

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THE 4TH DECEMBER 2002

2 AT 10.30 AM:

3

4

5 REGISTRAR: Ruling of the Tribunal in relation to an application by Counsel for
6 the family of the late Tom Hand.

7

8 CHAIRMAN: Good morning everybody. The following is the ruling:

9

10 Written submissions have been received by the Tribunal on behalf of the family
11 and estate of the late Tom Hand. In summary, it is submitted by

12 Mr. O'Dulachain:

13

14 A: That the family and estate of the late Tom Hand should have representation
15 being in like manner to that, to a number of living councillors in allegations
16 being inquired into.

17

18 B: That because Tom Hand, deceased, is unable to give evidence, allegations
19 against him should not be inquired into.

20

21 C: That in the event that the Tribunal continues to inquire into allegations
22 against Tom Hand, deceased, all known allegations against him and all evidence
23 in support thereof, and not simply those being inquired into in this current
24 module of the inquiry, should be disclosed to his legal representatives at this
25 time.

26

27 Representation: Having carefully considered the submissions made, the Tribunal
28 is prepared to extend the limited representation already granted to matters not
29 only effecting the interests of the estate of the deceased, but also matters
30 and allegations which potentially damage the reputation and good name of the

1 deceased.

2

3 In other words, we accede to the request that the family and estate of Tom
4 Hand, deceased, should be on the same level as that granted to living
5 councillors.

6

7 Inability to give evidence:

8 It is submitted that the Tribunal is incapable of conducting a full and fair
9 hearing into allegations against late Tom Hand because he is deceased and
10 unable to give evidence refuting such allegations.

11

12 There are many instances where courts are required to hear evidence of
13 wrongdoing on the part of an individual who has since died and which might well
14 result in a finding of negligence or culpability on the part of the deceased.

15

16 For example, in a road accident, in a road traffic accident, a claim where
17 allegations of negligence are made against a driver who died at or subsequent
18 to the accident or a claim for damages for breach of contract where one of the
19 contracted parties subsequently dies and is unable to give direct evidence.

20

21 There is therefore clearly nothing to prohibit a court or tribunal such as this
22 one from hearing or considering evidence including allegations of wrongdoing
23 against an individual who has since died, notwithstanding the fact that the
24 individual cannot give evidence to refute such allegations. In such cases, a
25 court or tribunal must take care to closely examine in addition to the spoken
26 allegations against the deceased person, other factual and circumstantial
27 evidence which is available, including documentary evidence, maps, diaries,
28 bank accounts, etcetera, before reaching any determination.

29

30 The fact that it is well established, for example, that a deceased person's

1 estate cannot recover damages for defamation of the deceased is irrelevant to
2 this particular issue.

3

4 The Tribunal's primary concern is to inquire into certain specific matters and
5 events and makes every effort to protect and minimise the damage to
6 individuals, living or dead. Even if there was a rule of evidence to the
7 effect that a court could not embark on hearing evidence concerning the
8 reputation or good name of a deceased person, such a rule would have to be
9 considered in the context of the law as it relates specifically to tribunals.

10

11 of particular relevance in this regard is the part of the judgement of
12 Mr. Justice Costello in the case of Goodman International V Mr. Justice
13 Hamilton 1992 Irish reports 5.2.4 when he stated at page 565, "There is no
14 rule of law which requires a Tribunal of Inquiry to apply the rules of evidence
15 applicable in a court of law. The acceptance of evidence and the weight to be
16 given to it is a matter for the Tribunal."

17

18 It is our imperative that in deciding to hear any particular evidence, a
19 tribunal, like a court, is subject to the requirements of fair procedure. In
20 the course of its deliberations into the submissions of Mr. O'Dulachain, it has
21 read with interest the decision of Ms. Justice Laffoy, chairperson of the
22 Commission of Inquiry into Child Abuse.

23

24 In September 2002, and in particular the manner in which she dealt with the
25 issue of dealing with evidence of allegations against individuals now deceased,
26 at pages 41 and 42 of her ruling, she stated as follows: "Where a deceased
27 person who is under investigation of this committee was not a member of a
28 religious congregation at the date of death, this committee will seek to
29 ascertain whether there exists a person who, if he or she were allowed to
30 represent the interests of the deceased, could assist in the ascertainment of

1 the true facts and achieving a fair determination and if so, would allow such
2 person to represent the interest of the deceased person."

3

4 Indicating that representation would be granted to representatives of the
5 deceased person where they are not members of religious orders at the time of
6 their death, she said: "The purpose of representation is to enable the
7 interests of the deceased person to be protected against unfair determination
8 through cross-examination and submissions."

9

10 We, in this Tribunal, adopt this view as expressed by Ms. Justice Laffoy.
11 Therefore, it is the ruling of this Tribunal that the evidence involving
12 allegations of wrongdoing or behaviour against the late Tom Hand, deceased,
13 should and will be heard, and the Tribunal will make findings, where
14 appropriate, and only after the whole of the evidence has been considered.

15

16 Due and proper regard will always be afforded by reason of the fact of the
17 relative disadvantage which, of necessity, attaches to the family of a deceased
18 person who himself cannot give evidence.

