

10:46:18 1

THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY

2

7TH OCTOBER 2008 AT 11 AM:

3

4

MR. QUINN: Good morning, Sir. The Tribunal this morning is assembled to

11:04:34 5

afford Mr. Redmond an opportunity to put some questions to Mr. Enda

6

Conway. You recall Mr. Conway was the planner, senior planner within

7

Dublin County Council, who oversaw the review of the 1983 Development Plan

8

and who gave evidence in the Carrickmines Module.

9

Mr. Enda Conway please.

11:04:51 10

11

CHAIRMAN: Morning, Mr. Redmond.

12

13

MR. REDMOND: Good morning, Your Lordship.

14

11:05:00 15

MR. QUINN: You are already sworn, Mr. Conway.

16

17

CHAIRMAN: Morning, Mr. Conway.

18

19

MR. ENDA CONWAY RETURNS TO THE WITNESS BOX AND IS QUESTIONED

11:05:11 20

BY MR. GEORGE REDMOND AS FOLLOWS:

21

22

Q. 1 Good morning, Mr. Conway.

23

A. Morning, George.

24

Q. 2 Can you speak fairly --

11:05:29 25

26

CHAIRMAN: You can pull those closer to you, Mr. Conway, if you wish, or

27

do they move?

28

A. Okay.

29

11:05:35 30

CHAIRMAN: Or you can move in closer, all right?

11:05:39 1 Q. 3 MR. REDMOND: Good morning.

2 A. Morning, George.

3 Q. 4 I have been reading -- I've read your statement and it is clear there

4 from, that you are very much involved in planning in County Dublin, as a

11:06:01 5 professional planner from the 1970s.

6 A. Yes, that's correct, yes.

7 Q. 5 And as the issues that I am concerned with today relate to the draft of

8 the 1983 review, I'll -- that's what I will be asking questions about.

9 A. Yes, I was directly involved in that.

11:06:35 10 Q. 6 Now, the first Development Plan, three years were allowed for it from the

11 1st October '84, but of course it wasn't prepared in three years, for all

12 sorts of reasons, including lack of planners, and it wasn't completed in

13 the county until '72, isn't that right?

14 A. The first plan completed by the council was 1972.

11:06:59 15 Q. 7 '72?

16 A. That's right.

17 Q. 8 Yes. There was an intervening plan in '69, but the -- it was ruled out as

18 being unlawful. But anyway the '72 plan should have been reviewed by

19 1977, in accordance with the law, which allowed five years for a review,

11:07:19 20 isn't that right?

21 A. That's correct, five years from the 1st October '69.

22 Q. 9 But in fact whatever the reasons it wasn't finally reviewed and completed

23 as a draft until 1983, isn't that right?

24 A. That's correct, yes.

11:07:33 25 Q. 10 So in other words, we have had two plans and in neither case was the time

26 schedule set by the law, in anyway complied with?

27 A. Well, they both over ran, but there were applications to the Minister for

28 the Environment at the time for extensions of the time, which I presume

29 legalised the situation.

11:07:55 30 Q. 11 Yes, that is true. The -- insofar as the Development Plans under the

11:08:00 1 legislation at that time was concerned, the making of a plan was a reserve
2 function and the making of an application for an extension of time was a
3 reserve function.

4 A. Yes.

11:08:14 5 Q. 12 They were reserved functions. But at that time, do you accept that the
6 making of a draft was an executive function, it was the manager's
7 function?

8 A. I think that is not clarified really. I know it has been discussed on a
9 number of occasions. I think the making of the plan is a reserve function
11:08:38 10 of the council, I always considered that the making of the draft was also
11 there, automatically part of that process therefore their function.

12 Q. 13 Needless to say it was never resolved by the courts but when it first came
13 up I certainly remember a consultation I think with the William Finlay and
14 Ronan Keane was the junior and the firm advice was to the managers in
11:09:02 15 Dublin at that time, was that the draft was a matter for the manager, but
16 however, it's --

17 A. Okay.

18 Q. 14 It has some relevance as we come along to the review. So insofar as your
19 duties were concerned, Mr. Conway, were you assigned duties in relation to
11:09:20 20 the review or to the Development Plan and sort of, in the 1970s, 1980s?

21 A. Yes, I was involved in the review of the '72 plan which culminated in the
22 '83 plan. I was also involved in the review of the '83 plan which was
23 finalised in '93.

24 Q. 15 Yes. And once the plan had been adopted in '83, it became operative and
11:09:54 25 the basis for development control.

26 A. Yes.

27 Q. 16 And insofar as, did you have a team around you to get ready for this
28 review?

29 A. Oh, yes, there was a team set up to carry out the review and to prepare
11:10:12 30 the new plan.

- 11:10:14 1 Q. 17 So the position, the position then 1983 was, you knew you had five years
2 under the law to get ready for the new plan. In fact the law required
3 that it be made in the five years, reviewed?
- 4 A. That is so. But in fact the team that I headed the carry out the review
11:10:40 5 didn't start until about '87.
- 6 Q. 18 You didn't start until when?
- 7 A. Didn't start work on the plan until 1987.
- 8 Q. 19 Well that's fair enough, but in the meantime, insofar as draughtsman,
9 technicians under your control, they would be updating Ordnance sheets,
11:10:57 10 putting in development?
- 11 A. Yes, part of the work there was that they did a major update of the basic
12 maps, Ordnance Survey maps which hadn't been updated for quite some
13 sometime and the council carried out a considerable update of those plans,
14 that took quite a long time.
- 11:11:18 15 Q. 20 While it is desirable from, and you know on presenting a plan to the
16 public to have an up-to-date a scene as possible, there was nothing
17 mandatory about having absolutely everything up to date. In fact could
18 you have gone on display, I am making just this point to you, that you
19 could have gone on display with say a 1940 Ordnance sheet, although it
11:11:44 20 wouldn't be, from the point of view of the public, it wouldn't be that
21 revealing or that helpful?
- 22 A. It would have little meaning because so much things had happened in the
23 meantime and so much development was not recorded, so that's why we
24 updated as far as possible the maps.
- 11:12:03 25 Q. 21 Yes. Well as you say when you started in '87 the clear evidence of the
26 reviewing process was the series of position papers which were prepared in
27 the Planning Department?
- 28 A. Yes, we prepared a series of working papers which represented to the
29 Council one by one, in some detail. These were background paper they were
11:12:30 30 the basis on which the approach to the Development Plan was set.

