isn't that's correct?

22 A. Yes.

15:34:19 25 At 1793 of your statement you say that also considered by the Council at this  
26 special meeting were the following motions. That is to say motions which are  
27 to be found on brief pages 1462 and 1463 signed by Councillor Mitchell,  
28 received by the Council on the 20th of May 1992 seeking a road change for the  
29 Wyckham bypass. That motion was put and passed unanimously, is that correct?

28 A. Yes.

15:34:38 30 You say that motions at brief pages 1467 and 1468 signed by Councillor Mitchell  
received by the Council on the 28th of May 1992 relating to the reconsideration

15:34:45 1 of the alignment of the Wyckham Bypass withdrawn by her and this was agreed, is  
2 that correct?

3 A. Yes.

4 Q. 54 And then I think motion at brief pages 1469 and 1470 signed by Councillor  
15:34:55 5 Mitchell received by the Council on the 28th of May 1992 proposing the  
6 extension of the C2 zoning on to lands immediately south and east of the  
7 existing Dundrum District Centre, C2 zoned lands, as outlined in red on the  
8 attached map was put and was agreed unanimously, is that correct?

9 A. Yes.

15:35:11 10 Q. 55 And you have referred to the meetings.  
11  
12 At paragraph nine, I think, you say that there was a meeting of the Council on  
13 the 1st of June 1993. You say that the Manager advised the members that  
14 following the representations and having regard to the decisions made by the  
15:35:25 15 Council the draft written statement had to be revised and updated and the  
16 Manager advised that under the heading section 3 Development Plan Control  
17 Objectives the following should be added by way of a new subparagraph.  
18  
19 And we see, if we look at 632. We see the special meeting on the 1st of June  
15:35:45 20 1993.  
21  
22 And at 633 we see that the Manager's Report on proposed amendments and  
23 revisions to the written statement was taken at item No. 21 (1)

24 A. Yes.

15:35:57 25 Q. 56 And if we look at 634.  
26  
27 The second last item 3.2 lands at Dundrum Pye Lands. You see that it is  
28 proposed to add the following subparagraph after 3.2.8 in relation to the  
29 zoning objectives for these lands. And we see there the text of what was  
15:36:16 30 proposed which was effectively taken from the successful Mitchell Fitzgerald

- 15:36:19 1 motion, isn't that correct?
- 2 A. Yes.
- 3 Q. 57 And again, if we look at 1525. We see the second item table No. 3.8 zoning  
4 objective C2. You see that it is proposed to add the following footnote,  
15:36:33 5 namely in relation to the C2 zoning in Dundrum major sales outlets shall be  
6 included as permitted in principle. Again as a result of the first motion of  
7 Councillors Mitchell and Fitzgerald which was passed unanimously at the meeting  
8 of the 16th of October, isn't that correct?
- 9 A. It is.
- 15:36:49 10 Q. 58 I think all of those matters proposed by the Manager. If we look at 2363 came  
11 to be proposed by Councillor Ridge and seconded by Councillor Devitt, namely  
12 that the manager's report in relation to item No. 21.1 be adopted subject to  
13 certain restrictions which have nothing to do with 21.1 and that that motion  
14 was put and passed unanimously, is that correct?
- 15:37:13 15 A. Yes.
- 16 Q. 59 Now, I think there was a second public display between the 1st of June 1993 and  
17 4th of August 1993. And at 1795 I think you advised the Tribunal that the  
18 changes proposed by the Council were put on public display as the 1993  
19 amendments to the Draft Development Plan.
- 15:37:34 20  
21 And that that display commenced on the 1st of July 1993.  
22  
23 And we are dealing I think with map No. 23. And I think the changes were as  
24 follows.
- 15:37:43 25  
26 Change 10A, the Pye Lands, northern portion, C to E industrial as in the 1983  
27 plan.  
28  
29 Isn't that correct?
- 15:37:50 30 A. Yes.

