

09:59:31 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,**

2 **25TH JANUARY, 2007, AT 10.30 A.M:**

3
4 MR. QUINN: Good morning, Sir.

10:39:39 5
6 CHAIRMAN: Good morning.

7
8 MR. QUINN: Ms. Olivia Mitchell, please.

9
10:39:43 10 I understand that Mr. Wolfe, who represents Mr. Kelly, has -- sorry Mr. Laden,
11 I should say, and Mr. O'Donnell, has reviewed the offer afforded him overnight
12 in relation to the opening statement.

13
14 MR WOLFE: There might be one or two small points of detail that my client
10:40:07 15 may be able to assist the Tribunal with, to clarify, but I would rather reserve
16 that until he gives his evidence next week, rather that deal with it now, if
17 that's in order?

18
19 CHAIRMAN: Yes.

10:40:14 20
21 MR. WOLFE: Obliged.

22
23 **MS. OLIVIA MITCHELL, HAVING BEEN SWORN, WAS QUESTIONED BY MR. QUINN**

24 **AS FOLLOWS:**

10:40:28 25
26 CHAIRMAN: Good morning, Ms. Mitchell

27
28 MR. QUINN: Good morning, Ms. Mitchell.

29
10:40:37 30 I think in the past you have advised the Tribunal that you were a member of

10:40:40 1 Dublin County Council between June 1985 and December 1993.

2 A. That's correct.

3 Q. 1 And thereafter I think you went to Dun Laoghaire-Rathdown County Council and

4 you remain there, are you still a member of Dun Laoghaire-Rathdown County

10:40:54 5 Council?

6 A. No. I think it was maybe the end of 2003 when I resigned, yes.

7 Q. 2 I think in the period, July 1995 to July 1996, you were Cathaoirleach of Dun

8 Laoghaire-Rathdown County Council?

9 A. That's correct.

10:41:09 10 Q. 3 Now, the Tribunal has written to you. And you have provided statements in

11 relation to the lands, the subject matter of this Module and I think one of

12 your statements is at page 533 and the other at page 1760 and 1761.

13

14 Just before I get to those statements, I think you represent the area where

10:41:34 15 these lands are situated, is that right?

16 A. That's right and I live there as well, yeah.

17 Q. 4 And you live in that area as well?

18 A. I do.

19 Q. 5 And I think that by the time you became elected in 1985 there had been

10:41:48 20 discussion concerning these lands, these Pye Lands or what had been the

21 property where the Pye factory was situated in Dundrum, isn't that right?

22 A. Well I don't know if there was discussions but I was certainly aware as a

23 resident that there was rumours about it was going to be developed, yeah.

24 Q. 6 And you will have seen in the brief, if we look at 687, that Mr. Kelly was

10:42:10 25 written to in December 1981 by Mr. Al Smyth and he was advised that -- at a

26 South County Dublin committee held on 7th of December 1981, it had been

27 resolved that a new action plan covering the Pye and Dundrum Castle lands be

28 prepared.

29

10:42:28 30 And you will see the contribution of the Chairperson of that committee,

10:42:31 1 Councillor Fitzgerald, who had recommended that "the indoor recreational or
2 community type facilities should be provided as part of the Pye Lands nearest
3 to the village, those facilities to be of a commercial nature."
4

10:42:43 5 And that seems to have been the thinking of the councillors and certainly the
6 thinking of Councillor Fitzgerald at that time, isn't that right?

7 A. Well, I didn't know that but ...

8 Q. 7 As appears from that document?

9 A. Yes. I didn't know that.

10:42:57 10 Q. 8 Yes and we know that if we look at 689, that Mr. Kelly had written to Mr. Smyth
11 in response to that letter and if we look at the second paragraph there, he had
12 said that, "they had taken advice following consideration of all of the facts
13 involved and were regretted to advise that it was not practical to include a
14 community centre in their proposed plans. As such a venture would be
15 economically non-viable. There were, however, actively pursuing the
16 possibility of seeking clients interested in retaining space from their
17 existing property for the purposes of such a venture on a commercial basis."
18

19 That seems to be the thinking, certainly in the early 1980's of both the
10:43:43 20 councillors and Mr. Kelly on behalf of Pye, isn't that right?

21 A. Sorry, I'm not terribly clear about what you're saying to me.

22 Q. 9 It would appear that Mr. Kelly's position, at that time, was that it would be
23 economically non-viable to include the consideration of a community centre in
24 their proposed plans for these lands?

10:44:12 25 A. Right, yeah. I wasn't aware of that proposal. My memory, and now, it is vague
26 at this stage, but I remember that the only proposal I ever heard in the early
27 days, that is prior to the Development Plan as such, was that he wanted to
28 provide jobs in the Dundrum area and that he wanted, as I understood it at the
29 time, what will I say, factory type jobs in that area because it coincided with
10:44:45 30 the original use of the land. That was my impression at the time.

- 10:44:50 1 Q. 10 And certainly ...
- 2 A. I know that there was a desire to develop, I think maybe that the time he had a
- 3 bowling alley, an old bowling alley and there was a desire to get some kind of
- 4 recreational use into the site.
- 10:45:03 5 Q. 11 I think, in fact, that very letter on screen in March '92 advised the Council,
- 6 if we look at the fifth paragraph, "following the wind down of our no-viable TV
- 7 manufacturing activities in recent years, our complex has now been let out to
- 8 individual self contained units."
- 9 A. That's correct.
- 10:45:19 10 Q. 12 "These units, 16 in total, include factories, warehouses, offices, display
- 11 centres, restaurants, shops," isn't that correct?
- 12 A. That's right, yeah, okay.
- 13 Q. 13 Now, I think in the late 1980's then a further effort was made to bring some
- 14 development on to these lands and I think a meeting was held with, well several
- 10:45:37 15 meetings, but certainly one in particular, on the 25th of August with
- 16 representatives of Dublin County Council, that is to say the officials of
- 17 Dublin County Council and on the 26th of August 1988. If we could have 1067,
- 18 please?
- 19
- 10:45:52 20 Mr. Kelly wrote, as indeed did Mr. Laden, to Mr. Vaughan, the Deputy Chief
- 21 Engineer of the Roads Department and in the course of that letter he referred
- 22 to the meeting which had taken place on the previous day, that is the 25th of
- 23 August, a meeting attended by Mr. Ring and Mr. Rabbitte together with
- 24 Mr. Murray and Mr. Goodbody, all of the Planning Department and Mr. Kieran
- 10:46:20 25 O'Malley, who was a professional planner retained by the cabriole or the Pye
- 26 group at that time, isn't that right?
- 27 A. Yeah.
- 28 Q. 14 And we see there that they make proposals to the Council for the development of
- 29 their lands and those proposals included a housing development, which
- 10:46:41 30 apparently had previously been refused because the access to the proposed

10:46:47 1 development previously had been through the Linwood Estate, but it was now
2 being proposed, as we see from the last paragraph in that letter, that the
3 development, the previous development, which had been refused by the Council
4 and An Bord Pleanala, "had been considered to be premature until such time as
10:47:03 5 the Dundrum bypass was constructed or until a suitable alternative access was
6 made available."
7 A. Yes.
8 Q. 15 And I think at this stage from the first paragraph under the heading "housing
9 development," it was now being proposed that there would be an access to the
10:47:18 10 Sandyford road, isn't that right?
11 A. Yes.
12 Q. 16 And then I think on the second page, at 1068, under the heading
13 "retail/commercial development," there were two alternative proposals being put
14 forward there for retail commercial leisure centre on their lands adjoining the
10:47:42 15 Sandyford roads between the Millhouse and Crazy Prices.
16
17 Option one, which would have included the Quinnsworth/Crazy Prices development
18 would have included a retail development of approximately 58,400 square feet.
19 Whereas Option two, which would be a development which would not cater for the
10:48:07 20 Quinnsworth/Crazy Prices area would be for approximately 20,000 square feet,
21 isn't that right?
22 A. Yeah.
23 Q. 17 And I think obviously arising from their discussions, item three, "purchase of
24 lands required for the Dundrum bypass, they offer Dublin County Council would
10:48:26 25 immediately complete a binding contract for the purchase of those lands at an
26 agreed price of £175,000 payment to be made on the 7th of January 1989."
27 A. Yes.
28 Q. 18 And then I think under the heading "public carpark Dundrum," they provided that
29 "the development company would take over, by license from Dublin County
10:48:44 30 Council, the management and maintenance of the public carpark in Dundrum."

10:48:47 1
2 Now, I think from their point of view, Pye were going to make certain
3 concessions to the Council and we see under the heading "Sandyford road
4 improvements and land requirement." And they were offering that, "in
10:48:59 5 consideration of the Council affirming support for items 1 to 4 inclusive and
6 on the grant of planning permission, referred to at 1 and 2, the development
7 company would transfer free of charge to Dublin County Council those lands
8 required for the Sandyford road improvements which were currently part of the
9 land sale agreement between Pye and Donnelly Limited and marked D and A on red
10:49:21 10 on attached map 1. And furthermore that the gain in consideration of the above
11 at 1 and 4 inclusive and on the grant of planning permission referred to at 1
12 and 2 above, the development company would carry out, free of charge to Dublin
13 County Council, the construction of the Sandyford road improvements as shown on
14 the attached map to normal standards but excluding relaying services including
10:49:42 15 gas main and public lighting."
16
17 We'll see at 1069, that it was Pye's belief that the total value of their
18 contributions at 3, 4 and 5 was in the order of 1 million pounds, isn't that
19 correct?
10:49:58 20 A. Yeah. When you ask me is that correct, are you asking me is what's written
21 here, what you're reading out?
22 Q. 19 What I'm really doing is I'm laying a groundwork for a motion which we will
23 come on to in a moment which you seconded with Councillor Hickey.
24 A. I have to say I don't recall all of that. I do remember the development being
10:50:15 25 built, yeah, okay.
26 Q. 20 Now, it was proposed I think at that stage, that is late 1988, that there would
27 be two separate planning applications lodged and this was effectively an offer
28 from Pye to the officials at Dublin County Council where there was what might
29 be referred to as a planning gain to the Council of the order of a million
10:50:34 30 pounds by way of the contributions we saw there in return perhaps for the

10:50:39 1 developments sought.

2 A. Right.

3 Q. 21 Yeah.

4 A. Is this for the Dundrum bypass?

10:50:49 5 Q. 22 Yes. That letter was circulated to the Council but a copy of the letter was
6 also given to Mr. Hickey and I think Mr. Hickey was a Councillor for Dublin
7 County Council --

8 A. He was.

9 Q. 23 -- and was in fact, at some stage, the Chairman of Dublin County Council, may
10 in fact have been the Chairman at this time, is that correct?

11 A. He certainly was Chairman at some stage. I'm not sure if it was that
12 particular time or not.

13 Q. 24 This is 1988 and I understand that in fact he was the Chairman in 1988.

14 A. Oh, okay.

10:51:18 15 Q. 25 So the planning background, so to speak, in the late 1980's was this offer by
16 Mr. Kelly and indeed Mr. Laden, to do all of these works and develop their
17 lands in accordance with the broad outline of the proposals contained in this
18 letter of August '88?

19 A. Um.

10:51:38 20 Q. 26 Proposals which had been discussed in detail with the officials of the County
21 Council. And I think the official's reaction to this can be seen at 1070 in a
22 letter of the 30th of September 1988.

23

24 Where that letter is replied to by Mr. Douglas Hyde on behalf of the Council,
10:51:57 25 in a letter to Mr. Kelly, and you can see there that he said that "the certain
26 points there relating to the proposals for the development of the Pye Lands
27 were made at their meeting on the 25th of August." Again, recites those
28 present. And he said that, "it is unlikely to be any objection to the
29 residential element provided the question of access is resolved. Normal issues
10:52:18 30 such as drainage and layout would be needed to be checked. I would advise that

10:52:22 1 86 houses and 7.5 acres may be excessive."

2

3 So in relation to the proposal from the company that they would develop lands

4 for housing, the developers were being advised that the Council officials

10:52:37 5 didn't see any objections provided access was resolved, isn't that right?

6 A. Yes.

7 Q. 27 And then he went on to say, "the other elements of the development would be a

8 material contravention of the Development Plan and as such would need sanction

9 of the elected Council. However the leisure element likely to receive the

10:52:53 10 support of the planning officer provided the industrial archeology is treated

11 sympathetically, particularly the millpond and the millrace."