19

20 Release of information and statements:

21 We reiterate the ruling of the Tribunal given in response to an application on
22 November 20th on behalf of Senator Liam Cosgrave to the effect that only
23 statements or portions of statements relevant to the current module will be
24 made available to those to whom they refer. This is done in the interest of
25 conduct in this part of the inquiry in an orderly and fair manner.

26

27 The Tribunal will only make findings concerning the conduct of individuals,
28 living or dead, when it has had an opportunity to consider the whole of the
29 evidence and only after the affected parties have been afforded an opportunity
30 to consider the relevant evidence and to respond to it as they may deem

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1 appropriate.

2

3 MR. O' DULACHAIN: Thank you, Chairperson.

4

5 MS. COGHLAN: Mr. Christopher --

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7 CHAIRMAN: Yes.

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9 MS. COGHLAN: Sorry.

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11 Mr. Christopher Hogan please.

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1 CONTINUATION OF DIRECT EXAMINATION OF CHRISTOPHER HOGAN

2 BY MS. COGHLAN:

3

4 Q.1 Good morning, Mr. Hogan.

5 A. Good morning.

6 Q.2 We'll start this morning with your first statement which is dated the 26th of

7 September of this year and is headed "Re: Folio 4940, County Dublin.

8 Registered owner - Jackson Way Properties Limited."

9 In paragraph one if you would like to start reading from your statement as far

10 as the end of paragraph two, Mr. Hogan.

11 A. Certainly.

12 "The lands in folio 4940 County Dublin comprising 43.951 hectares are situated

13 in the town lands of Carrickmines -- if I may correct it it is townland of

14 Carrickmines Great to distinguish from Carrickmines literally -- in the barony

15 of Rathdown and County Dublin and are shown as plan 11 on the Land Registry map

16 reference OS26/2 and 26/6.

17

18 Paragraph 2: Robert Tracey of 68 Foxrock Avenue, Foxrock, County Dublin was

19 registered as the first registered owner on the folio of 17th January 1975."

20 In my statement I refer to him as the first registered owner, that's as it

21 appears on the folio before you, which is a computerised version of the paper

22 folio.

23

24 When we come at a later stage to discuss the folio from whence it came, folio

25 1869, it will be seen this folio 4940 was opened in 1947 and Mr. Tracey is, in

26 fact, the third registered owner on the folio.

27 Q.3 If we maybe put page 3715 on screen, we'll just show the computerised printout,

28 you can see that is entry number one which shows on the 17th of January 1975,

29 Robert Tracey as the registered owner.

30

1 And that's correct. In fact, there is a handwritten folio which precedes the
2 computerised version and the first registered owner on that is 5th of June
3 1947, John Hugh Wilson as being the first registered owner in time

4 A. That is correct. The situation was that in the early 1980s, the folios in
5 Dublin were being computerised and in data capturing the information, we data
6 captured only the live information, so the former, the older entries were
7 deleted, were folios effectively revised.

8 Q.4 Perfect, Mr. Hogan. If we now go to page 3793 on screen, we have here a letter
9 of the 3rd of August which is written by Mr. Martin Bullock, director, of
10 Paisley Park Investments Limited, if you might just take us through that letter
11 Mr. Hogan.

12 A. Yes, that's a letter headed Paisley Park Investments Limited incorporated in
13 the Isle of Man, number 33, 261 with a registered office at 29-31 Duke Street,
14 Douglas, in the Isle of Man.

15

16 It is addressed to the Registrar, Land Registry, Setanta Centre, Nassau Street,
17 Dublin 2, Ireland.

18

19 That's the location of the Dublin Registry and the letter is dated 3rd August
20 1988. And it reads:

21 "Dear Sir, please find enclosed papers for lodgement of a caution in relation
22 to lands contained in folio 4940, County Dublin.

23 Yours faithfully, Martin Bullock."

24 Q.5 And that letter, sorry enclosed with it, if we just go to the preceding page
25 3792?

26 A. It enclosed with it an application form to the Land Registry in form 17 of the
27 land registration rules which is in the prescribed form, and it identifies,
28 it's headed County Dublin, folio 4940. And it is addressed to the Registrar of
29 Titles and it reads: "I, Martin Bullock, for and on behalf of Paisley Park
30 Investments Limited, apply for registration in the above-mentioned folio of a

1 caution arising under the documents set out in the schedule hereto.

2

3 Paragraph 2: I send herewith registration fee stamps for £20 for the
4 registration.

5

6 3: I request that the returnable documents lodged (other than the certificate
7 of title) be sent to me by post." And its dated 29th of July 1988, signed

8 Martin Bullock. And schedule --

9 Q.6 We can see it is dated 8th of August so obviously the Land Registry received it
10 only on the 8th?

11 A. Yes.

12 Q.7 If we turn then to page 3794, we have form 81, the appropriate document to be
13 lodged?

14 A. Again, that's the form. These forms are prescribed by the land registration
15 rules 1972 and this is the form that is prescribed for an application for a
16 caution.

17 Q.8 And if you could take us through form 81 in this case please?

18 A. Yes. It is headed form 81, entitled Land Registry, County Dublin, folio 4940.

19 And it reads "I, Martin Bullock, being a director of Paisley Park Investments
20 Limited, aged 18 years and upwards, make oath and say as follows:

21

22 Paisley Park Investments Limited hereby requires that no dealing by the
23 registered owner with the property described in folio 4940 of the register,
24 County Dublin, be registered until notice has been served on Paisley Park
25 Investments Limited.