- 11:12:36 1 Q. 22 And the written statement would have been largely based on these papers.
- 2 A. It was, yes.
- 3 Q. 23 Yes. And the clear conclusion that you came to in those papers, in
- 4 relation to the future plan, it more or less summed up, it more or less
- 11:13:05 5 suggested that there was sufficient land zoned and there were a sufficient
- 6 number of existing none used permissions around to carry you into the
- 7 foreseeable future.
- 8 A. Yes, we carried out a full review of all the development that had taken
- 9 place in the county to date. Bearing in mind of course that the 1972 plan
- 11:13:31 10 was a 20 year plan in it's time. So at that stage that was expected that
- 11 there was enough lands zoned for the development for 20 years from 1972 so
- 12 it was on the basis of that we carried out a review and we analysed the
- 13 situation. In relation to the land uses it was particularly residential
- 14 and industrial.
- 11:13:53 15 Q. 24 This was clearly set out in diagrams, statistics and given to the Council
- 16 and circulated, it was a document in circulation right throughout the
- 17 County Council staff as well.
- 18 A. Oh, yes it was. They were published as such, they were available to the
- 19 public.
- 11:14:17 20 Q. 25 Well the persons, the people who would have been involved in the, you
- 21 know, finally presenting that to the Council as a group would have been
- 22 the planning manager.
- 23 A. Principal officer in the Planning Department, then the County Manager --
- 24 Q. 26 His deputy.
- 11:14:40 25 A. The city and County Planning Officer, the deputy planning officer and
- 26 myself.
- 27 Q. 27 And on the administrative side there would have been a principal officer
- 28 as well.
- 29 A. Yes.
- 11:14:58 30 Q. 28 And did -- was it ever discussed at that stage -- it was quite clear,

- 11:15:03 1 would you agree that it was quite clear at that stage that there was no
2 need for any delay in relation to this plan, a draft could have been put
3 on display straightaway?
- 4 A. Well, that was a matter for the collective members of the council
11:15:20 5 themselves to decide the procedures, and I think at one stage during the
6 process there was an election so that you found there were a lot of new
7 councillors came in halfway through the process. So we had to go back an
8 revise our reports to them just to get them on line.
- 9 Q. 29 Yes. So that resulted in requests for -- to the minister for an extension
11:15:47 10 of time.
- 11 A. Yes.
- 12 Q. 30 Yes, which the council of course approved. But in both the maps and the
13 papers you were presenting to the council, in the late 1980s, '87/'88 and
14 running in I think the last paper was some time in '89, there was no
11:16:12 15 suggestion of other major development in the county.
- 16 A. The general situation was that it was considered there was sufficient land
17 zoned for the future development of the county for the subsequent five
18 year period.
- 19 Q. 31 But at that stage, you know, what came in -- insofar as infrastructure is
11:16:37 20 concerned, which of course is a very important element in the planning
21 consideration. In the case of the period between '83 and '89 the Dodder
22 Valley scheme was completed, isn't that so?
- 23 A. It would have been, yes.
- 24 Q. 32 The connection between Blanchardstown and the Liffey Tunnel going across
11:17:10 25 the park, that was affected?
- 26 A. Yes.
- 27 Q. 33 Insofar as waste water schemes, Swords and Malahide were carried out.
- 28 A. Yes, there was a lot of infrastructural work carried out in cooperation,
29 between the Dublin County Council and the Dublin City Council at the time.
- 11:17:35 30 Q. 34 And Garristown, Ballyboughal, Oldtown they all had water treatment plants?

- 11:17:44 1 A. Most of them, yes.
- 2 Q. 35 Reservoirs had been established at Ballycoolin, Cookstown, Sandyford,
3 Rathmichael.
- 4 A. Yes, I don't recall which dates but yes, you are correct. They were all
11:17:56 5 --
- 6 Q. 36 And insofar as water supply, the Liffey aqueduct from Ballymoreustace to
7 Saggart had been brought in.
- 8 A. That's right. Yes.
- 9 Q. 37 That had been carried over to Stocking Lane.
- 11:18:09 10 A. Yes.
- 11 Q. 38 So the position, and the other last thing there was no ban on disposal of
12 effluent into the sea in those days, the major pipeline from the
13 Shanganagh works had been laid.
- 14 A. That's right, yes.
- 11:18:31 15 Q. 39 And just one other things that strikes me as the pumping station at Esker
16 in Lucan, and the one at Quarryvale, those two had been put in operation?
- 17 A. Yes, I think so, yes.
- 18 Q. 40 But the Liffey lower pumping station hadn't?
- 19 A. I don't recall the exact details of those ones now but I take what you are
11:18:54 20 saying, yes.
- 21 Q. 41 So insofar as when you were telling the councillors that there was
22 sufficient, the infrastructure was also there?
- 23 A. Yes but in saying there was sufficient lands zoned and all that, we also
24 had in mind the fact that there were various projects, infrastructural
11:19:13 25 projects in mind or in train that would facilitate those developments as
26 well.
- 27 Q. 42 Yes. But in those, in '89, at this stage looking through the reports,
28 there is no mention of Carrickmines, no mention anywhere of Carrickmines.
- 29 A. Carrickmines as such emanated from the ERDO report which was published in
11:19:47 30 1988 and that was ERDO, I think there has been recorded previously but

11:19:56 1 ERDO was set up by government to investigate the options for the future
2 development of the Dublin region; that is the Dublin city, Dublin County
3 and the adjoining counties, and that final report was published in 1988.
4 It had recommended as I recall, that the Shanganagh Vale area was an area
11:20:16 5 suitable for future development.