12

13 And then finally and I think this is the one that I want to concentrate on if I

14 may for a moment, "the chief problem with these proposals would be the retail

10:53:09 15 element. There is an existing over provision of retail in the southeast

16 section of County Dublin and an increase in retail floor space at the Pye Lands

17 would be likely to have an adverse effect on the established shopping in

18 Dundrum main street. Any planning application for a significant amount of

19 retail would have to take into account the ministerial directive of large scale

10:53:30 20 shopping," isn't that right?

21 A. Yeah.

22 Q. 28 So it would appear there that the Council officials were effectively setting

23 out their stall in relation to what was being proposed by Pye and at this time,

24 isn't that right?

10:53:41 25 A. That seems to be, yeah.

26 Q. 29 And I think the matters progress to the extent that a planning application was

27 indeed lodged for housing in January 1989 and we see that planning application

28 or indeed the decision to grant the permission at 2364. The decision made, I

29 think, on the 28th of July 1989 for 86 two storey houses at the Pye Lands with

10:54:11 30 access from Sandyford road, isn't that right?

- 10:54:13 1 A. That's right, yeah.
- 2 Q. 30 And I think one of the conditions attaching or to that permission, if we could
- 3 have 1269, please? Is condition 24, namely, "that before development commenced
- 4 the Applicant would provide the outstanding design details of the Dundrum
- 10:54:38 5 Bypass, the link road and Sandyford road improvements to ensure that these
- 6 works would be carried out to a standard acceptable to Dublin County Council."
- 7
- 8 And that again was to take, to cater for the offer by the company to do these
- 9 works at their own costs, isn't that right?
- 10:54:48 10 A. Uh-huh, that's right.
- 11 Q. 31 And I think that was the position then leading into the period 1990 and on the
- 12 10th of May 1990, I think the Manager produced a draft map for the Dundrum
- 13 village, isn't that right? Map No. 23. If we could have 1424, please? And
- 14 these were the Manager's recommendations in relation to what might be, what
- 10:55:25 15 might constitute a Development Plan for this area, isn't that correct?
- 16 A. Yeah, that's right.
- 17 Q. 32 And we see the Pye Lands to the south of that map, isn't that right?
- 18 A. That's correct, yeah.
- 19 Q. 33 At the very bottom, those marked C1 in fact with the existing Crazy Prices
- 10:55:39 20 site.
- 21 A. Yeah.
- 22 Q. 34 And then north of those were the A lands, which were the residentially zoned
- 23 lands and then north of those again were the E lands, which were the industrial
- 24 zoned lands, isn't that right?
- 10:55:50 25 A. That's correct.
- 26 Q. 35 And then there is a corner before one gets on to what might be termed the
- 27 Dundrum village lands, which are the blue lands, which are still further north
- 28 on the left, which again are Pye Lands, isn't that right? And again, those are
- 29 zoned E or proposed to be zoned E.
- 10:56:08 30 A. Sorry I'm not clear now which bit you're talking about there.

10:56:11 1 Q. 36 The bit just between the blue coloured and the red coloured lands --
2 A. Oh, yes, sorry.
3 Q. 37 -- the small little corner on the left.
4
10:56:20 5 Now, that meeting of Dublin County Council was on the 10th of May 1990. If I
6 could have 578, please? And I think you were recorded as having been present
7 at that meeting, isn't that right?
8 A. Yes.
9 Q. 38 And if we look at 579. We see that the maps were agreed and noted, isn't that
10:56:43 10 right?
11 A. Yes.
12 Q. 39 And I think the record of the meeting suggests that you contributed to the
13 debate in relation to that, isn't that right? It says, "Mr. Conway outlined
14 the changes proposed on maps 23 and 24 and following discussions to which
10:57:03 15 Councillors Mitchell, Buckley, Ormonde, Menzies and Hand contributed, the
16 Chairman advised the members the leave to attend other business and it was
17 agreed that Councillor Hickey would take the Chair," isn't that right?
18 A. Sorry, that's right, I see that.
19 Q. 40 I think that in noting that, the councillors were effectively accepting, to an
10:57:23 20 extent, what the Manager was proposing, what might be put on public display as
21 a Draft Plan, isn't that right?
22 A. Yes. I think so, yeah.
23 Q. 41 And when you contributed to the debate at that time in relation to that map,
24 can you recall if you were aware of the background which I've just sought to
10:57:44 25 summarise just now?
26 A. To be honest, I'm not sure what I was aware of at the time. My memory now is
27 that there were, and I can't distinguish between what Mr. Kelly wanted in terms
28 of rezoning and what he had in terms of planning applications. And the only
29 time I ever met Mr. Kelly I thought it was about a planning application. And
10:58:07 30 it had to do with industrial use of the land, which I didn't really want to see

10:58:12 1 happen.

2 Q. 42 Yes?

3 A. But I realise, you know, having read everything that you sent me that I'm

4 totally confused about the actual sequence of events.

10:58:21 5 Q. 43 I'll go very slowly through so it might bring it back to you.

6 A. Yeah.

7 Q. 44 I think that was in May 1990 and map 23 had been noted. I think on the 9th of

8 November 1990 Mr. Smyth, on behalf of the Planning Department, at 1098, wrote

9 to the members of the Council, including yourself. And at 1099 I think he

10:58:41 10 advised you that you could at any time submit motions for inclusion on the

11 agenda for special meetings of the Council relating to the review of the

12 Development Plan.

13 A. That's correct, yeah.

14 Q. 45 I think that effectively gave the green light to a series of motions which

10:58:56 15 would be considered and tabled in advance of the --

16 A. Dealing with that area, that's right.

17 Q. 46 -- the Draft Plan going on display.

18 A. Uh-huh.

19 Q. 47 And I think that we know that Mr. Kieran O'Malley. I'm sure that you know

10:59:11 20 Mr. O'Malley?

21 A. I do, yes.

22 Q. 48 And you presumably knew him even in 1990 and probably well before that. He is

23 a well known planner in private practice, isn't that right?

24 A. He lived in Dundrum I think.

10:59:23 25 Q. 49 And he lived in Dundrum as well.

26 A. Uh-huh.

27 Q. 50 And he had been advising Cabriole or as it was at this time, Pye, including

28 Mr. Kelly Mr. Laden, in relation to the rezoning of their lands. And his

29 advice at the time, if we could have 1097? That is to say on the 21st of

10:59:45 30 November 1990 he was advising Mr. Laden that as Councillor Paddy Hickey would

- 10:59:50 1 know, the procedure for rezoning in the Draft Development Plan was per the
2 attached, dated 9th of November 1990, which is the document I just referred to,
3 which dealt with the entitlement of councillors to bring motions.
- 4 A. Uh-huh.
- 11:00:02 5 Q. 51 And he says, "A copy of the rezoning application letter and map herewith is
6 attached for the last paragraph". And he had himself, if we have 1094, on the
7 13th of November 1990 put in a rezoning application or submission or
8 representation to the planners in relation to the lands, isn't that correct?
- 9 A. Yes.
- 11:00:21 10 Q. 52 And I think his submission at that time, as we see from paragraph two, was that
11 in 1983 County Development Plan the northern section of the land was zoned E,
12 to provide for industrial and related use. And the southern section was zoned
13 A, to protect and provide for residential amenities and C1, to protect and
14 provide for local/neighbourhood centres. And he says, "Our clients request
11:00:42 15 that both parcels of lands be zoned C," now, he doesn't say which parcels. I
16 think he's referring to both the A and C1 lands --
- 17 A. Uh-huh.
- 18 Q. 53 -- be zoned C in the next Development Plan.
- 19 A. Uh-huh.
- 11:00:53 20 Q. 54 And he was effectively telling Mr. Laden of the entitlement of councillors to
21 put in motions, isn't that right? And he was advising Mr. Laden that
22 Mr. Councillor Paddy Hickey well knew that this entitlement existed, isn't that
23 right?
- 24 A. Yes, yeah.
- 11:01:09 25 Q. 55 And would you agree with me that that seems to suggest that Mr. Laden had
26 Mr. Hickey's ear, so to speak, at this time in relation to the possibility of
27 submitting a rezoning motion?
- 28 A. Well I didn't know that at the time, but I do know that Mr. Laden was a well
29 known Fianna Fail supporter.
- 11:01:30 30 Q. 56 Yes?

- 11:01:31 1 A. Yeah and Councillor Hickey was a Fianna Fail Councillor.
- 2 Q. 57 And when you say he was a well known Fianna Fail supporter. Are you saying
3 that this was well known locally?
- 4 A. Locally sorry, yes, locally, yes.
- 11:01:44 5 Q. 58 Yes. Now, I think then going -- agreement then was reached and it would appear
6 that on the 9th -- 17th of January 1991, at 584, a resolution was put forward
7 or effectively a motion was put forward in the names of Councillors Hickey and
8 indeed yourself.
- 9 A. Uh-huh.
- 11:02:10 10 Q. 59 To the Council that 15 acres of these lands would be zoned C, which was
11 effectively a zoning which would provide for town/district centre facilities.
- 12 A. Yes, that's correct.
- 13 Q. 60 And that was your stated position at this stage, isn't that right?
- 14 A. Yes.
- 11:02:27 15 Q. 61 Now, can I ask you how you came to sign that motion at that time?
- 16 A. Well, it was against the background where Mr. Kelly had sought to develop it
17 for, rather badly, I thought, for industrial development under the E zoning,
18 which I thought was inappropriate, so close to the village. And I was anxious
19 to -- you know, that there wouldn't be factories in the village of Dundrum if
11:02:57 20 it was going to be developed, although I always doubted, to be honest,
21 Mr. Kelly's competence to develop it. I didn't think that was a good use of
22 the land so close to the village and that it was an opportunity for the village
23 to grow into that land. And Paddy Hickey came to me, I'm not sure when, maybe
24 coming up to -- he said to me I know you don't want to see industrial
11:03:25 25 development there so I was thinking that we should extend the village into this
26 land and I said yeah that seems the best use of it, because a lot of the land
27 was already zoned for commercial use but it was at the wrong end I suppose of
28 the site. It was up at the top of the site whereas the bit near the village
29 was zoned for industrial use. So I agreed to sign it.
- 11:03:43 30 Q. 62 Yes. Well if we look at the map, at 585 I think. This is the map which

11:03:49 1 accompanied your motion and we see there what might have been the existing
2 zonings on the lands per the 1990 Manager's plan, Draft Plan.

3 A. Yeah.

4 Q. 63 I think the portion to the right C1, that's the Crazy Prices lands, isn't that
11:04:06 5 right?

6 A. That's right, that's right.

7 Q. 64 And then I think it was intended that there would be an A zoning north of that,
8 isn't that right?

9 A. Yeah.

11:04:19 10 Q. 65 And that would be a residential zoning?

11 A. Uh-huh.

12 Q. 66 Isn't that correct?

13 A. Yeah.

14 Q. 67 And then it was north of that again that there was an E, industrial zoning?

11:04:21 15 A. That's right.

16 Q. 68 And I think there was -- before one got into the town village, Dundrum village
17 lands, which would be north of that again, I think there was an area which
18 would have retained its E zoning, isn't that right? You were still leaving a
19 little block which had been --

11:04:38 20 A. I don't recall that but, yeah.

21 Q. 69 But the residential zoning, which is the central portion --

22 A. Yeah.

23 Q. 70 -- that wouldn't have offended you?

24 A. No, although, to be honest, there was lots of houses and there was very little
11:04:52 25 shopping. You know it just seemed a shame to take up that space.

26 Q. 71 And I think there was already a shopping centre, the Crazy Prices centre, on
27 the C1 zoned lands, isn't that right?

28 A. Uh-huh. There was but there was all sorts of -- it was a sort of a warehouse
29 thing and there was all sorts of rumours that that was going to be knocked down
11:05:10 30 at the time. But, yeah, there was a shopping centre and some kind of a factory

11:05:14 1 there as well I think actually.

2 Q. 72 So really, if you were concerned about removing the industrial zoning, your
3 motion should really have been confined to the area zoned E, isn't that right?

4 A. Well, yes, if it was only the industrial, but I also thought that it would be a
11:05:33 5 shame to build houses there as well because there was an awful lot of --
6 there's lots of land for housing in the area but there was very little for
7 extending the village. Though to be honest I can't remember giving that bit of
8 it an awful lot of thought to be honest. It was mainly the idea of getting rid
9 of the factories.