26

27 The address in the state of Paisley Park Investments Limited for service of
28 notices and its description are:

29

30 Care of: Saint Catherine's, Bird Avenue, Clonskeagh, Dublin 14, limited

1 liability company."

2 Q.9 And that's sworn on the 28 of July 1988. Just for the record, that address

3 there, Saint Catherine's, Bird Avenue, we will come to in a later document it

4 is the address of Frank Friel & Company, solicitors.

5 So this is an application, Mr. Hogan, which is made by a director of Paisley

6 Park, namely Martin Bullock

7 A. Yes.

8 Q.10 For the registration of a caution, this I think is a section 97 caution if you

9 might just briefly explain what a section 97 --

10 A. Section 97 of the Registration of Title Act 1964 provides that any person who

11 has any right in, to or over registered land may apply to the Registrar for the

12 entry of a caution requiring notice to be served on them -- I will just read it

13 in full perhaps?

14

15 It reads: "Any person entitled to any right in, to or over registered land, or

16 a registered charge may, on producing an affidavit in the prescribed form of

17 his right, lodge a caution with the Registrar to the effect that no dealing

18 with the land or charge is to be had on the part of the registered owner until

19 notice has been served on the cautioner."

20 Q.11 Thank you. In fact if we go to page 3796, this is form 82, it's the affidavit

21 which is also one of the prescribed forms to accompany this registration of a

22 caution, if you might just read through that document please?

23 A. Yes, that is another prescribed form 82. And it's headed 'An Affidavit' and

24 again it has the heading County Dublin, folio 4940.

25

26 It reads: "I, Martin Bullock, being a director of Paisley Park Investments

27 Limited, on behalf of the said company, make oath and say:

28

29 1. The interest of Paisley Park Investments Limited in the property referred

30 to in the within caution is as follows:

1

2 A. Robert Tracey, the registered owner of the lands contained in folio 4940 of
3 the Register of Freeholders, County Dublin did by signature of a Memorandum of
4 Agreement dated the 9th day of March 1988, contract to sell all of the lands to
5 Gerard Charlton, solicitor in trust.

6

7 B. Gerard Charlton, the stated trustee, held in trust for Paisley Park
8 Investments Limited."

9 Q.12 And then again is sworn on the 28 of July 1988.

10 If I can put on screen page 3798? I will just read through the Memorandum of
11 Agreement that is referred to there and this particular memorandum is used for
12 the purposes of registering the caution. It's page 3798, it's a handwritten
13 document, it's hard to decipher but I'll make an attempt.

14

15 At the very top, in fact, but you can't read it, is the address: 68 Foxrock
16 Avenue, Dublin 18, and you can see that it's dated the 9/3/1988.

17

18 Letter of authority to appoint (irrevocable).

19

20 "I, Robert Tracey, of the above address, hereby appoint Siteland Management
21 Limited of Kilcock, County Kildare, to sell my lands comprised in folio 4940 F,
22 County Dublin (108 acres) under the terms below:

23

24 1. Price: £540,000

25 2. Deposit on contract: £15,000.

26 3. Closing date: 21/12/1989. With interest penalty, 15 per cent.

27 4. Possible additional £5,000 payment stage. Purchaser: Gerry Charlton,
28 solicitor, Fitzwilliam Place, Dublin. (In trust).

29

30 Signed by Robert Tracey, dated 9/3/1988."

1 Also signed by Sam Stanley and the time is 4.06, Green Isle Hotel, vendor
2 solicitors are Denny Stokes, Ballycorus Road, Kiltarnan, County Dublin -- these
3 were the solicitors that Mr. Tracey initially had acting for him and they sold
4 their practice to Phillip Russell.

5

6 That's the Memorandum of Agreement, Mr. Hogan, that Mr. Bullock bases his
7 application on so he can lodge his caution with the Land Registry.

8 A. That's correct.

9 Q.13 And then if we just go back to paragraph 3 of your statement, I want to read
10 through it to put it on the record and bearing in mind where you state 1998,
11 that, in fact, is a typo, it should in fact be 1988. I will read through it
12 because we have gone through the document.

13

14 "By letter dated 3rd August 1988, signed by Mr. Martin Bullock, director,
15 Paisley Park Investments Limited, a company incorporated in the Isle of Man,
16 with a registered office at 29-31 Duke Street, Douglas, Isle of Man, made
17 application to the Land Registry under section 97 of the Registration of Title
18 Act 1964 and rule 131 of the Land Registration Rules 1972, for registration of
19 a caution requiring that no dealing by the registered owner with the property
20 described in the folio be registered until notice be served on Paisley Park
21 Investments Limited. The address of Paisley Park Investments Limited for the
22 purposes of service of such notice was given as Saint Catherine's, Bird Avenue,
23 Clonskeagh, County Dublin, or Dublin 14. The accompanying affidavit of
24 Mr. Bullock, sworn in the Isle of Man, identified the interest of Paisley Park
25 Investments Limited as arising under a Memorandum of Agreement dated 9th March
26 1988, whereby Robert Tracey contracted to sell the folio lands to Gerard
27 Charlton, solicitor, in trust."