6 Q. 43 Well, as you say it mentioned Shanganagh. Now, I know from reading the
7 papers, you are a south county man yourself, where would you describe
8 Shanganagh?

9 A. Well, Shanganagh is on the coast, that's where the outflow is, whereas
11:20:38 10 Carrickmines Valley is in land, I mean, there is some distance between
11 them, yes.

12 Q. 44 So yes you see, as far as I recall there is a Shanganagh Castle there at
13 the moment, but the old Shanganagh Castle was just where the Bride runs to
14 the sea at Loughlinstown?

11:20:58 15 A. Yes, over there, yes.

16 Q. 45 How does it -- how did it -- how was it interpreted as Carrickmines, it's
17 something I just don't understand, I read it myself and I said well I
18 presume it's going to be down on either side of the Bray Road or something
19 like that, but it seems to have --

11:21:23 20 A. I think the ERDO report, I am not quite sure, I think the ERDO report
21 identified it by means of a rough sketch map, this area roughly, they did
22 not put boundaries to it as such.

23 Q. 46 Yes. But insofar as -- you had your, in '89 and '88 you would have had
24 your drawing office staff working on the plans, on the 28 plans I am
11:21:52 25 speaking about now, but there is no -- the Tribunal have furnished me with
26 a copy of the registry, the maps register, in fact I got it yesterday
27 afternoon, and everything under the sun seems to be recorded in it, but I
28 have gone through it for '88, '89 and there is no reference, the only
29 reference to a map being or a plan being drawn for Carrickmines is one of
11:22:26 30 I think it's November 1989 and the planner involved in it's supervision,

11:22:33 1 not so much in it's drawing was a Mr. Neville Davin, now deceased?

2 A. Yes, when I last appeared here, six years ago in December, there were

3 three sketch maps presented to me, we went through them in some detail,

4 all relating to that area. The last one being as I recall 90/123. There

11:22:56 5 were two previous mapping, the 90/123 was a map which eventually was

6 submitted to the Council.

7 Q. 47 Yes.

8 A. There were three maps at that stage that I can recall we discussed here.

9 Q. 48 Yes, I have read the detailed reports and cross-examination about those

11:23:16 10 maps, and about the council meeting and the manager's recommendation and

11 the decision that was taken, but clearly they were maps which were

12 produced in 1990.

13 A. The final one certainly was a 1990 map, the others would have been due

14 some time earlier. Can I just explain that whilst we were dealing with

11:23:40 15 the review of the Development Plan for the entire county there were

16 separate plans being prepared and considered for the Valley, the

17 Carrickmines Valley. And this, that is because it had been highlighted by

18 the ERDO report and also I think as I explained before, we were reaching a

19 stage where the break up of the three, of the county into three was coming

11:24:08 20 closer, and it was becoming evident that Dun Laoghaire/Rathdown as a new

21 county would have a very low income in terms of rateable income. And the

22 local councillors and others were anxious that there should be some more

23 development in the county, and it was because of that, that as a separate

24 job the, an Action Plan was being prepared for the Carrickmines Valley.

11:24:41 25 So at one stage when we were getting to that stage of the Development

26 Plan, we had to get involved and hone in on those plans and try to

27 incorporate them into the Development Plan, so that's the background to

28 that.

29 Q. 49 Yes, sorry I understand the background obviously. But it's clear that

11:25:02 30 from the records, I mean you yourself, I think in evidence gave that you

11:25:07 1 weren't involved in preparing any structural or Action Plan maps for --

2 A. No, I wasn't in the early stages, no.

3 Q. 50 And you recognise the fact that in November '89, there is the first

4 mention of this plan by the advance planning team?

11:25:30 5 A. Yes, about that time, yes.

6 Q. 51 They were doing it in advance and then you, it was picked up then 1990 and

7 as you say, you had possibly some representations from members and the

8 manager made a report suggesting some development there, is that the way

9 it came?

11:25:49 10 A. Correct, yes.

11 Q. 52 You had a change of manager in the middle of 1989, Mr. -- I won't mention

12 names, but the manager who had been there for ten years succeeded me in my

13 job. He moved over to O'Connell Street and you got another manager in

14 charge of planning, who came from Dun Laoghaire?

11:26:11 15 A. Yes, John Prendergast was the manager then.

16 Q. 53 You got --

17 A. Yes, I think so.

18 Q. 54 Sorry.

19 A. I think it was John Prendergast we are talking about.

11:26:21 20 Q. 55 No he went, no he left. He left, he left in '89.

21 A. I see, yes okay.

22 Q. 56 He was succeeded by Mr. O'Sullivan.

23 A. Yes, okay, yes.

24 Q. 57 Can you remember that?

11:26:31 25 A. Yes, I remember that now, yes.

26 Q. 58 He had formally been a manager in Dun Laoghaire?

27 A. Correct, yes.

28 Q. 59 And as manager he would have had experience of some planning in Dun

29 Laoghaire, but he -- would you say that I mean obviously something came

11:26:48 30 in, into the pot to change the disposition of what was evident in the