11:05:50 10 Q. 73 Did Councillor Hickey tell you why he was approaching you in relation to the
11 matter?

12 A. Well because I represented the area.

13 Q. 74 Yeah.

14 A. Uh-huh.

11:06:00 15 Q. 75 Did you -- you understood, I presume, in signing this motion that it was going
16 to be a motion which would have what might be referred to as cross party
17 support when it came on for debate.

18 A. I think it probably reflected what most people thought was a good idea. You
19 had an industrial estate up the road in Sandyford. I don't think anybody felt
11:06:19 20 that there was a need for industrial land right beside the village.

21 Q. 76 And did you discuss the motion with Mr. Laden or Mr. Kelly?

22 A. Never with Mr. Kelly.

23 Q. 77 Did you --

24 A. I did meet Mr. Laden at some stage in the '80s or '90s but I, to be honest, I
11:06:38 25 can't remember about what but I thought it was maybe in the context of the
26 Dundrum Bypass, so it probably was related to this.

27 Q. 78 Yeah. So you think you may have met Mr. Kelly in relation to the motion?

28 A. No, I never met Mr. Kelly about this.

29 Q. 79 Sorry.

11:06:51 30 A. Mr. Kelly, well I've no memory of when exactly it was. But I've a feeling it

11:06:58 1 was about a planning application or his thoughts about a planning application.
2 We didn't get on very well and I didn't agree with what he wanted and we parted
3 on bad terms.

4 Q. 80 Yourself and Mr. Kelly. I know we'll come to a meeting with Mr. Kelly and
11:07:12 5 yourself in May '92.

6 A. Was it?

7 Q. 81 Yes. We'll come to that in a moment.

8 A. Yeah, okay.

9 Q. 82 I think at 533, you told the Tribunal that, now, I'm just taking the second
11:07:24 10 paragraph of your letter.
11
12 You say that, "there was little local support for the kind of activity so close
13 to the village and on lands, which by then would surround it by housing on
14 three sides, when Paddy Hickey who represented the area for Fianna Fail asked
11:07:35 15 me to support bringing a proposal to the public to extend the village zoning to
16 this site, I agreed. It seemed to me to be the best solution to the challenge
17 of preventing the factory type development for which it was then zoned."
18
19 Now, you accept that only a portion of the lands were zoned for factory type
11:07:52 20 development.

21 A. That's right, yeah.

22 Q. 83 You go on to say that, "The only option was to change the zoning to housing."
23 In fact, you agree with me that a portion of the lands, that is to say that
24 that portion in the centre was already zoned for housing.

11:08:04 25 A. That's right.

26 Q. 84 You say, "the only option was to change the zoning to housing and if my memory
27 serves me correctly the planners at that stage seemed to have given little
28 thought to the future of the land and how it should best be developed. I don't
29 recall being lobbied by anyone else on the matter and I don't recall either
11:08:21 30 that it was contentious. In fact, although I can't now remember how it was

11:08:25 1 eventually zoned I believe that whatever did come before the Council for final
2 decision received all party support".
3
4 But you agree with me that and I think you accept, that if one were motivated
11:08:45 5 to remove the industrial zoning, if we could have 585, then the area which
6 should be the subject of that motion would be a much smaller area than the area
7 that was actually the subject of the motion?
8 A. Yes. But I also didn't want housing there either. You know, it was an
9 opportunity for the village to grow and it was going to be precluded if you
11:09:00 10 built on it, something like housing, you know, or factories for that matter.
11 You know, there was housing everywhere in the area and there was no facilities.
12 So it seemed to me that this was a precious bit of land that some thought
13 should have been given to it. And I was aware that the planners hadn't really
14 given it any thought at that stage early stage.
11:09:21 15 Q. 85 But they had presented a plan which had been noted at the Council on the 30th
16 of May of the previous year?
17 A. I think that was the existing zoning on it.
18 Q. 86 Subject to very minor change.
19 A. Yeah.
11:09:31 20 Q. 87 And that had been noted by the councillors, isn't that right?
21 A. Yes.
22 Q. 88 Now if we have 2061. I think Mr. Laden wrote to you then on the 30th of
23 January 1991 thanking you for seconding the application for the rezoning of the
24 lands, isn't that right?
11:09:47 25 A. I see that, yeah.
26 Q. 89 And he said that, "the proposed development which includes shops, offices,
27 hotels, cinema, community centre and other leisure activities include provision
28 of 1050 or 1230 spaces depending on whether car parking will be at ground level
29 only or will in addition incorporate some underground car parking. Our
11:10:07 30 proposals will include the provision of approximately six acres of land

11:10:10 1 required for the Dundrum Bypass together with a building of a substantial
2 section of the bypass. Furthermore our proposals will facilitate the
3 completion of a bypass in Dundrum prior to the completion of the southern cross
4 or Wyckham Bypasses and the value of our contribution overall to road
11:10:24 5 construction in the area will amount to well in excess of two million pounds."
6 A. Yeah, I'm not sure when that letter was sent. But it comes -- it came as a
7 surprise to me or it comes as a surprise to me now to know that there was a
8 proposal as such, a firm proposal. All I was interested in was the zoning of
9 the land. I didn't realise that there was a firmed up proposal at that time.
11:10:48 10 I think I may have ...
11 Q. 90 Had Mr. Hickey not made any reference to ...
12 A. No, absolutely none. It was a very casual, he met in the corridor and said do
13 you think this is a good idea and I said oh, yeah that's better than industrial
14 and I just signed it. Or maybe he came with the map later and I signed it, I'm
11:11:04 15 not sure. But I certainly agreed it very quickly.
16 Q. 91 And we know, if we look at 2063, that there were discussions at that time
17 between Mr. Laden and Mr. Kelly and representatives of Quinnsworth or Crazy
18 Prices. And at a meeting on the 19th of February 1991, if we look at 2064,
19 Cabriole were stating to Quinnsworth that the zoning proposals had the backing
11:11:30 20 of both Fianna Fail and Fine Gael councillors. Did you seek the support of any
21 of your colleagues for this rezoning proposal?
22 A. No.
23 Q. 92 Did you --
24 A. No, but they would have known if I signed it I would have supported it.
11:11:45 25 Q. 93 Sorry?
26 A. If I signed the motion they'd know that I supported it.
27 Q. 94 I accept that. That any of your colleagues who would receive a motion signed
28 by you or counter signed by you would know that --
29 A. Yeah.
11:11:52 30 Q. 95 -- you were living in the area --

11:11:53 1 A. Yes.

2 Q. 96 -- and voting for ...

3 A. And that I was reflecting what was probably ...

4 Q. 97 Evidence has been given here from time to time that councillors from different

11:12:01 5 areas when asked to vote on a particular proposal would inquire of their

6 colleagues in the area in which the property was situated. Did any of your

7 other colleagues from different wards or areas ask you for your view or opinion

8 in relation to the proposals here, can you recall?

9 A. I can't to be honest. I don't remember anybody asking me.

11:12:22 10 Q. 98 Do you know how Mr. Laden and/or Mr. Kelly would know that or would come to

11 believe that the Fine Gael councillors were backing the proposals?

12 A. No. Other than I suppose the fact that I had signed it and I was the local

13 person so they might have assumed that I would get the support of at least some

14 of my colleagues.

11:12:40 15 Q. 99 Yes. Now --

16 A. Or they would take their lead from me, you know.

17 Q. 100 Yes.

18 A. Because I lived in the area.

19 Q. 101 And I think that -- can I just ask you, to your recollection was Mr. Kelly or

11:12:55 20 Mr. Laden very much to the fore in relation to this particular proposal or

21 rezoning at this stage?

22 A. To be honest, I had completely forgotten even that Joe laden was involved in

23 this at all when I wrote to you. It was -- I wasn't aware of any lobbying or

24 any -- certainly not to any great extent. I knew Aidan Kelly was sort of

11:13:20 25 mooching around the village and talking to people, but other than that, I

26 wasn't aware of any lobbying going on or anything else. Certainly, he never

27 spoke to me at least my memory was that I only spoke to him once. And I'm not

28 sure of the date but it wasn't a happy experience, I do remember that.

29 Q. 102 Now, I think that when the matter came on before the Council at their special

11:13:42 30 meeting on the 31st of May 1991. And we see the matter being discussed at page

11:13:49 1 589. The Manager wasn't supportive of the proposal, isn't that right? The
2 Manager's Report, as we see there, identified the existing three different
3 zonings on the land. And then he went on to provide that, "the effect of this
4 proposal," that is to say your proposal, "would be to extend the commercial
11:14:10 5 area southwards and if development from major shopping it would have adverse
6 effects on the existing facilities in the village and on the neighbourhood and
7 district centres in the general area."
8 A. Uh-huh.
9 Q. 103 "It is not recommended that this motion be passed."
11:14:20 10 A. That's right.
11 Q. 104 Do you recall ever discussing the motion with the Manager or the management
12 team?
13 A. No, definitely not. Certainly not, no, no, I don't think so.
14 Q. 105 Would it be fair to say that between the time you signed the motion and the
11:14:36 15 motion came on for hearing, you didn't check with the management as to what
16 their views were in relation to the proposals for this area or this region?
17 A. I don't think so. I'm not sure, when exactly was that?
18 Q. 106 This would be May 1991, the 31st of May 1991.
19 A. Middle of a Local Election campaign? No, I don't think so.
11:14:56 20 Q. 107 Yes. I think the election was in June '91, isn't that right?
21 A. Yeah, that's right. I certainly had no memory of it, put it that way.
22 Q. 108 Certainly the Tribunal can take it that your thinking, as of May 1991, and your
23 active support and encouragement to the other councillors and your colleagues
24 was that these lands should be zoned C, isn't that right? Town/district
11:15:20 25 centre?
26 A. Uh-huh.
27 Q. 109 Now, I think the matter went on public display and submissions were received in
28 relation to it. And it came back for review, I think, in 1992, isn't that
29 right? It had been on display I think between September and December 1991.
11:15:39 30 And then I think on the 30th -- 30th of April 1992, if I could have 964,

11:15:48 1 please. You put in a first of a series of motions in relation to these lands,
2 isn't that right?

3 A. That's right, yeah.

4 Q. 110 This was a motion that, in relation to map 23, which is the area in question.
11:15:57 5 That there would be a new zoning objective, E1, isn't that correct?

6 A. That's correct.

7 Q. 111 And I think the not permitted, if I deal with the not permitted uses. Included
8 the following. "Shops, neighbourhood shops, major sale outlets, caravan park,
9 residential/caravan park, holiday, airfield/aerodrome, boarding kennels,
11:16:15 10 cemetery, betting offices." But in particular it was, there was a suggestion
11 that there would be a new planning use, objective E1, which would provide that
12 shops and neighbourhood shops and major sales outlets would not be permitted,
13 isn't that right? And if that objective was to be applied to these lands it
14 would be a complete reversal of what you had supported and proposed in 1991,
11:16:41 15 the year previous, isn't that right?

16 A. Yeah. Yes.

17 Q. 112 And --

18 A. Not a complete reversal but it would -- I think the idea was that there had
19 been a lot of discussion locally about how the lands should be zoned and how it
11:16:54 20 should be developed and there was -- this thing about the Manager's worry about
21 the planners about major shopping, you know, big warehouse type shopping as far
22 as I can recall. And it seemed then that this might be an alternative, that it
23 would control, it was an attempt to control, I suppose, what went in.

24 Q. 113 Can I ask you, who did you discuss that motion with and the succeeding motions
11:17:22 25 that we'll be dealing with?

26 A. Certainly this one I think was discussed with Councillor Fitzgerald, Eithne
27 Fitzgerald.

28 Q. 114 I see. This would have been in April '92?

29 A. Yeah, and there was a lot of local meetings, you know. And I think maybe this
11:17:34 30 was trying to reflect the consensus locally.