28

29 Mr. Charlton in fact is a solicitor at Reddy Charlton McKnight.

30

1 "The affidavit averred that Gerard Charlton a stated trustee held in trust for
2 Paisley Park Investments Limited. The application was received in the registry
3 on the 8th August 1988." Again, instead of 1998, just a typo.

4

5 So we can see that that is registered, if we go to page 3716 please. It's
6 registered on part two of the folio and you explained yesterday the different
7 parts to the folio

8 A. Yes.

9 Q.14 You can see that on screen. It's registered actually at entry number four.

10 A. That's correct.

11 Q.15 It's dated the 8th of August.

12 A. Yes.

13 Q.16 And then the registration was affected on the 1st of September 1988. In fact,
14 that's at page 3805.

15 In fact, that document is on screen, Mr. Hogan, just simply notice from the
16 Land Registry and dated 1st of September, that's the document you issue once
17 registration is effected, I take it?

18 A. It is. If I might explain, the reasoning behind the numbering -- it's out of
19 sequence to the extent --

20 Q.17 This is, that it is at entry number four as opposed to --

21 A. Entry number two.

22 Q.18 If you might explain, that would be great.

23 A. The requirement under rule 61 of the Registration of Land Registration Rules is
24 that applications will rank in priority according to their date of lodgement in
25 the Central Office.

26

27 So the normal sequence would be they would be registered in that particular
28 order. The priorities relate to the dates of registration, not the number.

29 What happens is there are obviously some applications that have to be dealt
30 with as a matter of urgency and if there are prior dealings, the normal

1 sequence is if there are a number of dealings pending, they would be registered
2 in the order in which they come into the Registry, but there are occasional
3 documents that cannot be held up by prior applications, for example, judgement
4 mortgages and particularly judgement mortgages against companies, there is a
5 statutory requirement that the Registry complete the registration and notify
6 the Companies Office within 21 days.

7

8 Judgement mortgages generally are required to be registered as a matter of
9 urgency because it is the registration that creates the judgement mortgage.

10 Another similar type of application that requires immediate registration is the
11 other two entries that are entries two and three. Those are priority searches.

12 They are required to be registered as a matter of practice. They are
13 registered on the day we receive them, so while we had this application in
14 since the 8th of August, we weren't in a position to complete the registration
15 until the 1st of September. There were two other applications lodged after the
16 8th of August that had to be registered immediately

17 Q.19 Yes --

18 A. That's the only reason they are out of sync there.

19 Q.20 That's right. At paragraph five you deal with these two subsequent in time but
20 because they are section 108 priority cautions --

21 A. They have to --

22 Q.21 -- they appear earlier on the folio. Maybe at paragraph five if you could
23 continue reading your statement, Mr. Hogan?

24 A. Paragraph five. "On the 9th of August 1988, application was made to the Land
25 Registry by Frank Friel & Company solicitors, of Saint Catherine's, Bird
26 Avenue, Clonskeagh, Dublin 14, on behalf of their client Paisley Park
27 Investments Limited under section 107 (2) of the Registration of Title Act 1964
28 for an official search to be made against the property comprised in folio 4940
29 to ascertain whether any entry had been made in the register since 8th August
30 1988. Application was also made pursuant to section 108 of the Act for the

- 1 registration of the prescribed entry under the section on the folio."
- 2 Q.22 Page 3807 is the document that you mention there at the 9th of August 1988.
- 3 A. Yes.
- 4 Q.23 Which is the application by Frank Friel & Company to lodge, or to register?
- 5 A. It's the actual covering letter, the actual application.
- 6 Q.24 Yes?
- 7 A. That is accompanied by then a more formal application in the prescribed form.
- 8 Q.25 Yes. At page 3808?
- 9 A. Yes.
- 10 Q.26 We have the --
- 11 A. The actual application.
- 12 Q.27 The actual application. In fact you go on in your statement, Mr. Hogan, to set
- 13 out what a section 108 is, I think it would be worth reading that into the
- 14 record please.
- 15 A. Yes.
- 16
- 17 "Section 108 of the 1964 Act provides as follows: "108.1: Where the Registrar
- 18 is satisfied that the person to whom a certificate of the result of an official
- 19 search is issued has entered into a contract to purchase, take a lease of, or
- 20 lend money on the security of a charge on, the land to which the certificate
- 21 relates, the Registrar shall, at the request of that person, make an entry in
- 22 the Register in the prescribed form.
- 23
- 24 Subsection 2: In any such case, an application for registration of the
- 25 instrument to complete the contract shall, provided the application is in order
- 26 and is delivered at the Central Office within a period of 14 days after the
- 27 date of issue of certificate, rank in priority before any other application for
- 28 registration made in respect of the land within that period."
- 29 Q.28 And if you continue just at paragraph 7 to complete that?
- 30 A. Paragraph 7: "The prescribed entry is prescribed by rule 193 of the Land

1 Registration Rules 1972 and reads as follows: All dealings with the property
2 are inhibited for a period of 14 days after (the date of issue of the
3 certificate of official search.)"