- 15:37:51 1 Q. 60 In fact it might be more useful while I read your report if we had 1526 on  
2 screen, as it shows the Draft Development Plan 1993 amendments map.  
3  
4 And I think change No. 10B which is the central section, proposed a change from  
15:38:09 5 C to A, residential. Again, as in the 1983 plan.  
6  
7 And change No. 10C, southern section incorporating the Crazy Prices property  
8 was from C to C1 neighbourhood facilities as in the 1983 plan.  
9  
10 And change No. 9, that is to say lands to the South of and to the East of the  
11 proposed Dundrum Town Village Centre were changed from A to C2, isn't that  
12 correct?  
13 A. Yes.  
14 Q. 61 And I think the appropriate change to the written statement was change No. 25.  
15:38:40 15  
16 And if we have 1530 please.  
17  
18 I think the change No. 25 was to effectively include the clauses to include  
19 shops and major sales outlets as a specific objective, is that correct?  
15:38:55 20 A. Yes.  
21 Q. 62 And I think that the amendment was proposed at 3.8 of the draft written  
22 statement contained the footnote as follows. In relation to the C2 zoning in  
23 Dundrum major sales outlet shall be included as permitted in principle.  
24  
15:39:11 25 And I think Section 3.2 was amended to include the text as proposed by the  
26 Manager and as necessitated by the vote in June '93 which followed on the  
27 successful motion on the 16th of October '92, is that correct?  
28 A. Yes.  
29 Q. 63 Now, I think motions received after the second public display at 1796.  
15:39:36 30

- 15:39:36 1 I think Dublin County Council received the following relevant motions you say.
- 2
- 3 Motions signed by Councillors Buckley and Doohan. At 1532. Seeking to confirm
- 4 changes 10 A, 10 B and 10 C on map 23 namely to confirm the 1983 zonings of E,
- 15:39:55 5 A and C1 on the Pye Lands.
- 6
- 7 And the second motion was a motion at 1533 signed by Councillors Hand, Lohan,
- 8 Lydon, Fox and Matthews. Proposing that amendments 10A, 10B and 10C be
- 9 disallowed so that the lands revert to their 1991 zoning, is that correct?
- 15:40:10 10 A. Yes.
- 11 Q. 64 And I think you say that these motions came to be considered at a special
- 12 meeting of the Council held on the 2nd of November 1993.
- 13
- 14 And we see the text of the -- of that special meeting at 651.
- 15:40:27 15
- 16 And at the bottom of 651 we see that the motion proposed by Councillors Buckley
- 17 and Doohan was put and on a division the vote resulted in 27 in favour, 36
- 18 against with no abstentions.
- 19
- 15:40:41 20 And effectively the motion seeking to confirm the changes was lost as a result
- 21 of that vote, is that correct?
- 22 A. It is.
- 23 Q. 65 And if we look at 652, which is the motion which had been signed, as I say, by
- 24 Councillors Hand, Lohan, Lydon, Fox and Matthews. Asking that the changes be
- 15:41:00 25 disallowed.
- 26
- 27 That that motion when put was 36 in favour, 27 against and that motion was
- 28 successful, isn't that correct?
- 29 A. Yes.
- 15:41:09 30 Q. 66 And I think at 653 the Chairman declared the motion passed. And the proposed



- 15:41:16 1 changes were thereby deleted, is that correct?
- 2 A. Yes.
- 3 Q. 67 That resulted in the zoning reverting to the 1991 draft zoning, isn't that
- 4 correct?
- 15:41:26 5 A. Yes.
- 6 Q. 68 Now, I think at 1797.
- 7
- 8 You go on to say subsequently at the special meeting of Dublin County Council
- 9 held on 12th of November 1993. The amendments to the draft written statement
- 10 concerning the land use zoning objectives of lands at Dundrum Pye Lands was
- 11 confirmed in the following terms.
- 12
- 13 And we see that. If we were to go to 655, which is an extract from that
- 14 special meeting of the 12th of November 1993, we see the Section 3.2 amendment
- 15:42:02 15 by the inclusion of a new paragraph, Lands at Dundrum.
- 16
- 17 The text of the proposed amendment to the written statement is to be found
- 18 there.
- 19
- 15:42:13 20 There were no representations received. The recommendation from the Manager
- 21 was that the amendment be confirmed and the proposed amendment was then
- 22 declared confirmed, isn't that correct
- 23 A. Yes.
- 24 Q. 69 And I think you go on to say that on the 10th of December 1993 the Dublin
- 15:42:29 25 County Development Plan 1993 was adopted by members of Dublin County Council
- 26 and the relevant extracts from the special meeting are to be found at pages 911
- 27 to 924.
- 28
- 29 Paragraph 14 at 1798.
- 15:42:42 30

15:42:42 1 You say that the Pye Lands were zoned C to protect/provide and/or improve  
2 Town/District Centre facilities on map 23 at Dublin County Development Plan  
3 1993. And you refer to pages 1548 and 1549, isn't that right?