- 11:17:44 1 Q. 115 You would agree with me that this was a complete U-turn on your part in
2 relation to the proposals?
- 3 A. Well, I was hoping I was going to keep out the warehousing and the depots and
4 all of that sort of, you know, the really not, you know, the kind of extractive
11:17:51 5 industries and all of the different uses that were available under the E zoning
6 if you limited by this special objective. But at the same time you would
7 allow, you know, there was a certain amount of recreational stuff was allowed
8 and a certain amount of shopping allowed.
- 9 Q. 116 Your proposal had been that it would have a C, town centre zoning, isn't that
11:18:09 10 right?
- 11 A. Originally, yeah.
- 12 Q. 117 But you could have restricted the town centre C zoning in the way that you came
13 to restrict it subsequently, isn't that right? Or indeed increase it in the
14 case of the village lands in relation to the C2 zoning?
- 11:18:23 15 A. I suppose so, yeah. I never thought of that.
- 16 Q. 118 Who -- would you have drafted that motion yourself or would it have -- did
17 Councillor Fitzgerald draft it or others draft it for you?
- 18 A. I think it might have been in conjunction with Councillor Fitzgerald.
- 19 Q. 119 Yes. For example, did any outside lobbyist come to you in relation to the
11:18:43 20 matter?
- 21 A. No.
- 22 Q. 120 A major shopping centre in Dundrum would have a major effect on other satellite
23 towns in that region, isn't that right?
- 24 A. Yes.
- 11:18:53 25 Q. 121 And presumably, and we know that, for example, Cherrywood was being proposed at
26 this stage as a possible shopping area or a town centre, isn't that right?
- 27 A. I'm not sure of the dates but I don't think the Development Plan had got that
28 far, had it?
- 29 Q. 122 Had anybody approached you and asked to you do downgrade that portion of the
11:19:19 30 Dundrum village shopping?

- 11:19:20 1 A. Oh, God no, no. Apart from local meetings and residents and that, yeah.
- 2 Q. 123 Are you saying that this proposal here reflected the local concerns in the
- 3 village at this time?
- 4 A. Insofar as it was possible to do so I think, you know, people with the three
- 11:19:37 5 zonings on the land, I think there was a lot of confusion and nobody really --
- 6 I suppose everybody would like it to just stay as it was rather than have
- 7 anything developed on it but that wasn't going to happen.
- 8 Q. 124 In fact at this stage there was only one zoning on it perhaps two, C and E.
- 9 A. People realised that it was up for, you know, the potential to change it was
- 11:19:57 10 there.
- 11 Q. 125 If we look at the next motion, again filed by you on the same date, at 1441.
- 12 And perhaps it would be more appropriate to look at the map at 1442. You were
- 13 now proposing that the northern portion of the Pye Lands would receive a C
- 14 zoning, isn't that right or a C2 zoning? If we look at the map. Do you see
- 11:20:20 15 the area outlined in red on the map, just if we could enhance that, please?
- 16 A. I do. Yeah.
- 17 Q. 126 So effectively what you were doing now was that you were bringing the village
- 18 centre, which was to the north of that line, south on to the Pye Lands to the
- 19 extent as outlined there, isn't that right?
- 11:20:47 20 A. Yeah.
- 21 Q. 127 For a C zoning or a C2 zoning. Again, would you have drafted that motion in
- 22 collaboration with Councillor Fitzgerald or others?
- 23 A. To be honest, I have no idea.
- 24 Q. 128 Yes.
- 11:21:00 25 A. I'm not sure. That may be that, maybe there was shops already on that land and
- 26 it was just reflecting what was there.
- 27 Q. 129 I think it had been zoned or a portion of it as you can see had been zoned E,
- 28 isn't that right?
- 29 A. Yeah.
- 11:21:13 30 Q. 130 Your 1991 motion hadn't caught the E portion of those lands, isn't that right?

11:21:19 1 A. Yeah.

2 Q. 131 And we can see the C zoning to the south.

3 A. Yes.

4 Q. 132 Now, I think you put in a third motion, again on the same date, at 1443, this

11:21:29 5 time you were dealing with the Crazy Prices lands, which are to the south and

6 we see that map at 1444.

7

8 And I think you were proposing a C1 zoning for those, isn't that right? So you

9 were effectively downgrading the Crazy Prices from a C to a C1 zoning.

11:21:50 10 A. Yeah but I've no idea why.

11 Q. 133 Yes.

12 A. Was there a factory on that? Maybe it was something to do with that maybe.

13 Q. 134 Well it had originally been a C1 zoning, you had proposed a C zoning in '91.

14 And now in '92 you were proposing a C1 zoning again on those lands.

11:22:08 15 A. Reverting it to what it was is it, yeah.

16 Q. 135 And then I think the centre portion of the lands between Crazy Prices and the

17 second motion that we saw at 1445. It was now your proposal that these lands

18 would carry the new E1 zoning, which was your first motion, isn't that right?

19 A. Uh-huh.

11:22:34 20 Q. 136 And we see that at 1446. So the proposal now in relation to these lands going

21 from north to south was that there would be a C portion, an E1 portion and a C1

22 portion, isn't that right? Again, who would have -- who would you have

23 discussed that strategy with at that time, can you recall?

24 A. I don't remember discussing it with anybody except maybe the local Eithne

11:22:59 25 Fitzgerald.

26 Q. 137 Yes?

27 A. But that's ...

28 Q. 138 Can I ask you, just looking at the -- if we move onto the next motion at 1447.

29 And we're now dealing with --

11:23:11 30 A. There were local meetings going on by the way as well. It would have been an

- 11:23:14 1 attempt to reflect what people were saying to me I suppose.
- 2 Q. 139 These are the village centre lands, which are north of the Pye Lands.
- 3 A. That's right, yeah.
- 4 Q. 140 And your proposal is that these would be that these would be C2, isn't that
- 11:23:26 5 right?
- 6 A. Yes.
- 7 Q. 141 I think you were also proposing that the use class would include shops and
- 8 major sales outlets?
- 9 A. That's right because that was trying to reflect what the Manager's concern was
- 11:23:37 10 that, you know, if you got the major shops in the other part in the Pye Lands
- 11 that you would downgrade the village.
- 12 Q. 142 Yes?
- 13 A. And I was trying to strengthen the village which seemed to be what people
- 14 wanted at the time.
- 11:23:50 15 Q. 143 Can I take it that that motion and those motions as we see them there are in
- 16 your hand?
- 17 A. Yes.
- 18 Q. 144 You have written out those motions?
- 19 A. Absolutely.
- 11:24:00 20 Q. 145 Do you recall writing out the motions and being supplied or receiving maps from
- 21 anyone or ...
- 22 A. How do you mean receiving maps?
- 23 Q. 146 All of the motions are accompanied by a map.
- 24 A. Yeah.
- 11:24:10 25 Q. 147 I'm just wondering ...
- 26 A. I assume that we got those from the Council, if you asked for a map you'd get
- 27 it.
- 28 Q. 148 And you would have drawn in the area that was to be effected by the motion.
- 29 A. That's right, yes.
- 11:24:20 30 Q. 149 So at this stage then, you were strengthening the village centre. It would be

- 11:24:29 1 C2 strengthened to include major shop sales outlets, it would run south into a
2 portion which had previously been E and C and which now would be C and south
3 from that it would be E1 and down on to Crazy Prices, which would be C1. Is
4 that ...
- 11:24:47 5 A. That's right.
- 6 Q. 150 That was your proposal at that stage, that's April '92?
- 7 A. That's, yeah.
- 8 Q. 151 And then I think in May '92, on the 8th of May '92, at 1449, you wrote to
9 Ms. Sinead Collins and you enclose two new motions, isn't that right? And the
11:25:03 10 first of those was to replace the village centre lands, isn't that correct?
11 With a new motion No. 5. And we see that at 1450 and the accompanying map is
12 at 1451.
13
14 And I think at this stage you were now suggesting that the village centre,
11:25:19 15 instead of being C2, would retain its original C zoning with the new specific
16 objective as a town or village centre with special physical and social
17 character. And that it be represented on the map as C zoning superimposed by
18 hatching and that the development control section of Written Statement would
19 contain an additional section stating that the design of the proposal in such
11:25:43 20 area should be considered in relation to their impact on the particular
21 character that is unique to the town village, isn't that correct?
22 A. That's correct.
- 23 Q. 152 You would have written this out.
- 24 A. It doesn't sound like my writing, it doesn't sound like my words.
- 11:26:01 25 Q. 153 I'm just wondering, at 1450, it seems so technical to me and I appreciate at
26 this stage you have been a member of Dublin County Council for seven years.
27 A. Yeah.
- 28 Q. 154 So you would have been very familiar with the wording.
- 29 A. That language, yes, yes, that's right, yeah.
- 11:26:16 30 Q. 155 But you seem to have a very vague recollection of what appears on paper, at

- 11:26:21 1 least, to be a very complex and very well thought out strategy in relation to
2 the matter. That you seem to be spearheading at this time.
- 3 A. I think it wasn't very well thought out in the sense that it was evolving as a
4 result of sort of talking to people locally and I'm not sure that that last
11:26:44 5 motion now, was that to do with the village itself?
- 6 Q. 156 Yes, yes. You're substituting the previous motion five with this new motion
7 five.
- 8 A. I think, I've a vague feeling that that had something to do with worries about
9 some of the old Victorian houses in Dundrum or something like that. That they
11:27:04 10 would become, they would be knocked down to provide major shopping. You know,
11 every time you put in a motion that created further problems so I'm not sure
12 exactly what that arose out of, but I suspect it was something to do with the
13 old Victorian buildings in Dundrum.
- 14 Q. 157 And on the same day, at 1452, you now wish to substitute a new motion, No. 2,
11:27:25 15 isn't that right? If we have 1453, we see the area referred to. Again,
16 outlined in red and you are now, at 1453, please? You are now suggesting that
17 this area would, instead of your previous suggestion of a C zoning would now
18 be, it would have a C2 zoning, isn't that right?
- 19 A. Yeah, it seems to be.
- 11:27:52 20 Q. 158 In fact, sorry. It had originally been a C zoning. At some stage it had been
21 changed to a C2 zoning and it would appear from that letter of the 8th of May
22 '92 you were asking Ms. Collins to take it back to a C zoning, if we look at
23 1449.
- 24 A. Well these are all attempts to try and get it right. None of these motions
11:28:12 25 were taken as I recall. In the end we replaced them with --
- 26 Q. 159 That's correct, we'll move on to the relevant motions in a moment.
- 27 A. What I was trying to do in each particular one, obviously I was dealing with it
28 piecemeal, whereas I suppose the better approach would have been to have one
29 single motion, which I think is what we ended up with.
- 11:28:26 30 Q. 160 Now, I think at 1456, Councillor Fitzgerald put in her own motion and that was

11:28:33 1 dated the 13th of May 1992. And what I'm going to suggest to you is that if
2 the earlier motions, the one in, the ones of the 30th of April and the earlier
3 motion of May '92 were a collaboration between yourself and Councillor
4 Fitzgerald, then why was it necessary for Councillor Fitzgerald to put in her
11:28:52 5 own motion on the 30th of May 1992?

6 A. For political reasons.

7 Q. 161 Could the collaboration with Councillor Fitzgerald have been later in the
8 summer rather than earlier?

9 A. No. I definitely, the collaboration was later, but I think we definitely spoke
11:29:10 10 about it and decided to take a similar approach to the lands, to the zoning of
11 the lands.

12 Q. 162 And I think Councillor ...

13 A. But I think eventually we decided that one motion would carry more strength.

14 Q. 163 If we look at your statement for a moment, at 1760. You say that, "by the
11:29:31 15 Spring of 1992 there had begun to be an awareness locally that the Draft
16 Development Plan discussions would focus on the Dundrum area directly after the
17 summer break. The series of motions I submitted were an attempt to reflect
18 local views in a way that stood some chance of getting through the Council and
19 also to resist sacrificing the site to either industrial use or to more
11:29:51 20 housing. As I outlined previously, Mr. Kelly, who purported to own the Pye
21 Lands, wanted to develop the lands for some sort of industrial and/or office
22 development. This may have been an actual -- sorry. This may have been an
23 actual planning application but I'm not sure of that. I was opposed to this
24 proposal so near the village and because of the proximity to housing this would
11:30:10 25 probably have been the impetus for the motion of the 30th April '92. The
26 initial aim here was to limit the kind of industrial development on the site.
27 As far as I can recall the proposal at 6.1 B was an attempt to completely
28 protect the small portion of the Pye Lands that was historically zoned E from
29 industrial development by incorporating it into an adjoining village zoning.