4 Q.29 Thank you. Essentially then, this does give a person priority over some other
5 interests that might be registered during this period and it has a period of 14
6 days whereby you can lodge your transfer deed or documents that are going to
7 back up the --

8 A. Yes, the purpose is to actually give you priority.

9 Q.30 Yes. And at paragraph 8: "The stated ground for the application that the
10 prescribed entry be made was that Paisley Park Investments Limited had
11 contracted to purchase all of the property comprised in the folio." That's at
12 page 3808 which is on screen, you can see the document where Frank Friel sets
13 out his reason for seeking the caution to be lodged is that it has contracted
14 to purchase all of the property comprised in folio 4940

15 A. That's correct.

16 Q.31 And this then is registered. If we go to page 3715, we can see again on part
17 two of the folio at entry number two, it is actually down near the end there,
18 you can see entry number two if you just read that?

19 A. I will read that and then explain why it appears where it does.

20 Q.32 Thanks.

21 A. It is dated 9th of August 1988 and reference number is 88 DN 10386. It reads:
22 "All dealings with the property are inhibited for a period of 14 days after the
23 9th of August 1988."

24

25 The reason why it appears on the paper folio that would have appeared as entry
26 number two immediately after the ownership of Mr. Tracey. In trying, in
27 adapting the paper folio to computerised folio, we endeavour to keep the
28 ownership entries together for ease of reference and that's why this inhibition
29 or restriction note is separated from the ownership notes.

30 Q.33 You go on to say at paragraph 10, "That the period of 14 days expired without

1 lodgement of the relevant deed of transfer." And if you can start reading from
2 paragraph 11?

3 A. Paragraph 11: "On the 23rd August 1988, a further application for an official
4 search and for registration of the prescribed entry on the folio under section
5 108 of the Act was lodged by Frank Friel & Company, solicitors, of Saint
6 Catherine's, Bird Avenue, Clonskeagh Dublin 14, again on behalf of Paisley Park
7 Investments Limited, and again on the grounds that it had contracted to
8 purchase all of the property comprised in the folio. The certificate duly
9 issued on the 23rd August and the prescribed entry was duly made on that date
10 at entry number three, part two of the folio under reference instrument number
11 88 DN 11123."

12 Q.34 And we see that on page 3716, the next entry.

13 A. Yes, that is correct.

14 Q.35 It's the first entry there on the screen at entry number three?

15 A. If I may comment?

16 Q.36 Indeed.

17 A. Both of those official searches would have disclosed the existence of the
18 application for the caution which was still pending on the folio and wasn't
19 registered, but both those searches would have disclosed that as an application
20 pending.

21 Q.37 And for reference the application, that particular document on the 23rd of
22 August is at page 3813. We might just put that on screen.

23 A. That is correct, that's the second application.

24 Q.38 And at paragraph 12 of your statement you set out, "As set out at 4 above, the
25 caution applied for and effective from the 8th August 1988 was registered at
26 entry number 4 on part two of the folio on 1st September 1988." and you have
27 given us quite a detailed explanation as to why it should appear at entry
28 number four and so on.

29

30 "The period of 14 days in the prescribed entry at 11 above expired without

1 lodgement of the relevant deed of transfer."

2 The activity we just looked at occurs in August of 1988 and at paragraph 14 you
3 move onto the 18 April 1991, and I am just emphasising that to show there was
4 some activity in the month of August, September 1988 and for a period now of
5 two years and almost nine months, no activity occurs on the folio. And if you
6 might just start reading at paragraph 14 please?

7 A. Paragraph 14: "On 18th April 1991, application was made by Messrs Reddy
8 Charlton and McKnight solicitors of 12 Fitzwilliam Place, Dublin 2, on behalf
9 of Paisley Park Investments Limited for cancellation of the caution registered
10 on 8th August 1988 at entry number 4 under reference instrument number 91 DN
11 07141."

12 Q.39 If we just go back to page 3716, you can see the cancellation just after entry
13 number four which is recorded on the folio?

14 A. It read: "Note cancelled, 18th April 1991, reference number 91 DN 07141".

15 Q.40 Yes, if we can turn to maybe page 3823, sorry, 3824 please, and if you continue
16 reading from paragraph 15, just to have the document on screen.

17 A. "On the 26th April 1991, an application for an official search and for the
18 registration of the prescribed entry under section 108 of the Act was lodged by
19 Messrs Reddy Charlton and McKnight, solicitors, of 12 Fitzwilliam Place, Dublin
20 2, on behalf of Paisley Park Investments Limited on the grounds that it had
21 contracted to purchase the lands comprised in the folio. The certificate of
22 the official search duly issued on the 26th April 1991 and the prescribed entry
23 was duly registered on that date at entry number five on part two of the folio,
24 under reference number 91 DN 07428".

25 Q.41 And the document on screen --

26 A. That's the application of Reddy Charlton McKnight and it reads: "We, Reddy
27 Charlton McKnight, as solicitors for Paisley Park Investments Limited, certify
28 that they have contracted to A, purchase all of the property comprised in the
29 above folio, and we hereby apply for a search to be made against the property
30 to ascertain whether any entry has been made in the register since the first

1 day of April 1991.

2

3 I also apply pursuant to section 108 of the Act that the prescribed entry be

4 made in the Register." Signature of solicitor applying, Ronan O'Siochain.