11:26:55 1 reports, the reports and working papers were clear enough, there is
2 enough, let's get on with it but in '90 we seem to have something else
3 creeping in and it was the report, the '90s reports which you say yourself
4 you had some input into, and which in the end were rejected by the
11:27:19 5 council, they decided no change, isn't that right?
6 A. Yes. I should say that allied to the preparation of the Development Plan,
7 there was a whole series of meetings of the council dealing with the
8 motorway line as it traversed the area and the motorway line was changing
9 day to day in different ways, different means. The whole question was how
11:27:46 10 was this motorway going to be shown or integrated into the Development
11 Plan. So there were two separate actions taking place, the preparation of
12 the Development Plan and the attempt to finalise the line of the motorway.
13 Q. 60 Yes. I accept all that. But I mean, insofar as I'm concerned, I have a
14 very selfish as you might say, interest in this thing, this is all post
11:28:08 15 '89.
16 A. Yes.
17 Q. 61 Yeah, that's fair enough, I accept that fully. So that you have read the
18 evidence, or have you read the evidence and the statements of Mr. Carroll,
19 is that his name?
11:28:31 20 A. Pardon? I beg your pardon George, sorry.
21 Q. 62 I beg your pardon. I just asked you had you read the transcript of
22 evidence of Mr. Gerry Carroll and his statements?
23 A. Yes, I got a copy last night delivered to me. It's a copy of an interview
24 on Thursday 23rd January 2003, Mr. Gallagher, Mr. Quinn and Gerry Carroll.
11:29:01 25 Q. 63 Yes.
26 A. I have a copy of that.
27 Q. 64 Yes. Well, insofar as I am concerned, my involvement in that statement
28 can be stated very briefly. The statement he made, well first of all he
29 said that he copied some planning material in relation to Carrickmines and
11:29:24 30 he gave it to a colleague. Now, asked why he did that the reason he gave

- 11:29:33 1 the Tribunal was that he received a telephone call late in the afternoon
2 from a lady who said she was the manager's secretary?
- 3 A. Yes.
- 4 Q. 65 And -- you have read it, that would they send up over the most up to date
11:29:55 5 map of Carrickmines and his reaction to that was, apparently he was on his
6 own in the office and his reaction to it was "Oh, yes I'll do that for
7 you" he volunteered to bring it over and the lady said no that won't be
8 necessary, it will be collected, that's the story?
- 9 A. Yes, so I read.
- 11:30:26 10 Q. 66 Now, at the time the evidence Mr. Carroll gave to the Tribunal was that he
11 didn't think, he just thought it was for the manager and just did it, that
12 was that, later on, and particularly -- oh sorry when he was cross
13 examined as to when, he was cross examined by Mr. Quinn and by
14 Mr. Gallagher, his initial response to that was "Oh it was 1991" which was
11:30:57 15 a time when there were plans available at the time.
- 16 A. Yes, I can see that there was a confusion as to what in particular, it was
17 not established as far as I can see when exactly this transaction
18 happened.
- 19 Q. 67 Yes, but the point is he made this statement later on, I will come to that
11:31:20 20 later on. But insofar as maps and confidential material, wasn't there a
21 strict rule that none of that would ever pass outside the office?
- 22 A. That is correct, we were very careful at the time to avoid any occurrence
23 like that, and Denis Daly was the chief draughtsman and Denis and I were
24 very careful all of the time that any material that didn't go outside into
11:31:50 25 the wrong hands.
- 26 Q. 68 Yes, but over -- and I accept that fully, over and above that though, the
27 staff would have known the same thing, that if, you know, if something
28 like that had been discovered it would obviously be something for
29 disciplinary action?
- 11:32:06 30 A. Yes.

11:32:08 1 Q. 69 Without -- incidentally you mentioned '72, do you recall a similar
2 incident in '72?
3 A. I beg your pardon?
4 Q. 70 You don't recall, it's probably not relevant, but there was a similar
11:32:22 5 incident in 1972, when plans which had been circulated to councillors,
6 they were in the public domain and it was found that they were being
7 copied in offices in Dublin, but at least they were in the public domain,
8 but the guards were called in at the time, I recall that, but it's just in
9 passing.
11:32:42 10 A. There were plans almost in every pub in Dublin at one stage Dublin.
11 Q. 71 Yes, anyway, in so far as the staff knew the rules.
12 A. Oh the staff knew the rules, yes.
13 Q. 72 They certainly knew the rules. Just one thing I brought along today, beg
14 your pardon.
11:33:07 15
16 CHAIRMAN: All right.
17 A. Could I just say at this point you mentioned he gave a map to his
18 colleague, that's not the case.
19 Q. 73 A colleague, I didn't name him.
11:33:28 20 A. Yeah but I mean -- by a colleague I would imply some other employee of
21 Dublin County Council.
22 Q. 74 Oh many years before.
23 A. Well not at that time.
24 Q. 75 Sorry?
11:33:40 25 A. But not that point.
26 Q. 76 Oh not at that time, no, no question at that time.
27 A. A former colleague.
28 Q. 77 Could I refer, Mr. Conway, to page number 2445, page number 284 it's
29 documentation which is circulated to me and it comprised the County
11:34:06 30 Council file on the -- what do they call it?

11:34:14 1 CHAIRMAN: All right, is there a page number, Mr. Redmond?
2
3 MR. REDMOND: The Carrickmines grading scheme. I will I'll read it out
4 with your permission.
11:34:24 5
6 CHAIRMAN: All right.
7
8 Q. 78 MR. REDMOND: Just to get back to how it came about Enda, in addition we
9 had planning -- there were coordinating conferences and other various
11:34:36 10 conferences of officers.
11 A. Yes.
12 Q. 79 And I was in charge of sanitary services I was the manager, and at that
13 stage we had a monthly conference on sanitary services; that's the water
14 and drainage and disposal of refuse and all that sort of thing.
11:34:52 15 A. Yes, I recall that.
16 Q. 80 The general rule so far as I know from these conferences is that someone
17 from planning used come along, and they'd send somebody to sit in, now
18 whether he was on the day or not, but this note is dated the 30th November
19 1987, when you were in the course of getting ready, doing your planning,
11:35:21 20 advance planning work, and preparing your position papers the heading
21 "Carrickmines Valley sewerage scheme".
22
23 "I attach herewith copy of letter dated 8th -- 5th October '87 received
24 from Department of the Environment in connection with the above scheme.
11:35:32 25 This letter was discussed at the sanitary services staff conference on the
26 10th inst. And it was agreed to reply to the department stating that the
27 scheme would be considered in the context of the review of the Development
28 Plan. The information required for the appendix and annex is being
29 prepare and will be forwarded to the department in due course.
11:36:02 30

11:36:02 1 In the context of the review of the Development Plan it should be noted
2 that this particular scheme" that's the Carrickmines scheme "along with a
3 number of other schemes which are being processed with the Department of
4 the Environment, are unlikely to be undertaken in the foreseeable future
11:36:27 5 and account should be taken of this when reviewing the Development Plan."
6

7 That was addressed to the principal officer of the Planning Department
8 which was the etiquette, you know, you'd write to the principal officer.