11:30:32 30

11:30:32 1 Over the spring and summer of 1992 discussions and meetings were held by local
2 groups and residents associations. I think that motion 6.1 B was an attempt to
3 maintain the existing zoning but not to prohibit the location of bigger shops
4 in the village itself. Even in those days of unemployment Dundrum did not
11:30:48 5 provide for the shopping needs of the growing population. Towards the end of
6 the Summer, I spoke on a number of occasions with my colleague in the area,
7 Councillor Fitzgerald, and we finally agreed a joint approach on her
8 suggestion."
9

11:30:59 10 That seems to suggest that your discussions with Councillor Fitzgerald post
11 dated her motion of the 13th of May '92.

12 A. No. Not to me.

13 Q. 164 Okay?

14 A. Certainly that's not my memory of what happened. You know, we would have met
11:31:19 15 regularly at local meetings, so it would have been something that there would
16 have been ongoing discussions of.

17 Q. 165 In any event at 1456, Councillor Fitzgerald was proposing a C2 zoning for the
18 village, somewhat similar to yourself, to include a major sales outlet being
19 open for consideration.

11:31:36 20

21 She was also suggesting that the Pye Lands would be zoned for classification
22 E1, which was your first motion, a proposal withdrawn by her on the 14th of
23 September '92, isn't that right? We see that on the map.

24 A. Uh-huh.

11:31:54 25 Q. 166 And then I think on the 30th of May '92, at 1459. You again contacted
26 Ms. Collins and at this stage I think you substituted a new motion four. And
27 if we go to 1461, what you are effectively suggesting at this stage was that
28 the Crazy Prices lands and the lands in between would now be zoned E1. In
29 other words, you were extending the E1 zoning into the Crazy Prices lands,
11:32:23 30 isn't that right?

11:32:24 1 A. I think that was what we agreed with, I agreed with Eithne Fitzgerald, yeah.

2 Q. 167 When I refer to the Crazy Prices lands. There was a shopping centre on those

3 lands, isn't that right?

4 A. That's right, yeah.

11:32:36 5 Q. 168 And if we go back to 1964, which is your E1 proposed -- no. Sorry, 964, which

6 is your proposed objective for E1, we see under the not permitted use, "shops,

7 neighbourhood shops." So you are effectively changing the zoning on the lands

8 where shopping is being carried out, isn't that right?

9 A. Uh-huh.

11:33:03 10 Q. 169 Can you recall?

11 A. No, I can't.

12 Q. 170 No?

13 A. No, I really can't. Other than.

14 Q. 171 Why you would do that?

11:33:10 15 A. No, I can't. Other than the discussions with Eithne Fitzgerald. We decided

16 that this was the joint approach.

17 Q. 172 And I think on the same day that it ...

18 A. It was easier to have a single zoning on it and to try and control it by the

19 special objective. That was the thinking now. Whether it was right or not.

11:33:27 20 Q. 173 It seems contradictory to have shops on an area and built and operating in an

21 area which was zoned for something other than shops. In fact, it was one

22 thing -- it was the very first thing that was prohibited under your E1 zoning,

23 isn't that right, shopping?

24 A. What was?

11:33:48 25 Q. 174 Shopping. If you look at the not permitted use, under the new proposed E1.

26 A. Yeah. No, yeah. I realise this was not my ideal. I realise that.

27 Q. 175 Sorry?

28 A. I realised that this wasn't my ideal, this wasn't really what I -- to the

29 extent that a zoning could control what development you get. I realised that

11:34:09 30 this wasn't the ideal. It seemed to reflect what people wanted and it would

11:34:13 1 get the support, obviously Eithne and her colleagues would have supported it.

2 Q. 176 And I think on the 20th of May '92 you were also proposing the deletion of the

3 development for the proposed Wyckham Bypass, isn't that correct? We see that

4 at 1462. And presumably, that was as a result of representations from --

11:34:38 5 A. Yeah, yeah.

6 Q. 177 -- from local?

7 A. Yeah. The planner were against that. I don't think that I pushed that. I

8 think I withdrew that.

9 Q. 178 Now, the 28th of May, I think, was the last day for the submission of motions,

11:34:50 10 isn't that right, in relation to map 23? You see that at 989 and a letter from

11 Mr. Smyth of the 21st of May '92.

12

13 And I think on that very last day on the 28th of May 1982, at 1464, you wrote

14 to Ms. Collins. And you submitted a series of new motions. First of all you

11:35:07 15 asked her in relation to your proposed amendment to the Written Statement E1

16 whether or not a map was required and she said no. Then you put forward what

17 might be referred to as a new fall-back motion in relation to the area north of

18 Crazy Prices. If we look at map 1466.

19

11:35:29 20 And I think you were now suggesting that this would revert to its original

21 zoning of E and A, isn't that right? You are now going back to industrial and

22 housing.

23 A. Yeah.

24 Q. 179 And I understood your initial opposition to the existing zoning was your

11:35:46 25 opposition to the industrial E zoning on the lands?

26 A. Yes.

27 Q. 180 Although this was a fall-back position, it appears to be suggesting that there

28 would be at least industrial zoning on the lands.

29 A. With the special objective though wasn't it?

11:36:01 30 Q. 181 Yes.

- 11:36:01 1 A. Well that was the way of controlling it. But keeping it the way. I mean,
2 people didn't want change.
- 3 Q. 182 It would be confined to light industrial, is that correct?
- 4 A. Yes. I can't remember the exact objective but ...
- 11:36:15 5 Q. 183 I think what you suggested, if we take it from the middle, i.e, E zoning on the
6 southern portion to the link road, but that the industrial use be confined to
7 the use class industry light. Yes. And then I think the balance of it I think
8 you were referring to as A, an A zoning.
9
- 11:36:31 10 And then there were two further motions put in. One in relation to the
11 alignment of the road, that if the Minister for the Environment made a decision
12 on the southern cross route before the adoption of the Development Plan, you
13 were suggesting that you would return to consider the alignment of the Wyckham
14 Bypass. And then in relation to the village, I think there was a portion of
11:36:55 15 property to the right of the village, if we look at 1470. And it was your
16 suggestion that the C2 zoning would extend into that area, isn't that right?
17 You just see ...
- 18 A. Oh, yeah. That's, yeah. That was people were -- well this was more or less I
19 suppose the view locally that --
- 11:37:14 20 Q. 184 It would extend ...
- 21 A. -- you had strengthened the village itself.
- 22 Q. 185 Across rather than down.
- 23 A. The bit, what I shall say, north of the crossroads, yeah.
- 24 Q. 186 And then I think at 1471, you were again suggesting that the village now to
11:37:29 25 include that additional area would have a C2 zoning, isn't that right? And
26 that that would include a major sales outlet.
- 27 A. Could include, yeah.
- 28 Q. 187 Yes. Now, I think Mr. Kelly was very upset with your proposals at that time,
29 isn't that right? You have advised the Tribunal that you discussed the matter
11:37:50 30 locally. But did you ever discuss it with Mr. Kelly up to that time?

11:37:55 1 A. My memory is I only met Mr. Kelly once but I just can't remember, you know.

2 Q. 188 Well if we could have --

3 A. Was it in the 80's or in the 90's even.

4 Q. 189 Okay. Well if we could have 1141?

11:38:11 5 A. Sorry, when I say I only met him once, I only met him once officially. I often

6 met him at funerals or in the village walking around.

7 Q. 190 He wrote to you on the 30th of June 1992 and he referred to a meeting which you

8 appear to have had with him on the 27th of May '92. Where you rejected out of

9 hand his compromised proposals. Do you recall Mr. Kelly meeting with you and

11:38:30 10 making compromised proposals?

11 A. I remember meeting him. I didn't realise. I don't remember compromised

12 proposals. I just remember proposals that I didn't like.

13 Q. 191 Yes. You had put in a whole series of motions in relation to property that

14 either he or his company owned, isn't that right?

11:38:48 15 A. Yeah.

16 Q. 192 And you had done that without reference to him, isn't that correct?

17 A. Uh-huh.

18 Q. 193 And --

19 A. Well, you know, it was regarded as important locally. This was, you know, the

11:39:01 20 last piece of land, undeveloped land really in the area and it was considered

21 of public importance.

22 Q. 194 Yes. I think on the 3rd of September '92. If we could have 1473? Yourself

23 and Councillor Fitzgerald put in a composite motion and at this stage you were

24 recommending that you revert to the 1983 development in relation to the Pye

11:39:23 25 Lands, isn't that right?

26 A. Yes.

27 Q. 195 Yes.

28 A. With the special objective.

29 Q. 196 With the special objective.

11:39:31 30 A. Uh-huh.

11:39:31 1 Q. 197 That the Council's policy was to encourage and promote the development of the
2 area for tourism related recreational and light industrial uses.
3 A. Uh-huh.
4 Q. 198 But the 1983 zoning had not met with your approval in 1981, isn't that right?
11:39:46 5 Or 1991?
6 A. Yeah.
7 Q. 199 Yes.
8 A. Because they didn't have that special objective. I mean, this was not my ideal
9 I have to say. I would have liked to see the village extended into that land
11:39:57 10 rather than have light industry.
11 Q. 200 It wasn't just light industry, it also included residential, isn't that right?
12 Because the 1983 plan included residential?
13 A. Yes.
14 Q. 201 So you were proposing industrial, residential and C1 for the Crazy Prices, but
11:40:14 15 subject to this amendment to the Written Statement, isn't that right?
16 A. I'm not sure, are you talking about the composite motion now?
17 Q. 202 Yes.
18 A. I'm not terribly sure.
19 Q. 203 Yes.
11:40:32 20 A. Sorry, have you map there maybe?
21 Q. 204 Yes?
22 A. The map that went with this.
23 Q. 205 Sorry. 1474.
24 A. So the composite motion was for the entire --
11:40:47 25 Q. 206 Yes.
26 A. -- land?
27 Q. 207 In fact, if we were to bring up 1422, please. Sorry. 1423. Sorry.
28 Apologies. This is, this takes account of maps 15 and 19 and it shows the 1983
29 zoning, which would be industrial E, A in the middle and C1 to the bottom. And
11:41:12 30 what you're asking is that those three zonings be reinstated but subject to

11:41:16 1 that amendment to the Written Statement.

2 A. Oh, right. Yes. Okay. Sorry, yes, I understand, yeah.

3 Q. 208 And I understood that it was in 1991 you had supported Councillor Hickey's

4 proposal because you wanted to extend the C zoning down on to those lands.

11:41:36 5 Whereas now in September 1992 you are reverting back to the pre 1991 position?

6 A. Uh-huh.

7 Q. 209 You wrote to Mr. Kelly I think on the 4th of September 1992, do you recall

8 writing to Mr. Kelly at that stage?

9 A. I don't.

11:41:53 10 Q. 210 At 1040. You'll have seen this in the brief.

11 A. I didn't actually see this but however.

12 Q. 211 And you say, "we have decided to propose that the lands retain their original E

13 industrial and A housing with the additional objective that the Council would

14 promote leisure recreational uses which would be complimentary to the

11:42:10 15 commercial core of the village. This will allow the Council to facilitate all

16 of your stated objectives and at the same time safeguard against large scale

17 shopping development by either yourself or some future owner."

18

19 And you say that, "I hope that you will find this acceptable. It is to assure

11:42:26 20 you to accommodate and not to" -- I think, "thwart your plans and to achieve

21 the best possible mix of development."

22

23 And I think Mr. Kelly wrote to you then on the 16th or the 18th of September

24 '92. At 769, and he's concerned about your proposals, isn't that right? And

11:42:49 25 he asks to make, that he makes one suggestion of one final attempt to resolve

26 the issue between you and he seems to negotiate.

27 A. Yes, I read that letter in the brief. I didn't just didn't see my own letter.

28 Q. 212 Mr. Kelly's point was that he needed a mix of office and leisure or retail and

29 shopping and office in order to make his plans for his leisure development

11:43:08 30 viable, isn't that right? And that your proposals wouldn't allow that to

11:43:13 1 happen?

2 A. So he said, yeah.

3 Q. 213 Yes. Now, do you recall receiving a motion then signed by Mr. Councillors Hand
4 and Councillor Lydon? If we could have 1475. Unfortunately, that motion isn't
11:43:35 5 dated. But at some stage their motion, which would reflect Mr. Kelly's desires
6 in relation to the land, appears to have been signed and circulated. Do you
7 recall receiving that motion?

8 A. Personally?

9 Q. 214 Yes.

11:43:51 10 A. No.