5 Q.42 And this issued then on 26th of April 1991 and is entered in the relevant part

6 of the folio at entry number five to be seen on page 3716?

7 A. That's correct.

8 Q.43 We are quite familiar with that page, in fact. And you can see it there at

9 entry number five.

10

11 At paragraph 16 you go on to say that on the 9th of May 1991 and 22nd May 1991,

12 "Further applications for official searches and for registration of the

13 prescribed entry under section 108 of the 1964 Act were lodged by Messrs Reddy

14 Charlton and McKnight, solicitors, of 12 Fitzwilliam Place, Dublin 2, again on

15 behalf of Paisley Park Investments Limited and again on the grounds that it had

16 contracted to purchase all of the property comprised in the folio." and if we

17 stay on this page, you can see at entry number six and seven on part two of the

18 folio under reference number 91 DN 08251 and 91 DN 09152 you can see those two

19 official searches which are registered at entries number six and seven.

20 A. That's correct.

21 Q.44 At paragraph 17, if you might continue reading please?

22 A. "On the 2nd an application for official search and for the registration of the

23 prescribed entry was lodged by Binchy & Partners, solicitors, of 37-39

24 Fitzwilliam Square, Dublin 2, on behalf of Paisley Park Investments Limited on

25 the grounds that it had contracted to purchase the folio lands. The

26 certificate was duly issued and the prescribed entry was duly registered on

27 that date at entry number 8 on part two of the folio under reference number 91

28 DN 11538.

29 Q.45 And again that's on screen at entry number 8, for reference only I will just

30 say the documents for the application of that are on page 3834, 3835 and for

1 paragraph 16 just for reference for the Tribunal, at page 3827 to 3829 and page
2 3830 to 3833 are the applications for the entries which appear at six and seven
3 of the folio, but we'll in fact just leave page 3716 on screen. The documents
4 are similar each time, I don't propose to open every single application.

5

6 If you could continue from paragraph 18, Mr. Hogan.

7 A. "Further applications were lodged by Binchy & Partners, solicitors, of 37-39
8 Fitzwilliam Square, Dublin 2 or official searches and for registration of the
9 prescribed entry under section 108, again on behalf of Paisley Park Investments
10 Limited and again on the grounds that it had contracted to purchase the lands
11 in the folio. These applications commenced on the 16th July 1991 and ended on
12 the 14th September 1992 and they are registered at entries numbers nine to 29
13 inclusive on part two of the folio."

14 Q.46 So what we have is on screen, page 3717 and for the next three-pages we have a
15 series of 20 official searches and also requests to register this section 108
16 priority searches this runs for a period of one year and five months as you
17 say, starting on 16th July 1991, ending on 14th of September 1992, so for that
18 period, Binchy and Partners acting for Paisley Park Investments Limited are
19 maintaining their priority status as such during that period or if you like to
20 just explain?

21 A. They are not really maintaining a priority status because once the 14-day
22 period expires, that's the end of that priority. So what they were trying to
23 do is renew a priority on rotation.

24 Q.47 On rotation, yes?

25 A. If the application had been lodged within 14 days of the last application to
26 transfer, had been lodged within 14 days of the last application, it would have
27 got priority from that last note.

28 Q.48 Yes, we can see there starting at entry number 8 which is on page 3716 that is
29 the first application by Binchys and just I am just going to run through the
30 months so there is the 2nd of July 1991, followed by 16th July '91, 6th August

1 1991, 23rd of August 1991, 8th November 1991, 22nd November 1991, 6th December
2 1991, 20th December 1991, in fact these are on page -- the screen is with me I
3 see -- the 6th January 1992, 17th January 1992, 31st January 1992, 14th
4 February 1992, 28th February 1992, 16th March 1992, 30th March 1992, 14th April
5 1992, 27th April 1992, 11th May 1992, 26th May 1992, 1st August 1992, 27th
6 August 1992 and there at entry number 29 the 14th September 1992. Again we
7 have the 14-day period?

8 A. From that date.

9 Q.49 It's almost every month, in fact, for the year and five months?

10 A. Yes.

11 Q.50 So at paragraph 19 of your statement, you say: "The various periods of 14 days
12 expired without lodgement of the relevant deed of transfer and the prescribed
13 entries fell to be cancelled under rule 7 of the Land Registration Rules 1972"
14 and you have explained that to us. And if you might read from paragraph 20 and
15 if we could put document 3837 on screen please?

16 A. Paragraph 20: "On the 8th December 1992, application was made by Frank Friel &
17 Company solicitors of Merton, 11 Dundrum Road, Dublin 14, as solicitors for
18 Paisley Park Investments Limited, for registration of a Deed of Transfer dated
19 5th June 1991 made between Robert A Tracey, the registered owner of folio 4940
20 and Paisley Park Investments Limited, whereby the lands in the folio were
21 transferred by Robert A Tracey to Paisley Park Investments Limited."

22 Q.51 If I can just stop you there and put page 3868 on screen? This is the transfer
23 dated the 5th of June 1991, I would just like to read that into the record.
24 "Transfer dated 5th June 1991, Robert A Tracey, the registered owner as
25 beneficial owner in consideration of £700,000 hereby transfers the property
26 described in folio 4940 of the Register of Freeholders, County Dublin to
27 Paisley Park Investments Limited. The address of the purchaser in the State
28 for service and its description are 12 Fitzwilliam Place, Dublin."
29 That's the address of Reddy Charlton and McKnight solicitors.