9 A. Yes.

11:36:44 10 Q. 81 So I presume that you'd have got it down the line, I would expect that
11 that letter would have gone, you are in charge of the team and they'd send
12 it to you. The situation there, you know, I was very much involved in
13 sanitary services, and the department -- by the way we are in a period
14 now, pre structural funds, we didn't have structural funds in '88 or '89,
11:37:06 15 and the release of money was quite, absolutely totally different to what
16 it became in the '80s and in the '90s and in this century.

17 A. Yes.

18 Q. 82 But it was absolutely clear that it wasn't going to be any money for this
19 for at least ten years in my view, and that -- I chaired that meeting,
11:37:30 20 which signalled to the Development Plan team I hope, that, you know, that
21 that was the position?

22 A. Yes, well, there was another consideration from the planning point of view
23 allied to that, that is the fact that it related to the funding of the
24 sewer. Now, I dealt with this in my original evidence in December 2002,
11:37:53 25 because if some of the Shanganagh lands or Carrickmines Valley lands were
26 zoned for development then there would be a charge on the development
27 towards the cost of providing the sewer, that of course had obvious
28 implications for the overall funding of it and the timing of it, so it was
29 slightly chicken and egg situation there.

11:38:15 30 Q. 83 Yes.

11:38:16 1 A. And that's the way it was seen from the planning point of view.

2 Q. 84 Yes, but insofar as the scheme itself is concerned, there was no prospect

3 of it, in fact it was towards the end of the '90s when it was eventually

4 put in hands and completed, but in '89 and '88, '87 there was, you know,

11:38:36 5 it was just a dim prospect.

6 A. Yes.

7 Q. 85 Do you know how the preparation of that scheme came about?

8 A. Well, I'm aware that there was a pressure to drain lands owned by the

9 County Council in the Ballyogan area, extensive lands there, there was no

11:38:56 10 drainage available to them, and the way to drain them was to the

11 Shanganagh outfall, so that was one pressure from the point of view of the

12 County Council itself, the desire to have the drainage provided for it's

13 own lands.

14 Q. 86 Well, that was certainly a reason, but there was -- I mean how it came

11:39:18 15 about, you were involved in trade union affairs at one stage I think, on

16 behalf of planners?

17 A. Yes.

18 Q. 87 And you are an engineer, were you a member of Cumman an nInnealtóirí.

19 A. Not at that stage, no.

11:39:36 20 Q. 88 No. Well, I ask you that question because we had, again meet meetings

21 with the Cumman every month and one of the items on their agenda, it was

22 there for, used to be, it was a regular item, was that the council, they

23 complained that the council was giving out too much work to consultants,

24 that's roads, sanitary services, all sorts of consultants, there was a

11:40:09 25 view I shared to a point and they were saying that there was no reason why

26 some, they argued that there was no reason why some design work should not

27 be assigned to our in house staff, who weren't busy at the time, and

28 that's how -- the chief engineer came up with that scheme, he said look

29 give that to them. There was no pressure on it at that stage, it just

11:40:40 30 happened to sort out a trade union demand really, but however, they were

11:40:47 1 very competent, I don't know whether consultants were ever brought in, but
2 that's the history of it insofar as it wasn't done because of pressure or
3 anything else, but what you say about Ballyogan lands is quite true.

4 A. I wasn't aware of that but I accept that you are saying.

11:41:12 5 Q. 89 Oh, yes, that's how it happened. And they were very zealous in what they
6 did for the time I was there anyway. But just getting back to my main
7 theme is, that insofar as that telephone call that we, now he that
8 Mr. O'Carroll -- I certainly never made a call, but the point I'm making
9 here is from the evidence of the files and your own, there was nothing on
10 paper or on design, on Carrickmines Valley in '89?

11 A. I think one of the papers, paper number four dealt with industry, I recall
12 going through this with Mr. Quinn in 2002, and reports submitted to the
13 Council at that time bringing in the question of the drainage of the
14 Shanganagh area, the Carrickmines area.

11:42:12 15 Q. 90 Yes, but I mean insofar as any happen map of the area, structural map or
16 an Action Plan map or anything, there was nothing like that available?

17 A. I think the first map that went to the Council in that context was this
18 one 90/123.

19 Q. 91 Yes, it was post '89 that's all I want, that's really all I want to
20 establish.

21 A. Yes that's true, okay.

22 Q. 92 And whatever about the statement of -- the statement which is obtained or
23 should I say which was provided by the Tribunal lawyers to Mr. Carroll.