11 Q. 215 You don't recall seeing that?

12 A. No.

13 Q. 216 Mr. Hand would have --

14 A. Well it would have been published I'm sure, yes.

11:43:57 15 Q. 217 Mr. Hand would have been a colleague of yours, isn't that right? And he would
16 have represented that area generally, maybe not Dundrum but certainly in or
17 around that area, do you ever recall discussing your proposals or indeed
18 Mr. Kelly's proposals with Mr. Hand?

19 A. No.

11:44:12 20 Q. 218 You will have known Mr. Hand?

21 A. I would.

22 Q. 219 And you would have met him regularly at meetings?

23 A. We weren't close.

24 Q. 220 You weren't close. I see. Do you ever recall discussing the matter with
11:44:22 25 Mr. Lydon?

26 A. Don, no.

27 Q. 221 Do you ever recall discussing the matter with anyone?

28 A. But now that's not to say I didn't. May well have.

29 Q. 222 Yes.

11:44:30 30 A. I don't think that they ever came to me with a motion looking for my support

- 11:44:35 1 that I know of, that I can recall.
- 2 Q. 223 You will agree that, insofar as Dundrum was concerned, the lead councillors in
3 relation to any change of status to Dundrum and the Development Plan included
4 yourself, Councillor Fitzgerald, Councillors Hand and Lydon at this stage?
- 11:44:50 5 A. Councillor Lydon represented the area with myself and Councillor Hickey and
6 Councillor Fitzgerald and Councillor Hand would have been the adjoining area,
7 the rest of Dundrum, if you like.
- 8 Q. 224 Yes. Do you ever recall Mr. Dunlop approaching you in relation to the matter?
- 9 A. Never.
- 11:45:06 10 Q. 225 But you knew Mr. Dunlop and you were ...
- 11 A. Very well, yes.
- 12 Q. 226 And you were quite good friends?
- 13 A. Not at this at this time very well, but I did.
- 14 Q. 227 Now, I'm dealing with the period September 1992.
- 11:45:17 15 A. Yeah.
- 16 Q. 228 September/October 1992.
- 17 A. No, I read his involvement and I was quite surprised to hear that he was
18 involved in the Pye Lands, to be honest.
- 19 Q. 229 I see. Well Mr. Dunlop has supplied a more detailed statement to the Tribunal.
11:45:31 20 And in that, at 2508, he has advised the Tribunal that he spoke with a small
21 number of councillors regarding the Pye site. And he includes yourself,
22 Councillor Fox, Hand, Lydon and Mitchell specifically. Do you see that on the
23 second paragraph? Then on the third paragraph, he goes on to say, "Councillor
24 Mitchell expressed surprise when I approached her on the matter and asked me
11:45:53 25 for my views of Mr. Kelly. She was adamant that he was not going to get what
26 he wanted in full and advised that he should accept what the Council was
27 offering." Does that come as a surprise to you?
- 28 A. It does actually but it sounds credible all right.
- 29 Q. 230 Do you accept Mr. Dunlop's evidence in relation to that?
- 11:46:09 30 A. Well I don't remember it but it sounds possible, it certainly reflected what I

- 11:46:21 1 thought at the time.
- 2 Q. 231 You say you didn't know Mr. Dunlop very well at this stage, that is 1992?
- 3 A. No, I don't think so. No.
- 4 Q. 232 Now, you do know that you have given evidence, if we could have 842, in the
- 11:46:27 5 past, of receiving perhaps 500 pounds in cash from Mr. Dunlop on the 10th of
- 6 November 1992?
- 7 A. I do, the General Election.
- 8 Q. 233 That's on the 10th of November 1992.
- 9 A. Yeah.
- 11:46:37 10 Q. 234 Are you saying that at the time you received that money in cash from Mr. Dunlop
- 11 you did not know him very well?
- 12 A. Not as well as I got to know him later.
- 13 Q. 235 Yes. Now, do you recall the debate in relation to your motions or those series
- 14 of motions at the Council meeting on the 16th of October '92?
- 11:46:54 15 A. No, I don't remember anything about the debate.
- 16 Q. 236 But you, I think you had seconded the motion and I think you spoke in favour of
- 17 that, isn't that right? You contributed, if we look at 629, you contributed to
- 18 the debate on the motion.
- 19 A. I'm sure I would have, yes. Yes, anything to do with Dundrum I would have
- 11:47:12 20 certainly contributed to.
- 21 Q. 237 Yes. And I think if we look at 630, we see the combined motion, the first
- 22 motion was passed unanimously. Councillor Fitzgerald withdrew what was left of
- 23 her motion and then your motion, your combined motion came on for hearing and
- 24 there was a discussion on it and it was successful. 30 for and 23 against,
- 11:47:35 25 isn't that right?
- 26 A. That's right, yes.
- 27 Q. 238 Yes. Were you surprised that Councillor Hand, for example, had voted against
- 28 it?
- 29 A. I've no idea what I felt at the time or thought about at the time.
- 11:47:47 30 Q. 239 Had you ever discussed the motion with any of your other Fine Gael colleagues?

- 11:47:55 1 A. To be honest, I don't know.
- 2 Q. 240 Looking at 631 and those councillors who voted against it. And I don't want
3 you to identify them for us. But can you tell the Tribunal how many party
4 colleagues would have voted against your motion other than Councillor Hand?
- 11:48:14 5 A. None.
- 6 Q. 241 None?
- 7 A. None others. None, other than Councillor Hand.
- 8 Q. 242 Now, I think that your motion, because it required an amendment to the Written
9 Statement, required a further vote on the 1st of June 1993. And I think the
11:48:36 10 matter then went on public display and came back before the Council for
11 confirmation on the 1st of November 1993 or the 2nd of November '93, isn't that
12 right? I don't think that you were in attendance on that occasion, isn't that
13 right? But the -- on the 12th of November the Written Statement, which had
14 been amended, was confirmed, isn't that correct?
- 11:48:58 15 A. Yes.
- 16 Q. 243 Now, at 1227. Mr. O'Malley's office appears to have made attempts to contact
17 you on the morning of the 2nd of November 1993. Do you recall Mr. O'Malley's
18 office contacting you in relation to, or attempting to contact you in relation
19 to this motion?
- 11:49:16 20 A. No, I don't remember that.
- 21 Q. 244 Did Mr. O'Malley's office ever contact you in relation to any other motions,
22 can you recall?
- 23 A. Hmmm, I'm sure Mr. O'Malley wrote to me about various things over the ten years
24 but I honestly couldn't be specific. I don't ever remember him ...
- 11:49:36 25 Q. 245 You would know Mr. O'Malley quite well I presume?
- 26 A. Well I knew he was a planner in the area and I would have met him.
- 27 Q. 246 On the 4th of October 1993, that's in advance of that confirmation vote, at
28 1223, Mr. O'Malley wrote to Mr. Kelly and supplying a list of councillors. And
29 he said that he had marked in a red asterisk those councillors that he knew at
11:49:55 30 least fairly well and some of them quite well.

11:49:59 1
2 Now, if we go to 1226, we'll see there is an asterisk beside your name. That
3 suggests that he either knew you fairly well or quite well. Which category
4 would you put yourself in, can you recall?

11:50:19 5 A. I'm not sure what the difference is.

6 Q. 247 Yes. Well was it usual for you to receive calls from Mr. O'Malley seeking your
7 support for proposals for developments with which he was concerned?

8 A. It certainly happened once or twice over the ten years.

9 Q. 248 Yes?

11:50:38 10 A. At least. More clarifying things or ...

11 Q. 249 Yes?

12 A. To be honest, I can't remember Mr. O'Malley's involvement in this particular
13 development at all to be honest.

14 Q. 250 Yes. Are you saying that you didn't think he was associated with the --

11:50:55 15 Mr. Kelly or ...

16 A. I didn't think about it at all. I don't remember him at all being involved.

17 Q. 251 Yes.

18 A. But then I ...

19 Q. 252 You would have got motions which would have been circulated, isn't that right?

11:51:15 20 In relation to it as a Councillor. Now, I appreciate that you did not attend
21 or vote on the confirmation vote on the 2nd of November but you would have got
22 a copy of the motion, you were a member of the Council in 1993.

23 A. I was abroad for a month at that time so there's a lot of stuff I missed.

24 Q. 253 Okay. Well if we look at 641, we see the motion which was put forward and
11:51:29 25 which was successful, advising that the confirmation be disallowed and you see
26 that motion is on Kieran O'Malley headed notepaper. So if you received that
27 motion you would have known that Mr. O'Malley ...

28 A. If I received, why would I receive that?

29 Q. 254 Because it's the motion, it appears to be the actual motion that was signed by
11:51:53 30 the councillors and which would have come on for debate on the 2nd of November?

- 11:51:58 1 A. But I don't think we got what was submitted. I don't think.
- 2 Q. 255 You don't think that that motion was received by you in that fashion or that
- 3 format?
- 4 A. I don't think that any of the motions were ever received by councillors in that
- 11:52:09 5 fashion. I think they were printed out on a sheet.
- 6 Q. 256 Okay. That the original motion would have been retained by the councillors --
- 7 by the Council?
- 8 A. By the officials.
- 9 Q. 257 Yes. I understand?
- 11:52:20 10 A. I couldn't swear to that either. I don't ever remember seeing that.
- 11 Q. 258 Yes. I think that a difficulty arose after the confirmation of the 1993
- 12 Development Plan when an attempt was made to develop the lands, isn't that
- 13 right? And the matter came on for discussion before the Council in December
- 14 1994. Do you recall?
- 11:52:43 15 A. I don't recall it, I read it in the papers that you sent and I assume it was
- 16 something to do with the Written Statement.
- 17 Q. 259 That's correct?
- 18 A. Not being.
- 19 Q. 260 It appears to prohibit the C zoning.
- 11:52:55 20 A. It was contradictory or something with the actual zoning, yeah.
- 21 Q. 261 Yes. And I think you contributed to that debate on the 21st of December. If
- 22 we have 2106. I think there is a -- do you recall making any contribution at
- 23 that time in relation to the debate?
- 24 A. I don't remember it but ...
- 11:53:16 25 Q. 262 Yes. Do you recall Mr. Lynn ever contacting you and seeking your support to
- 26 remove that offending portion of the Written Statement?
- 27 A. Who?
- 28 Q. 263 Mr. Richard Lynn.
- 29 A. No.
- 11:53:28 30 Q. 264 Did you associate Mr. Lynn with the Pye Lands at any stage?

- 11:53:33 1 A. Much later I think, yeah.
- 2 Q. 265 What was your recollection of Mr. Lynn's involvement? Would this have been in
3 1995?
- 4 A. I thought it was but, again, I'm not sure of the sequence of events. But I
11:53:45 5 thought it was after Mr. Kelly disposed of the land.
- 6 Q. 266 This would have been Mr. O'Reilly ...
- 7 A. Yes in, Castlethorn's day, yes.
- 8 Q. 267 If we could have 2152, there was a motion signed by Councillor's Matthews and
9 Fox to amend the Written Statement or to set entrain a procedure which might
11:54:04 10 amend the Written Statement by the deletion of that Section 3.2.9 which would
11 allow for C development on the site.
12
13 Did you say that you knew Mr. Kelly -- sorry. Mr. Kelly or Mr. Laden? Which,
14 was it Mr. Kelly or Mr. Laden that you knew?
- 11:54:23 15 A. Well I knew Mr. Laden better actually.
- 16 Q. 268 Yes?
- 17 A. Because he was a neighbour and I taught his daughter.
- 18 Q. 269 I see. On the 21st of June 1995, for example, at 2156, Mr. Laden was writing
19 to Mr. Linnane who was an employee of the Dundrum Property Investment Company
11:54:39 20 advising him of various councillors that he might contact and he identifies in
21 the last sent sentence of that letter that he would contact you. That there
22 was little chance here of support. This was support to remove the written,
23 amendment to the Written Statement. You don't recall any such contact?
- 24 A. I don't.
- 11:54:57 25 Q. 270 Yes.
- 26 A. I remember speaking to Joe Laden about the Dundrum Bypass.
- 27 Q. 271 Yes.
- 28 A. But you know, he could have, I just don't remember it.
- 29 Q. 272 For example, on the -- at 2167. On the 17th of July 1995. I think you had
11:55:13 30 occasion to write to Mr. Lynn thanking him for his kind words and good wishes?