4 A. Yes.

15:42:58 5 Q. 70 You say that paragraph 3.2.9 of the written statement which provided as follows  
6 namely lands at Dundrum. It is the council policy to encourage and promote the  
7 development of the area for tourism related, recreational and/or light  
8 industrial uses which would be complimentary to the commercial function of the  
9 existing village core on Dundrum Main Street from the traffic lights at upper  
10 Kilmacud/Ballinteer Road to the traffic lights at Taney Road/Upper Churchtown  
11 Road defined by C2 zoning be included, isn't that right?

12 A. Yes.

13 Q. 71 Namely, the Pye Lands.

15:43:22 14  
15 And that table 3.8 of Dublin County Development Plan, written statement 1993  
16 defined zoning objectives C2 to provide as follows, that in relation to the C2  
17 zoning in Dundrum, major sales outlets shall be included as permitted in  
18 principle.

15:43:49 19  
20 And that there was a specific local objective four on paragraph 4.29.23 on the  
21 Dublin County Development plan, the written statement 1993 which provided that  
22 to include used classes, shops/major sales outlet in the C2 zoning objective  
23 for Dundrum village.

15:44:06 24  
25 And we see that at 1560.

26  
27 And we see the 1993 Development Plan map at page 1548, isn't that correct?

28 A. Yes.

29 Q. 72 And if we look at 1549. We see the lands, I think, outlined in purple and in  
15:44:39 30 blue are effectively the Pye Lands and the lands to the north of those which

15:44:44 1 appear as brown on that map are the Dundrum Village Centre lands, is that  
2 correct?

3 A. Yes.

4 Q. 73 Now, I understand, Sir, that Mr. Redmond has given an indication that he wishes  
15:45:02 5 to ask some questions of Ms. Collins.

6

7 CHAIRMAN: All right, Mr. Redmond.

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**THE WITNESS WAS QUESTIONED BY MR. REDMOND AS FOLLOWS:**

15:45:02 1  
2  
3 MR. REDMOND: I should be very brief, Your Worship.  
4

15:45:04 5 Q. 74 Good afternoon, Ms. Collins?  
6 A. Good afternoon, Mr. Redmond.  
7 Q. 75 Can you hear me all right?  
8 A. I can, yes.  
9 Q. 76 Thank you very much.

15:45:12 10  
11 For the record, my name is George W Redmond. I am a retired officer of a local  
12 authority and I am not represented legally.  
13  
14 Ms. Collins, I see from your excellent submission that you joined the County  
15 Council in 1982

15:45:34 16 A. That's right.  
17 Q. 77 That would have been on promotion from Dublin Corporation?  
18 A. Yes, that's right.  
19 Q. 78 And you served in the Planning Department of Dublin Corporation in the 60's and  
15:45:49 20 in the 70's?  
21 A. 60's and early 70's.  
22 Q. 79 And early '70s?  
23 A. '71.  
24 Q. 80 '71. And in both areas you specialised on the Development Plan side of  
15:46:05 25 planning?  
26 A. Yes, I was involved with the Development Plan in both, yeah.  
27 Q. 81 This is in the County Council particularly?  
28 A. Yes.  
29 Q. 82 That the speciality, the division roughly was development control. But you  
15:46:18 30 were specialised in Development Plan?

15:46:22 1 A. You could say, that yes. That was a major part of my duties.

2 Q. 83 Yes, yes?

3 A. Yes.

4 Q. 84 And you weren't involved in the development control issues?

15:46:30 5 A. Not at that time, no.

6 Q. 85 No. Just to get the chronology of this whole procedure right.

7

8 The review started in '87

9 A. Yes.

15:46:44 10 Q. 86 The Manager at that stage was Mr. Prendergast?

11 A. Yes.

12 Q. 87 And the review continued '88 and '89?

13 A. Yes.

14 Q. 88 And up to '91?

15:47:02 15 A. Up to '93.

16 Q. 89 Yes, up to '93 when it was completed. But '91 Mr. O'Sullivan was in charge.

17 Or he had the planning functions at that stage?

18 A. Yes, yeah, yeah.

19 Q. 90 Mr. O'Sullivan. And just for the -- for clarification for the Tribunal. The

15:47:24 20 structure, am I correct in saying, was the County Manager, an Assistant Manager

21 with a delegated function of planning. The principle officer, then there would

22 be a senior administrative officer, and then your own grade?