24

11:42:49 25 MR. QUINN: That's not correct, Sir. There was no statement provided.
26 Mr. Carroll's interview -- Mr. Carroll attended for interview and the
27 matter --

28

29 CHAIRMAN: And his interview was recorded, so it is in effect a statement
30 of Mr. Carroll.

11:43:03

11:43:05 1
2 MR. QUINN: Yes.
3
4 Q. 93 MR. REDMOND: It was, the statement was clearly prepared by the legal team
11:43:16 5 and offered to him for signature, he didn't come in to make a statement.
6 We'll deal with this when I am dealing with Mr. Carroll. This has a long
7 way to go, but as far as I am concerned, my evidence here was then, I know
8 nothing about that telephone call, absolutely nothing. And what I am
9 trying to prove here is that it is, it was fabricated, there was nothing
11:43:40 10 by way of maps available in '89, nothing.
11
12 CHAIRMAN: Well, Mr. Redmond, what are you saying was fabricate?
13
14 MR. REDMOND: I beg your pardon, Sir.
11:43:51 15
16 CHAIRMAN: What do you say was fabricated?
17
18 MR. REDMOND: Sorry, Your Worship, sorry?
19
11:43:56 20 CHAIRMAN: Yes. What do you say was fabricated? You said --
21
22 MR. REDMOND: Oh the statement. The statement, Mr. Carroll's statement.
23
24 CHAIRMAN: But fabricated -- who do you say fabricated --
11:44:12 25
26 MR. REDMOND: No the statement about the telephone call.
27
28 CHAIRMAN: Oh this is his evidence.
29
11:44:17 30 Q. 94 MR. REDMOND: His evidence, yes. The position is quite clear, as he said

11:44:23 1 himself, when Mr. Finnegan made the statement about him, he was in a bind
2 there is no doubt about it, he didn't deny that he gave out the map and he
3 didn't deny he gave it to Mr. Finnegan, but he has to have had an excuse,
4 I was all over the papers in those days, and what better excuse than to
11:44:47 5 fabricate some statement to say oh, yes it was George Redmond. Not the
6 slightest evidence, but that's why I'm here this morning, I have nothing
7 else to really say to Mr. Conway except one thing Mr. Conway,
8 Mr. Carroll's evidence, he never met me, I never spoke to him, he said he
9 saw me playing squash that's all, but he took an instant dislike to me,
11:45:18 10 but he described me as a bully and he said that the moment anything I
11 asked to be done, it had to be done. You were in charge of that section,
12 Mr. Conway, from the time I left, 1989, 1979 until '89, did you ever
13 receive a single call from me or request from me about anything?
14 A. Offhand I don't recall, but if I did I would have treated you as County
11:45:55 15 Manager and assisted you with whatever you wanted.
16 Q. 95 But I mean I'm making the point that I never made any requests to your
17 section.
18 A. Well, I don't recall any specific requests at this point in time.
19 Q. 96 Yes. I certainly, certainly -- now the other thing he mentioned was that
11:46:20 20 files were being demanded all the time from your section, yours isn't a
21 section which would accumulate files, is it? I don't think it is.
22 A. I think that reference to the files in relation to planning applications,
23 and they would not have come under my area of activity.
24 Q. 97 But in the case of planning applications, we had a mirror image of the
11:46:44 25 file in our own, over in O'Connell Street?
26 A. Yes copies of all applications were circulated.
27 Q. 98 Everything is there so, never any, anything that was needed was there, but
28 the position, the position that was given in the statement was that
29 whatever I said, you know, everybody jumped. I put it to you in, from the
11:47:06 30 time I left planning in '79 I was never in the, never in the building

11:47:11 1 again, and I have absolutely -- any communication I would have had would
2 have been with the manager at the time or the principal officer.

3 A. I accept that, yes.

4 Q. 99 You accept that. Yes. But again it's part of the picture he paints of
11:47:29 5 me. He doesn't know me. But he's prepared to say this. Now, were you
6 the planning officer in South County Dublin when it came to light that
7 these copies of maps had been handed out or had you retired at that stage?

8 A. No, I became County Planner for South Dublin in 1994.

9 Q. 100 '94?

11:47:58 10 A. '94, yes.

11 Q. 101 But --

12 A. I was there until 2000.

13 Q. 102 But this thing came to light in the, I don't know what the first date was,
14 but it didn't -- you know, the reason I ask is obviously, if it came to
11:48:14 15 light there would be a need for some action in the County Council, in
16 relation to Mr. Carroll, that didn't happen in your time?

17 A. No, he was there from my time, '94 until 2000.

18 Q. 103 Yes, but I'm saying if this became public that one of the draughtsmen had
19 made a copy, whatever the reason he did it for, the mere fact that did he
11:48:39 20 it, that he made copies of confidential maps and handed them out, that
21 would have been a matter for suspension in the first place, in order to
22 examine it?

23 A. I was never aware of anything like that.

24 Q. 104 No, you probably weren't?

11:48:53 25 A. In fact when I read this transcript it was the first knowledge I have of
26 it.

27 Q. 105 If you are not aware, I just thought what happened, you know, obviously if
28 there hadn't been a Tribunal for example and this information just came to
29 light, there would have to be some action taken, at least to examine what
11:49:13 30 happened?

11:49:15 1 A. Can I say that, having read this document which I got yesterday, I noted
2 that Mr. Carroll was under medication at the time.

3 Q. 106 He was what?

4 A. Personally I was a bit surprised that the interview continued under those
11:49:31 5 circumstances because I don't know what is the validity of what was said
6 over that time.

7 Q. 107 Sorry? I'm sorry, Mr. Conway, I missed that, if you wouldn't mind
8 repeating it please, sorry about that?

9 A. Sorry. I just noted that in the evidence here, in the statement, it was
11:49:55 10 evident that Mr. Carroll was under medication.

11 Q. 108 Yes.

12 A. And I felt that in the circumstances I was surprised that the interview
13 had continued in that vein.

14 Q. 109 This is the interview by Mr. Quinn and Mr. John Gallagher?

11:50:16 15 A. Yes.

16 Q. 110 Yes. Well, I didn't notice that.

17 A. That's just a personal reaction to it.

18

19 CHAIRMAN: That's all right, yeah. A lot of people are interviewed and
11:50:25 20 give evidence while they are under medication for a variety of reasons.
21

22 MR. REDMOND: Your worship, I wonder would the Tribunal oblige me to an
23 extent to give me five minutes. Just to have a drink and to see is there
24 anything else I want to ask?