11:55:18 1 A. Mr. Laden is it?
2 Q. 273 Dear Joe?
3 A. Joe Laden. Sorry.
4 Q. 274 Yes?
11:55:22 5 A. I'm assuming that he must have written to me when I was elected Cathaoirleach.
6 Q. 275 Yes. You were now the Cathaoirleach of Dun Laoghaire-Rathdown County Council?
7 A. Yes.
8
9 CHAIRMAN: Mr. Quinn, I don't want to rush you. Just if you are going to take
11:55:36 10 a little while we'll take a break.
11
12 MR. QUINN: No, I'll just ...
13
14 CHAIRMAN: All right.
11:55:41 15
16 MR. QUINN: I have no no further questions.
17
18 CHAIRMAN: All right. Do you have any questions Mr. Wolfe?
19
11:55:54 20 MR. WOLFE: Just a very few very brief questions, Mr. Chairman, it will be
21 about five minutes or less.
22
23 CHAIRMAN: All right.
24
11:55:54 25 **THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. WOLFE:**
26
27 Q. 276 Deputy Mitchell, good morning.
28 A. Good morning.
29 Q. 277 I act on behalf of Mr. Joe laden who has been mentioned and Mr. Barry
11:55:59 30 O'Donnell. You probably aren't aware of Mr. O'Donnell or you didn't have any

- 11:56:04 1 connections with him. Mr. O'Donnell was involved with Mr. Laden in some of the
2 companies who were proposing development of these lands during some of the
3 relevant period --
- 4 A. Uh-huh.
- 11:56:13 5 Q. 278 -- in broad terms. Now, I think it's clear that the companies or some of them
6 lobbied you and made contact with you at certain times. We've gone through
7 some of that now. Mainly through Mr. Kelly. We've seen some correspondence
8 between yourself and Mr. Kelly and there's been reference to, I think you say
9 there was at least one meeting with Mr. Kelly, but you can't be absolutely
11:56:35 10 certain obviously with the remove of time.
- 11 A. Uh-huh. Well I'm certain there was a meeting.
- 12 Q. 279 Oh, yes. There may have been more I think you're saying, but probably only
13 one?
- 14 A. Not structured. You know I'd have met him at functions and things.
- 11:56:49 15 Q. 280 And also, you think there was one meeting with Mr. Laden in relation to the
16 bypass issue but other things may have been discussed, isn't that a fair
17 summary of what you're saying in your evidence?
- 18 A. Yeah.
- 19 Q. 281 Can I just ask you this Deputy Mitchell. Would it be fair to say that all such
11:57:05 20 contacts with you were part of the normal or regular lobbying process that went
21 on at the time that was a feature of the planning and development situation at
22 the time?
- 23 A. For Mr. Laden?
- 24 Q. 282 For Mr. Laden or for Mr. Kelly over those years in the early '90s?
- 11:57:20 25 A. Yeah. Certainly from Mr. Laden, Mr. Kelly, I always felt was very aggressive.
- 26 Q. 283 No, aside from whether he was aggressive or whether or not you firmly disagreed
27 or strongly disagreed. They were part of the normal or regular process that
28 went on.
- 29 A. Absolutely, yeah.
- 11:57:39 30 Q. 284 Albeit with a caveat that it was a particularly intensive process during that

11:57:44 1 time, isn't that right? You say in the brief at page 513, your letter or
2 statement that you sent to the Tribunal at 513.
3
4 You say that it was a particularly towards the top of the page you say, "seven
11:57:56 5 year rollercoaster, consideration of highly controversial individual proposals
6 in the absence of an overall framework."
7
8 And then a few lines down under 3B, you say that, "the role played by
9 developers, land owners, the public and by lobbyists were similar and that all
11:58:10 10 four groupings were involved at various times in intensive lobbying of
11 councillors both for and against different proposals." But these contacts by
12 Mr. Laden or Mr. Kelly were part of that intensive lobbying.
13 A. Absolutely.
14 Q. 285 And in your opinion there was nothing abnormal or improper about such contacts
11:58:29 15 in any way in your opinion?
16 A. No, nothing, nothing. They weren't as intensive as many other developments.
17 In fact quite -- from time to time, you know.
18 Q. 286 Even if others were a lot more intensive, to whatever extent these were
19 intensive --
11:58:42 20 A. They were normal, yeah.
21 Q. 287 -- they were normal and there was nothing improper about them in any way in
22 your opinion?
23 A. No.
24 Q. 288 Thank you, Deputy Mitchell.
11:58:49 25
26 CHAIRMAN: All right. Are there any other parties?
27
28 COUNSEL: We are for Mr. Kelly. We have no questions.
29
11:58:56 30 CHAIRMAN: Thank you very much

11:58:57 1 A. Thank you.

2

3

THE WITNESS THEN WITHDREW.

4

11:59:00 5 CHAIRMAN: We'll just rise for about ten minutes.

6

7

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED

8

AS FOLLOWS:

9

11:59:31 10 MR. QUINN: Thank you, Sir. Kieran O'Malley, please.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

MR. KIERAN O'MALLEY, HAVING BEEN SWORN, WAS QUESTIONED BY

MR. QUINN AS FOLLOWS:

CHAIRMAN: Good afternoon, Mr. O'Malley.

A. Good afternoon.

MR. QUINN: Thank you Mr. O'Malley. Mr. O'Malley, I think you wrote to the Tribunal on the 20th of April 2006, in response to a letter of the 14th of March 2006, in relation to a motion which appears to have been sent out in your headed notepaper and if I could have 1027, please. The motion in question and you enclosed a draft of the motion with your letter, which is at 1028.

A motion which was dealt with at the Council meeting on the 2nd of November 1993. And in your letter at 1027. You say that, "we opened a file Cabriole in Dundrum November 1988, but I know that I was advising in relation to these lands prior to that date, at least since August 1988. Much of my work was advice to Mr. Aidan Kelly who represented the client and who I can only presume, since I cannot recall it, for a fact that I am therefore relying on my memory, asked me to draft the motion. I have the original of my letter of the 5th of October 1993, it is enclosed. I have retained a copy. Other than this letter I have no other reference on the file explaining or confirming the circumstances at the time so I am working from memory. I confirm the motion was drafted by me in the letter of the 5th of October 1993 in response to a request by Mr. Aidan Kelly or some other representatives of the client who asked me to send it to Mr. Kelly. Mr. Kelly or someone else obtained the signature and crossed out that part of my letter which was superfluous to the motion proper and presumably attached a map to it identifying the property to which the motion referred."

And I think subsequently and again in response to a further query from the

- 12:19:18 1 Tribunal you provided a further narrative statement and that's to be found at
2 1719, and I think you advised the Tribunal that you had been involved with
3 these lands since 1988 up to approximately March 1994, is that correct?
- 4 A. That is correct.
- 12:19:36 5 Q. 289 You have given evidence in the past, Mr. O'Malley and I think you were and are
6 a planning consultant and you advised property developers in relation to
7 planning applications from time to time in relation to the rezoning of their
8 lands?
- 9 A. Correct.
- 12:19:49 10 Q. 290 And I think you probably provided advice in relation to these lands in both
11 capacities, that is to say both in relation to a planning application and in
12 relation to rezoning?
- 13 A. Yes.
- 14 Q. 291 And I think I opened and you would have heard the evidence of Councillor
12:20:03 15 Mitchell. A letter of the 26th of August 1988 at 1067. Where your clients,
16 having attended a meeting, a meeting I think attended by you, on the 25th of
17 August 1988, made certain proposals in relation to the development of these
18 lands and made certain recommendations in relation to what they might put
19 forward as what might be termed a planning gain to the Council, is that
12:20:28 20 correct?
- 21 A. Yes, I didn't hear everything that Councillor Mitchell said.
- 22 Q. 292 Yes. But it would be fair to say that in relation to this development. That
23 by the late 1980's Mr. Laden and Mr. Kelly were anxious to develop their
24 property?
- 12:20:44 25 A. Yes.
- 26 Q. 293 And they were in discussions with the Council in relation to that development?
- 27 A. Yes.
- 28 Q. 294 And were making proposals, isn't that right?
- 29 A. Yes, their scheme didn't fit the then plan. It required an adjustment which is
12:20:55 30 why it was being aired as the plan was being reviewed.

- 12:20:59 1 Q. 295 Yes. And I think you had advised in 1990, November 1990. If we could have
2 1097. You had advised Mr. Laden that he should, that Councillor Hickey would
3 know a procedure for rezoning or a review of the Draft Development Plan, isn't
4 that right?
- 12:21:19 5 A. Yes.
- 6 Q. 296 And that's a procedure which stemmed from a meeting or a letter of the 9th of
7 November 1990. Which provided that landowners or councillors could put forward
8 rezoning motions?
- 9 A. Yes.
- 12:21:30 10 Q. 297 And why did you advise Mr. Laden that Councillor Hickey would know the
11 procedure for rezoning?
- 12 A. Well, like myself, he resided locally. He represented the local area and I had
13 met him before in relation to a previous plan review. So I knew he was
14 familiar with the mechanics of motions.
- 12:21:51 15 Q. 298 It wasn't because he had attended some of the meetings with Mr. Kelly or
16 expressed an interest in relation to that?
- 17 A. I don't remember him being involved at all, to be honest.
- 18 Q. 299 Yes?
- 19 A. It's just that he was -- I knew he was a local.
- 12:22:04 20 Q. 300 Yes?
- 21 A. And I knew that he would know the mechanics of it.
- 22 Q. 301 Yes?
- 23 A. But I don't recall ever even meeting him in relation to this matter.
- 24 Q. 302 In any event, I think a motion was successful in May 1991, at 584. A motion
12:22:21 25 proposed by Councillor Hickey and Councillor Mitchell, isn't that right? The
26 Draft Plan should record the lands as having a C zoning, a town centre zoning
- 27 A. Well I can see it here, yes.
- 28 Q. 303 Yes. You would have been advising the clients at that time, isn't that right?
- 29 A. Yes.
- 12:22:37 30 Q. 304 And then I think in 1992, and the review of the '91 Draft Plan. You were again

- 12:22:43 1 involved and if we could have, please, 1132. On the 6th of May 1992 there is,
2 there appears to be a telephone message left for you by Mr. Kelly, isn't that
3 right?
- 4 A. That's correct.
- 12:22:55 5 Q. 305 Where he asks, "that he would like to update you on this long drawn out saga
6 since Joe laden was no longer involved."
- 7 A. Yes.
- 8 Q. 306 Did you speak with Mr. Kelly at that stage?
- 9 A. I'd have to look at a file to know that, I don't know.
- 12:23:11 10 Q. 307 Well presumably ...
- 11 A. It was a fitful thing, whenever something that I could help out on or advise on
12 arose I was contacted.
- 13 Q. 308 Yes.
- 14 A. Otherwise it would be silence in between.
- 12:23:25 15 Q. 309 Yes. And certainly we know that by 1993 you, on the 3rd of August 1993, at
16 1214. You were putting in a obvious in a submission in relation to the
17 amendments, the 1993 amendments to the 1991 Draft Plan, isn't that right?
- 18 A. Yes.
- 19 Q. 310 And that submission being put forward by you, I think, was approved or amended
12:23:43 20 by Mr. Kelly, isn't that right? And we see that at the top -- you see there as
21 amended and lodged by Aidan Kelly, 3rd August.
- 22 A. I see the note, yes.
- 23 Q. 311 Did Mr. Kelly have, therefore, an input into that submission?
- 24 A. Yes.
- 12:23:57 25 Q. 312 Now, did you know that Mr. Kelly had retained the services of Mr. Frank Dunlop
26 in 1992?
- 27 A. No.
- 28 Q. 313 You didn't know that?
- 29 A. No.
- 12:24:05 30 Q. 314 Did you know that Mr. Kelly had retained the services of Mr. Richard Lynn?

12:24:09 1 A. No.

2 Q. 315 At any stage?

3 A. No, I don't even know it now.

4 Q. 316 I see. Had you ever met Mr. Richard Lynn in the context of lobbying on behalf

12:24:18 5 of developers?

6 A. No, no.

7 Q. 317 Do you know Mr. Lynn?

8 A. I think I might have met him once in another matter in the north side.

9 Q. 318 Yes?

12:24:24 10 A. But I'm not even certain of that.

11 Q. 319 You knew Mr. Dunlop?

12 A. I met him once or twice, yes.

13 Q. 320 Yes.

14 A. And I know him now.

12:24:32 15 Q. 321 Yes.