23 A. Yeah.

24 Q. 91 That would be the position?

15:47:41 25 A. Yeah, that was the structure.

26 Q. 92 Just reading the reports.

27

28 The County Manager doesn't appear to have attended any of the meetings that you

29 have noted and where attendance -- I just examined them.

15:48:02 30 A. No, it would have been the Manager with the planning.

- 15:48:03 1 Q. 93 Just the planning?
- 2 A. To whom the planning functions were delegated.
- 3 Q. 94 An odd thing about it there that I looked for some clarification on. On the
- 4 last meeting, that's the one chaired by Councillor Rabbitte which adopted the
- 15:48:16 5 plan?
- 6 A. Yeah.
- 7 Q. 95 Three managers, who are now appointed to the counties, the new counties, they
- 8 were electoral counties, they signed it. But the Council was still under a
- 9 County Manager in the City Hall?
- 15:48:33 10 A. Yes, yeah.
- 11 Q. 96 Yes. I see. That's fair enough?
- 12 A. Yeah.
- 13 Q. 97 Now, when it came to the circularisation of 580, the Principal Officer's report
- 14 in January of '91. At that stage, you will recall, you had taken the members,
- 15:48:56 15 the 78 members, through the written statements and you had gone from the
- 16 Balruddery tip of the county right down, isn't that so?
- 17 A. Yes, yeah.
- 18 Q. 98 So at that stage what had been approved at that point could have been put on
- 19 public display?
- 15:49:19 20 A. Now, sorry, could you clarify now at which point now are you saying?
- 21 Q. 99 Sorry.
- 22
- 23 At that stage the Manager -- or the Principal Officer, Mr. Smyth in his report
- 24 says now, gentlemen, ladies, we have dealt with all of the written statements.
- 15:49:36 25 We have gone the rounds of the maps. At that stage, in view of the fact that
- 26 the making of a draft is an executive function. You are aware of that?
- 27 A. Oh, yes I'm aware of that.
- 28 Q. 100 That's a basic thing?
- 29 A. Oh, yes.
- 15:49:53 30 Q. 101 It was a Manager's function. Nothing to do with councillors?

15:49:56 1 A. Uh-huh.

2 Q. 102 They could have gone on display?

3 A. It could. But they chose to give the members a chance to have an input.

4 Q. 103 Exactly. What the Manager did at that stage was he invited?

15:50:06 5 A. Yes.

6 Q. 104 Changes?

7 A. Yes.

8 Q. 105 Now, the question I -- it's a simple question. At any stage were the members

9 put on notice that you've a right to put motions and pass them and all the rest

15:50:33 10 of it. Did the Manager at any stage ever say to them, look, whatever you do,

11 I'm not bound by it?

12 A. He did in fact, that is recorded in the minutes at some stage. I couldn't tell

13 you when, speaking from memory. But he did.

14 Q. 106 That's fine. I'm glad to establish that?

15:50:42 15 A. Yeah.

16 Q. 107 That they were under no illusions that if they did pass resolutions, you know,

17 he had a final say. Take, for example, if they --

18 A. No, sorry, Mr. Redmond. It wasn't so much from that point of view. It was the

19 length of time the procedure was taking. As you are aware, we were under

15:50:59 20 constraints.

21 Q. 108 That's right?

22 A. The county was going to be split in three on the 31st of December 1993 and the

23 plan had to be made by then. And it was in view of the length of time that the

24 members were taking to consider the matter.

15:51:12 25 Q. 109 Yes?

26 A. He advised them at some stage that the making of a Draft Plan was his function.

27 And that at some stage he would have to go on display. But if he had to do

28 that he would incorporate the motions they had passed at that stage but he

29 would put up his own plan for the remainder of the county, whatever area hadn't

15:51:30 30 been considered.

15:51:30 1 Q. 110 Yeah. That is great clarification that that was said. And they were under no  
2 illusions as to -- Was the implication to them that even allowing on this  
3 extra time and extra opportunity, that if they did pass the motions contrary to  
4 his advice, the professional advice, that he would accept it in all cases?

15:51:59 5 A. No, if the members passed a motion. My understanding was that the Manager  
6 accepted their motions.

7 Q. 111 Notwithstanding?

8 A. What his advice was.

9 Q. 112 Yeah?

15:52:10 10 A. Because it was their decision.