11:50:48 25

26 CHAIRMAN: A drink of water?

27

28 MR. REDMOND: But more importantly five minutes

29

11:50:52 30 CHAIRMAN: All right. Five minutes

11:50:54 1

2

MR. REDMOND: Is that all right? I'm very obliged.

3

4

THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

11:51:10 5

AND RESUMED AGAIN AS FOLLOWS:

6

7

CHAIRMAN: All right. Mr. Redmond?

8

9

Q. 111 MR. REDMOND: Thank you very much, Your Worship, much obliged. Just as

12:09:45 10

part of his evidence to the Tribunal Mr. Carroll referred to my brutality,

11

and as it were the reign of terror which he had to endure at a time when I

12

was over in O'Connell Street, but in proof of this he stated that four or

13

five draughtsman technicians had been forced out of their employment in

14

the council by actions of mine. Do you know anything of that, Mr. Conway?

12:10:41 15

A. No, I don't recall that at all.

16

Q. 112 Well, that's the position. And on the question of a brutal regime, can

17

you make any comment on that?

18

A. No. I mean, all of the stuff in this interview is all news to me, really.

19

Q. 113 Yes. All right. Well just to recapitulate, very briefly, on the points I

12:11:14 20

have been trying to make, and you know to apologise for my age and my

21

infirmities, but I'll do my best.

22

23

In the normal course of events you produced the position papers without

24

any interference by any outside bodies or parties or officers, and the

12:11:37 25

conclusion that was reached, the overall, the main conclusion was that

26

there was very little need for change in whatever plan was produced.

27

A. That is correct.

28

Q. 114 And the -- those papers were circulated and do you ever recall any

29

objections coming from any source to what you were proposing, in the

12:12:09 30

council, within the council?

- 12:12:12 1 A. No, they were discussed one by one in the council chamber and there were
2 lots of questions and comments.
- 3 Q. 115 Yes but insofar as your fellow officers were concerned --
- 4 A. Eventually they were noted.
- 12:12:22 5 Q. 116 -- which would have included me, there were certainly no objections it was
6 generally accepted position?
- 7 A. No there were in puts from all departments and it was a consensus.
- 8 Q. 117 The other thing, at the time, '89, at that stage the council was comprised
9 of three electoral council counties, we had 78 members because they were
10 elected for individual, what were described as electoral counties.
- 11 A. That's right.
- 12 Q. 118 And the political decision or view was they were going to be made
13 sovereign counties in the very near future.
- 14 A. Correct.
- 12:13:05 15 Q. 119 And the logic at that time was that insofar as the overall plan for the
16 county was concerned, that the review should be completed rapidly and then
17 in the next review, the individual councillors could get down to their own
18 areas and deal with that, but in '89 there was very little thought of
19 trying to provide for what the new councils might ultimately decide, would
20 you accept that that was the position?
- 12:13:40 21 A. Yes, the process was drawn out considerably.
- 22 Q. 120 Yes. Insofar as infrastructural works is concerned, the, on the sanitary
23 services and that includes water, was concerned, a great deal had been
24 done to meet development.
- 12:14:06 25 A. Yes.
- 26 Q. 121 -- on the ground. And the decision of the sanitary services conference on
27 the -- that memorandum which I gave you reference is 2448, that certainly
28 suggested, or made clear, that in the foreseeable future there was going
29 to be no progress in relation to the Carrickmines drainage scheme.
- 12:14:47 30 A. Yes, that was a decision --

12:14:48 1 Q. 122 It was going to happen some time but for the foreseeable future it was
2 out?
3 A. That was a decision of the staff conference.
4 Q. 123 You agree also that insofar as yourself and staff under your control and
12:15:03 5 staff which were under the control of the planning officer, they were
6 under no illusions as to the confidential work they were engaged in and it
7 was out of the question that any information in relation to that work
8 should go outside the office to other people?
9 A. That is correct.
10 Q. 124 That is correct. There is no question about that. That insofar as
11 records are concerned, that the earliest records of draftsmanship were
12 being carried out in relation to what might possibly be the structure of
13 the Carrickmines area, the earliest record we have is that of Mr, the late
14 Mr. Neville's, November '89 map, that's the only record that we have, as
12:16:13 15 far as record is concerned.
16 A. Yes, there is a map attributed to him.
17 Q. 125 Yes.
18 A. I think there are also one or two other maps.
19 Q. 126 Yes, it's attributed to him, and you agree that for cogent reasons, the
12:16:30 20 matter came under discussion in the 1990s and matters were put into the
21 public domain by a report being circulated to the Council, that all
22 happened in the 1990s?
23 A. That is correct.
24 Q. 127 And it's at that stage where there would be, well there would have been a
12:16:56 25 drawing from November 1989, I have established that, but actually in the
26 1990s there were maps and in fact you gave some references to them, but
27 there were maps in the 1990s but not in 1989 is when I'm concerned about.
28
29 I think that's about it, Mr. Conway. I know -- that's really all I wanted
12:17:32 30 to establish, was that --

12:17:37 1 MR. QUINN: I just have one or two questions for Mr. Conway if I may.

2

3 CHAIRMAN: Certainly.

4

12:17:42 5 **WITNESS WAS QUESTIONED AS FOLLOWS BY MR. QUINN:**

6

7 Q. 128 If I could have 5133 this is an extract, Mr. Conway, from the maps

8 register. And I think we dealt with this in some detail when you gave

9 evidence at the time?

12:17:52 10 A. We did, yes.

11 Q. 129 And I think there were a series of maps culminating in DP90/123 but there

12 had been precursors of that map, and the register shows I think, that

13 there was a map entered by Mr. Davin in November 1989, isn't that right,

14 that's map 89/150 castle -- sorry Carrickmines Valley draft structure

12:18:18 15 plan. Do you see that highlighted? Sorry 89/150, about five or six

16 further down than the one highlighted?

17 A. 89/159 sorry.

18 Q. 130 Do you see the map highlighted the first highlight could be removed, you

19 can forget that?