30

1 "It is hereby certified that the transaction herein does not form part of a
2 larger transaction or series of transactions." It goes on just to give the
3 usual certifications.

4

5 That document, if you see at the top, is stamped the 25th of May 1993, that's
6 the revenue's stamp for registration and just to look at the stamp on the
7 right-hand side, it's the revenue particulars delivered stamp I believe?

8 A. That's correct.

9 Q.52 And that's dated the 14th of August 1992. Just want to point that out because
10 you will refer to it if you continue reading from paragraph 20.

11 A. "The consideration expressed in the deed is £700,000. Revenue stamp duty was
12 impressed on the deed on the 26th May 1992.

13 Q.53 I think in fact the document is the 25th of May, just to correct that typo
14 maybe, the document on screen, you might have a clearer copy?

15 A. If I may, I will just consult the original.

16 Q.54 That's perfect, Mr. Hogan.

17 A. The green stamps on the right-hand side, they are commencing with the
18 particulars delivered stamp and the green stamps below those are the actual
19 amount of revenue duty payable. And the revenue stamps are dated the 26th of
20 May 1992.

21 Q.55 That's perfect, your statement's accurate.

22 A. And it was obviously presented on the 25th of May 1992 but the particulars
23 delivered stamp --

24 Q.56 That's a received stamp?

25 A. Yes.

26 Q.57 From the revenue office?

27 A. Is the 14th August 1992.

28 Q.58 That's great.

29 A. I will continue.

30 Q.59 Yes, please.

1 A. "Revenue stamp duty was impressed on the deed on 26th May 1992 and a revenue
2 particulars delivered (PD) stamp was impressed thereon on the 14th August 1992.
3 The address of the transferee was stated to be 12 Fitzwilliam Square, Dublin 2.
4 Paisley Park Investments Limited was duly registered as full owner of the folio
5 with effect from 8th December 1992 at entry number 030 on part two of the
6 folio and the deed is filed in the Registry under reference instrument number
7 92 DN 26235."

8 Q.60 And that's on page 3715, under the ownership, which is part two?

9 A. Yes, yes.

10 Q.61 You can see there the second registered owner on the computerised, in fact if
11 you bring the screen back up?

12 A. Yes.

13 Q.62 That's the entry there on the 8th of December 1992 where Paisley Park
14 Investments Limited are the registered full owners of folio 4940?

15 A. That's correct.

16 Q.63 You then say in paragraph 21: "In July 1994, an application was made by Frank
17 Friel & Company, solicitors." If we put page 3872 on screen and we might just
18 go through that document please.

19 A. Certainly. It is headed form 17 which is the prescribed form of application by
20 a solicitor for registration. Headed "Land Registry, County Dublin, folio
21 4940" And it is addressed to the Registrar of Titles.

22

23 "1. We, as solicitors for Jackson Way Properties Limited, apply for the
24 registration of the above-mentioned folio of the transfer arising under the
25 documents set out in the schedule hereto.

26

27 2. We send herewith registration fee stamps for £40 for the registration and
28 the issuing of a new land certificate.

29

30 3. The land certificate (certificate of title) now produced for the purposes

1 of the registration(s) applied for was in the custody of us as solicitors for
2 the Jackson Way Properties Limited.

3

4 We apply that it be redelivered to us as the solicitors for Jackson Way
5 Properties Limited.

6

7 4. We request that the returnable documents lodged be sent to us by post."

8 And it is dated 27th of June 1994 and signed F Friel & Company, solicitors,
9 Merton, 11 Dundrum Road, Dublin 14.

10

11 And the schedule lists.

12

13 1. Transfer.

14 2. S, for section, 45 consent.

15 3. Certificate of Incorporation, Memorandum and Articles of Association of
16 Jackson Way Properties Limited.

17 4. Land Registry fees in the sum of £40.

18 5. Original land certificate re: Folio 4940, County Dublin."

19 Q.64 So this is the 27th of June 1994, Frank Friel & Company solicitors are now

20 acting for a company called Jackson Way Properties Limited and they are seeking

21 to register the above-mentioned folio which is folio 4940. We'll have a look

22 at that transfer dated 30th of July 1993 at page 3899 and we'll read this

23 document fully into the record if --

24 A. It's titled "Land Registry, County Dublin, folio 4940."

25

26 "Transfer dated the 30th of July 1993. Paisley Park Investments Limited, a
27 limited liability company in liquidation, having its registered office at 12

28 Mount Havalock, Douglas, Isle of Man (hereinafter called "The Company") of the

29 first part and RP Harker MA (Cantab) FCA, ATI, of Court View, 12 Mount

30 Havalock, Douglas Isle of Man, liquidator of the company (hereinafter called

1 "The Liquidator") of the second part and Jackson Way Properties Limited having
2 its registered office at Birmingham (hereinafter called "Jackson") of the third
3 part."