11 Q. 113 Yes?

12 A. Making a plan was their decision.

13 Q. 114 Oh, no the making of a plan -- that's true. That's section 20?

14 A. Yeah.

15:52:21 15 Q. 115 Clearly stated. But you don't make a plan until you're finished with your  
16 public display. We're speaking now, and I think you would agree, with the pre  
17 public display, which is draft?

18 A. Yes.

19 Q. 116 So again, I take -- a simple example would be land that was clearly the subject  
15:52:39 20 of flooding. And it was put in for residential. Would the Manager, you feel  
21 in that case, he could, he could leave it out?

22 A. Oh, he could. The making of a plan -- as you say, the making of the Draft  
23 Plan was an executive function, yes.

24 Q. 117 So, in other words, the Manager has the last word. The second thing in that  
15:53:03 25 regard ... sorry, pardon me.  
26  
27 As far as you know, now and I mean, I know in certain areas you're not an  
28 expert witness. You are certainly an expert when it comes to recording. You  
29 may not know this answer.

15:53:23 30



15:53:23 1 As far as you know, did the Manager implement all the motions that were passed  
2 lawfully?  
3 A. To the best of my knowledge, yes.  
4 Q. 118 Yes?  
15:53:34 5 A. Yes, to the best of my recollection, he did.  
6 Q. 119 Just in -- I had to read the -- all of the correspondence, the 2006 pages.  
7  
8 At 2438. There is man named Laden. And he more or less implies that the  
9 Manager made some changes. But I'm not making -- I'm sure the Tribunal will  
10 have a look at it to see what it means.  
11  
12 The suggestion in his letter is that the Council having made one decision, the  
13 Manager made another. But I know myself from experience, managers wouldn't do  
14 that.  
15:54:11 15 A. No.  
16 Q. 120 I accept that fully.  
17 A. No.  
18 Q. 121 Just again to -- you'd two managers and then three managers at the end. There  
19 was an election during this period of consideration as well, isn't that the  
15:54:27 20 truth?  
21 A. There was, yes.  
22 Q. 122 So, in other words, you have change?  
23 A. Of Council.  
24 Q. 123 Of personnel.  
15:54:34 25  
26 Now, the documentation you prepared relates solely to the progress of the plan.  
27  
28 But you do refer to the fact that there were two planning applications, one for  
29 changes of use. And the other was for the 80 houses. The 80 house application  
15:54:50 30 came in sometime in the spring of 1989.

15:54:55 1  
2 Now, you didn't provide any papers in relation to that to the Tribunal  
3 A. No, no.  
4 Q. 124 No. Well that's development control, isn't that right?  
15:55:04 5 A. Yes. But I mean the papers --  
6 Q. 125 You're not involved?  
7 A. No, I wasn't involved. I would have been aware of an application and the file  
8 would have been there and so on, yeah, yeah.  
9 Q. 126 No, it's just that when some of these papers turn up or where you least expect  
15:55:20 10 them in the volumes that we were given. So I have to go through them. But  
11 it's not there.  
12  
13 Now, that was the only point I wanted to make about this, this question of the  
14 executive powers. And were councillors proceeding with illusions that once  
15:55:39 15 they passed it, that was it.  
16  
17 You and I agreed that that is not the case; the Manager has the final say as to  
18 what he would put in the draft?  
19 A. He has. But I am saying that to the best of my recollection, whatever the  
15:55:55 20 members passed was put into the draft.  
21 Q. 127 That's fair enough?  
22 A. Yeah.  
23 Q. 128 And I can understand that. Where you have 78 elected members you simply can't  
24 ignore them. And I mean, it's common sense.  
15:56:08 25  
26 Your Worships, that's all I have to ask. And I want to thank you Ms. Collins  
27  
28 CHAIRMAN: Thank you, Mr. Redmond and thank you very much, Ms. Collins  
29 A. Thank you.  
15:56:16 30

15:56:16 1 CHAIRMAN: We'll sit tomorrow at half past ten.

2

3 MS SMYTH: If I just might formally apply for representation on behalf of

4 Councillor Fox. Mairead Smyth instructed by Sean Costello & Co. solicitors.

15:56:29 5

6

CHAIRMAN: Certainly. Granted.

7

8

9

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

15:57:18 10

**THURSDAY, 25TH JANUARY, 2007, AT 10.30 A.M.**

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