12:18:43 20 A. The first highlight, yes, okay. Sorry 89/150 yes, Carrickmines Valley

21 draft structure plan.

22 Q. 131 Yes, I think that was the first of the plans.

23 A. That's attributed to Neville Davin whom we discussed a moment ago.

24 Q. 132 Yes. I think that plan was similar in some respects to the final

12:19:18 25 DP90/123?

26 A. It was one of many, many maps that appeared as drafts of that area.

27 Q. 133 Yes, but that would suggest that there was a draft plan in November '89.

28 Now, I should say that Mr. Redmond I think retired in June '89.

29 A. Well, obviously there was some sort of a draft structure map available

12:19:39 30 that point in time.

12:19:40 1 Q. 134 Yes. And can I ask you, Mr. Conway, are you in a position to tell the
2 Tribunal whether or not there would have been maps in existence which
3 might have led that map that we see there, that's 89/150, could there have
4 been maps which hadn't been entered on the register, maybe because they
12:19:58 5 were in draft form or whatever, which would have been compiled?
6 A. There were all sorts of sketch maps being prepared by different people at
7 different times, most of them would finish up in the bin and there would
8 be various sketches, they would kind of culminate in a plan which would
9 suddenly appear on this register.

12:20:15 10 Q. 135 Yes. Just one other thing, Mr. Conway, I think you were critical of the
11 interview with Mr. Carroll because you read his interview, I think, I'm
12 not sure -- if I can have 5072, if you read the following?
13 A. 5072 yes.

14 Q. 136 You see question 8, this is Mr. Gallagher conducting the interview with
12:20:42 15 me, it says: "Just before I do, I want to say one or two things. First
16 of all you are here at our invitation and you came here voluntarily and we
17 thank you for coming along to help us" do you see that?
18 A. Yes.

19 Q. 137 "If you wish to have a solicitor or legal advisor present here you are
12:20:54 20 perfectly free to do so. If in the course, if you decide not to have
21 somebody present for the interview and to that end we are quite prepared
22 to postpone the interview if you say you prefer to have a solicitor
23 present, but if you chose to proceed with the interview without having a
24 solicitor present you can be certain that if you are asked any question in
12:21:10 25 the course of the interview that you want to think about or you want to
26 take advice on or you want to consider overnight or anything like that
27 we'll facilitate --
28 Answer. Okay.
29 Question -- in anyway you want to do that. If you don't understand any
12:21:24 30 question that I ask you or Mr. Quinn asks you, then please indicate that

12:21:29 1 and we'll facilitate you in anyway we can. This is a confidential
2 interview, which mean that is in effect the interview is taking place and
3 everything said at this interview confidential to the Tribunal. You will
4 see that the interview is being recorded by a stenographer which is a
12:21:42 5 standard practice of the Tribunal. The transcript will be retained by the
6 Tribunal and will not be disclosed to any person or given to any person
7 but the Sole Member may give you, sorry the Tribunal may give you a copy
8 if you wish to have a copy for your own purposes on the basis that it
9 should not be disclosed to anybody except any legal advisor that you may
12:21:59 10 wish to instruct". Do you see that?
11 A. Yes, I see that, yes.
12 Q. 138 Do you see that the interview went on "We know that you have been here on
13 previous occasions" do you see that?
14 A. Yes.
12:22:12 15 Q. 139 What you may not know, Mr. Conway, is that that was an interview with
16 Mr. Carroll, but that Mr. Carroll subsequently came to give evidence and
17 when he did give evidence, he gave evidence under oath in public and more
18 or less in accordance with what's in that interview, I don't know if you
19 are aware of that?
12:22:30 20 A. I'm not aware of that, no.
21 Q. 140 I think the reference to his being ill is a reference towards the end of
22 the transcript, a reference made by him, isn't that right?
23 A. Yes.
24 Q. 141 Thank you very much, Mr. Conway.
12:22:44 25
26 CHAIRMAN: Thank you very much, Mr. Carroll, sorry Mr. Conway. And thank
27 you, Mr. Redmond.
28
29 MR. REDMOND: Sorry am I finished, Your Lordship?
12:22:55 30

12:22:55 1 CHAIRMAN: You are finished now. I think you have applied to cross
2 examine Mr. Carroll, do you still wish to cross examine Mr. Carroll?
3
4 MR. REDMOND: What do you think yourself?

12:23:14 5
6 CHAIRMAN: Well, that's a matter for yourself, you can think about it if
7 you want and you can contact Mr. Quinn this afternoon or tomorrow.
8 Mr. Conway is -- sorry Mr. Carroll is scheduled --
9

12:23:31 10 MR. QUINN: For today week subject to confirmation by Mr. Carroll.
11
12 CHAIRMAN: So Tuesday of next week.
13
14 MR. QUINN: Yes, subject to confirmation by Mr. Carroll.

12:23:39 15
16 MR. REDMOND: There is only one point -- Yes I want to interview him,
17 clearly.
18
19 CHAIRMAN: All right. Well on --

12:23:44 20
21 MR. REDMOND: The second thing is, strictly speaking it should be done by
22 counsel, not by myself.
23
24 CHAIRMAN: Well that's a matter for yourself.

12:23:53 25
26 MR. REDMOND: I know, well it's a matter of, you know --
27
28 CHAIRMAN: All right. Well, we'll hopefully be in a position to confirm
29 Mr. Carroll's attendance, and unless you contact the Tribunal with any
12:24:13 30 other instruction we'll assume that you want to go ahead and cross examine

12:24:17 1 him on this day week, all right?

2

3 MR. REDMOND: Yes, that will be, that's my intention, please God.

4

12:24:22 5 CHAIRMAN: All right. Thank you very much, we'll sit again at 2 o'clock

6 for Mr. O'Callaghan.

7

8 **THE TRIBUNAL THEN ADJOURNED TO 2 PM.**

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12:24:41 10

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