16 A. I met him more recently.

17 Q. 322 Yes. And you know that he was a lobbyist at this time, isn't that right?

18 A. Well, it's easy to know now having seen all of the press coverage of it.

19 Q. 323 Yes?

12:24:43 20 A. I knew he did some of it. I wasn't aware that he was as widespread as it

21 appears to have been. I certainly didn't know that he was involved in the Pye

22 Lands in any way.

23 Q. 324 You did not know that he was involved in Pye Lands?

24 A. I certainly didn't.

12:24:56 25 Q. 325 And you didn't know that Mr. Lynn was involved in Pye Lands?

26 A. Correct.

27 Q. 326 There is no reason why you wouldn't have known because you were the planner,

28 you yourself were giving advices?

29 A. Well, you see, I would be -- the principals, either Mr. Laden or Mr. Kelly,

12:25:12 30 would call me whenever something that they thought that I could assist on.

- 12:25:15 1 There was no need to drag me into other matters which might have involved Mr.
2 Dunlop or Mr. Lynn.
- 3 Q. 327 What matters do you think would have involved Mr. Dunlop and Mr. Lynn?
4 A. I presume whatever representations they were making to whomever.
- 12:25:28 5 Q. 328 Yes. You yourself I think made representations, isn't that right? To
6 councillors?
7 A. Well I came across them, in relation to the two matters you've alluded to at
8 the start, in relation to Development Plan reviews and in relation to
9 applications. I had done so back the previous plan, ten years previously.
- 12:25:51 10 Q. 329 For example, if we look at 1223, on the 4th of October 1993, you were advising
11 Mr. Kelly of a series of councillors who you knew either --
12 A. Yes.
13 Q. 330 -- fairly well or quite well, isn't that right?
14 A. Yes.
- 12:26:03 15 Q. 331 And you supplied a list of councillors, isn't that right?
16 A. Yes.
17 Q. 332 For the area. If we have 1224 and you had marked out a whole series of
18 councillors that you knew either well or quite well, isn't that right?
19 A. Yes.
- 12:26:17 20 Q. 333 And taking, for example, just some of the councillors on that first page that
21 you have an asterisk beside. How do you say you would have known them or how
22 would you have come to know them?
23 A. From representations made -- where you'd have clients with land in other parts
24 of Dublin County --
- 12:26:32 25 Q. 334 Yes?
26 A. -- they might introduce me to the councillors on the basis that I could make a
27 proposition or I could support their view that might assist them with, for
28 example, the officials.
29 Q. 335 Yes?
12:26:44 30 A. I would be seen as somebody who could perhaps add something to the

- 12:26:50 1 attractiveness of the proposal and in that way perhaps be persuasive with the
2 member.
- 3 Q. 336 So you would have tried to persuade councillors on behalf of landowners or
4 developers that lands should be rezoned?
- 12:27:02 5 A. Well I would have advanced where there were planning arguments occurred to me
6 to support it, yes.
- 7 Q. 337 Can I ask you, were you ever asked for money for development by a Councillor?
8 A. No.
- 9 Q. 338 By any Councillor?
10 A. No.
- 11 Q. 339 You knew there were allegations though, I take it in 1992?
12 A. I don't know when we knew that. I mean, that occurred, that became more
13 obvious and more public more recently.
- 14 Q. 340 Now, if we have 1227. I think your office records a memorandum, which must
12:27:37 15 have been made on the 2nd of November 1993, where you asked your secretary to
16 phone and name councillors to seek their support, isn't that right?
17 A. Yes.
- 18 Q. 341 Was that a usual job for you to do or a usual undertaking that you would have
19 ...
- 12:28:01 20 A. Not really. I can't remember the circumstances but the typical circumstance
21 would be this, that somebody would tell you that there's a meeting tomorrow or
22 today more like and you know, these things tend to happen suddenly or at short
23 notice. And somebody would say the motion to do with Pye or whatever is up
24 tomorrow or the day after and do you know anybody? And I asked my secretary to
12:28:27 25 ring around those numbers, those people there.
- 26 Q. 342 Is that your memo to your secretary, is it?
27 A. Yes, I asked my secretary to do that, yes.
- 28 Q. 343 And I think you also asked her, did you, to ask Mr. Kelly which councillors
29 were putting forward the motion on behalf of the Pye Lands, isn't that right?
12:28:54 30 Just underneath?

- 12:28:55 1 A. Yeah, I'm just reading it now, I'm just reading it now, yeah. Yeah. Yes, that
2 was a note I would have dictated to my secretary. She typed it up and took it
3 from there.
- 4 Q. 344 And who would have asked you to put that entrain?
- 12:29:13 5 A. I'm not sure. I have to say it must be somebody on the client end.
- 6 Q. 345 Yes. And the client end was it Mr. Kelly or Mr. Laden or both?
- 7 A. Well I never understood which, to be honest.
- 8 Q. 346 One can take it either one or the other of them would have contacted you?
- 9 A. Yes, I imagine so, I can't be certain.
- 12:29:32 10 Q. 347 Your dealings with either with Mr. Kelly or Mr. Laden?
- 11 A. Almost exclusively, I can't recall anybody else.
- 12 Q. 348 You say that neither Mr. Kelly nor Mr. Laden advised you that Mr. Dunlop and/or
13 Mr. Lynn were involved in lobbying councillors?
- 14 A. I wasn't aware of that at the time, I'm quite certain.
- 12:29:49 15 Q. 349 And who selected the councillors that we see on that page?
- 16 A. Well I must have.
- 17 Q. 350 We see, for example, Breda Cass, the note is "will listen to it at the meeting
18 and will make her mind up then", isn't that right?
- 19 A. "Make up her mind then."
- 12:30:04 20 Q. 351 That was her approach?
- 21 A. These are my secretary's commentaries in relation to how she got on with the
22 phone calls.
- 23 Q. 352 And she wasn't able to make any contact with Councillor Mitchell, isn't that
24 right?
- 12:30:14 25 A. No reply there apparently.
- 26 Q. 353 I think then on the 1st of November --
- 27 A. At the bottom it says "the meeting this morning."
- 28 Q. 354 So difficult to get to get councillors in.
- 29 A. Typical, short notice, you know.
- 12:30:28 30 Q. 355 Yes. And then I think a planning application was submitted on the eve of the

- 12:30:33 1 consideration of the matter on the 1st of November, isn't that right? If we
2 have 1229. This was...
- 3 A. Yes.
- 4 Q. 356 And I think then a difficulty arose in the consideration of that and a further
12:30:58 5 application in October '94, isn't that right? But you say that your
6 involvement had terminated by March '94, is that right?
- 7 A. That's right. They were the architects. They would have been there throughout
8 but there would be, if you like, a back room or a background role as the things
9 evolved. It was essentially a planning matter I was dealing with.
- 12:31:20 10 Q. 357 Yes. You had also I think an involvement with an EIS study, isn't that right?
- 11 A. I tried to assemble a team to do that. It looked like it was heading in that
12 direction, yes.
- 13 Q. 358 There was an exchange of correspondence, I think, in early January '94 and at
14 1246, between yourself and Cabriole possibly Mr. Linnane. And then a response
12:31:42 15 to your queries in relation to fees. I think in February '94, at 1247 where
16 the EIS fee was suggested might be split, isn't that right?
- 17 A. Well that -- I think the tail end. Yeah, this was late in the thing. The
18 third gentleman that I, Mr. Linnane, apparently came into it at this stage.
- 19 Q. 359 Yes?
- 12:32:04 20 A. I don't think that I ever met him and was dealing with that. My involvement
21 was virtually over here.
- 22 Q. 360 Yes?
- 23 A. That EIS was never done. The need for it disappeared.
- 24 Q. 361 Yes. Do you know why a motion had not been lodged to reverse the Written
12:32:21 25 Statement amendment?
- 26 A. No.
- 27 Q. 362 Yes. Thank you very much, Mr. O'Malley.
- 28 A. You're welcome.
- 29
- 12:32:30 30 CHAIRMAN: Do you want to ask any?

12:32:32 1
2 MR. WOLFE: No questions, Mr. Chairman.
3
4 CHAIRMAN: No questions. All right, do you want to ask?
12:32:38 5
6 JUDGE FAHERTY: The planning permission application that was lodged on the 1st
7 of November. We had it up on screen there. I think it was 1229. That was in
8 just the day before the, as I understand it, the vote on the Pye Lands. There
9 was a motion in to delete the changes that had been made to the Pye Lands, I'm
12:33:15 10 just asking you, there was a motion before the Council in relation to the Pye
11 Lands, as I understand it now, Mr. Quinn will correct me if I've got the wrong
12 end of the stick. In '92 the Pye Lands which had been zoned C in the Draft
13 Plan had gone back to the 1983 zonings as a result of a vote.
14 A. Yes.
12:33:20 15
16 JUDGE FAHERTY: Had gone back to A&E and C1 I think.
17 A. All right.
18
19 JUDGE FAHERTY: And there was a motion then in November to delete those
12:33:29 20 changes and to, for it to revert effectively to what was on the draft, to C.
21 A. Yes.
22
23 JUDGE FAHERTY: On the draft. I'm just asking you, when this is submitted on
24 the 1st of November. This is before the vote, as I understand it.
12:33:46 25 A. Yes.
26
27 JUDGE FAHERTY: And I just want to ask you. In what context was the planning
28 permission application being submitted?
29 A. Well I don't know, but my guess is that it was submitted to show, if you like,
12:33:59 30 serious intent in relation to the redevelopment.

12:34:01 1
2 JUDGE FAHERTY: I see.
3 A. It might have been seen as persuading the members that the applicants weren't
4 just lobbying, they had a scheme, a real scheme in mind and they were tabling
12:34:13 5 it as proof of that. That would be my guess but I don't know.
6
7 JUDGE FAHERTY: And would you have known whether or not the members would
8 be -- because that would have gone into the Council offices.
9 A. He yes.
12:34:24 10
11 JUDGE FAHERTY: Obviously, it was the Council who makes the decision on
12 planning.
13 A. Yes.
14
12:34:28 15 JUDGE FAHERTY: And I know that there's planning committees and that. But
16 would you have known that that would have gone to councillors?
17 A. That application would have gone to the --
18
19 JUDGE FAHERTY: To the Council administration, yes.
12:34:41 20 A. That's where it would normally go. It wouldn't ordinarily go anywhere else.
21
22 JUDGE FAHERTY: But it was in, in any event, before the vote. And you've said
23 why it's gone in. That's fine Mr. O'Malley.
24 A. You're welcome.
12:34:52 25
26 JUDGE FAHERTY: Thank you.
27
28 CHAIRMAN: Thank you very much Mr. O'Malley.
29
12:34:55 30 **THE WITNESS THEN WITHDREW.**

12:34:56 1
2 MS. DILLON: Mr. Willie Murray, please.
3
4 CHAIRMAN: I don't see Mr. Murray here.
12:35:01 5
6 MS. DILLON: Mr. Murray had been in contact with the -- with Mr. King and had
7 requested that his evidence be taken not before twelve o'clock. And that was.
8
9 CHAIRMAN: I saw that.
12:35:11 10
11 MS. DILLON: And it's on the web page. Now, we have no idea why Mr. Murray
12 isn't here. But it's most unlike Mr. Murray. So we are sitting next week.
13
14 So subject to agreement from yourself, Sir. Possibly in view of the fact that
12:35:23 15 he is the only witness. He will take approximately 35, 40 minutes. We will be
16 able to fit him in next week, subject to his availability next week.
17
18 CHAIRMAN: Is there any point in waiting?
19
12:35:35 20 MS. DILLON: We have tried to contact him in the last fifteen/twenty minutes
21 but have not been successful.
22
23 CHAIRMAN: Well his practice has been prompt about his attendance. We will
24 have to assume that he is not coming in today. So will we just put it back to
12:35:52 25 any particular date?
26
27 MS. DILLON: No. I would suggest 10.30 on Tuesday, sorry, I think it's eleven
28 o'clock on Tuesday for Mr. Murray and we'll take him as the first witness on
29 Tuesday.
12:36:04 30

12:36:04 1 CHAIRMAN: All right. We'll adjourn it then.

2

3 MS. DILLON: May it please you, Sir.

4

12:36:08 5 CHAIRMAN: All right.

6

7 **THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY, 30TH JANUARY 2007**

8 **AT 11AM.**

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30