4 Q.65 Just before you go on, just to point out at page 3868 which was the earlier
5 transfer dated the 5th June 1991, if you go to the next page on screen, you
6 will see the two directors that sign for Paisley Park in that context are
7 Martin Bullock, director, and Roderick P Harker, director, and now if we come
8 forward again in time to July 1993 at page 3899, just to clarify the parties
9 here, so you have a transfer from Paisley Park Investments Limited to Jackson
10 Way Properties Limited and you can see Mr. Harker acted as liquidator of -- it
11 was a voluntary winding-up, in fact, of Paisley Park and Mr. Harker was the
12 liquidator, he is of the second part just on the transfer deed for
13 clarification and on the third part then we have Jackson Way Properties. If
14 you read the recitals please?

15 A. "Whereas:

16

17 A. The company was incorporated on the 5th day of March 1987 under the
18 Companies Acts 1931-1986 in the Isle of Man.

19

20 B. The authorised share capital of the company is £2,000 divided into 1600 A
21 ordinary shares of one pound each and four hundred B ordinary shares of one
22 pound each all of which have been issued and are fully paid up.

23

24 C. Jackson is the nominee of the registered holder of 1600 A and 3800 B
25 shares.

26

27 D. It is provided by the Articles of Association of the company that if the
28 company is wound up, the liquidator may, with the sanction of an extraordinary
29 resolution of the company, divide among the members in specie or kind the whole
30 or any part or any assets of the company (whether they shall consist of

1 property of the same kind or not) and may for such purpose set such value as he
2 deems fair upon any property to be divided as afore said (in species) and may
3 determine how such division shall be carried out as between the members or
4 different classes of members.

5

6 E. On the 17th day of February 1992, all the directors of the company at a
7 meeting held for that purpose made a statutory declaration of solvency pursuant
8 to the provisions in that behalf contained in the Companies Acts 1931-1986.

9

10 At an extraordinary general meeting of the members of the company held on the
11 13th day of March 1992, a special resolution was duly passed that the company
12 should be wound up voluntarily and that the liquidator should be and thereby
13 was appointed, the liquidator of the company for the purposes of such winding
14 up.

15

16 G. At an extraordinary general meeting of the company held on the 13th day of
17 March 1992, an extraordinary resolution duly passed that, subject to the
18 provisions of the Companies Acts, the liquidator may divide among the members
19 in species the whole or any part of the assets of the company and may for that
20 purpose value any assets and determine how the division may be carried out as
21 between the members.

22

23 H. By declaration dated the 20th day of May 1993, the liquidator, with the
24 sanction of the extraordinary resolution of the members of the company,
25 resolved to distribute in species the whole of the company's interest in the
26 premises described in the schedule hereto (hereinafter called "The Premises")
27 and at the request of the holders of 1560 A ordinary shares and 372 B ordinary
28 shares and at the request of the nominees of 40 A ordinary shares and 8 B
29 ordinary shares to Jackson and on the basis of professional advice received, he
30 determined the value of the land at £800,000 and he resolved that the remaining

1 shareholders would receive only a cash distribution.

2

3 I. All liabilities of the company have been duly paid in discharge.

4

5 J. At the date of the passing of the extraordinary resolution hereinbefore

6 recited in recital F hereof, the company was and still is, seized of the

7 premises for an estate in fee simple in possession free from encumbrances, save

8 as provided in part three of the said folio.

9

10 K. The liquidator has agreed with Jackson to transfer the premises to Jackson

11 for an estate in fee simple in possession, free from encumbrances in

12 satisfaction of Jackson's share as nominee of Renzenbrinck Investments

13 Incorporated and Maskani Management Limited in satisfaction of the said

14 company's share and interest in the company and the deed then read."

15

16 Now this indenture witnessed as follows:

17

18 1. In pursuance of the said agreement, the company as beneficial owner acting

19 by the liquidator hereby transfers unto Jackson all that and those the premises

20 to hold same unto and to the use of the transferee in fee simple.

21

22 2. Jackson hereby acknowledges as nominee for Renzenbrinck Investments

23 Incorporated and Maskani Management Limited that it has received in full all

24 its share and interest of and in the assets of the company to which it was by

25 virtue of the ownership of the said shares or otherwise at the date of the

26 special resolution hereinbefore recited in recital F, entitled or may hereafter

27 become entitled and hereby release the company and the liquidator and each of

28 them from actions, proceedings, claims and demands for or in respect of such

29 share and interest on any part thereof."

30 Q.66 Just from this deed, we know that Jackson Way Properties Limited then is simply

1 a nominee for two other vehicles or companies, Renzenbrinck Investments
2 Incorporated and Maskani Management Limited?

3 A. That is correct.

4 Q.67 That's apparent from the deed. If you just continue at paragraph three please?

5 A. Paragraph 3: "The liquidator hereby covenants with Jackson that he has not
6 done or knowingly suffered or been party or privy to any act or thing whereby
7 the company is prevented from transferring the premises in the manner
8 aforesaid.

9

10 4. Jackson hereby certifies that an appropriate consent has been given under
11 section 45 (2.A) of the Land Act 1965 and that any conditions attached to that
12 consent have been complied with.

13

14 5. It is hereby certified for the purposes of the stamping of this conveyance
15 that this is an instrument to which the provision of section 112 of the Finance
16 Act 1990 do not apply for the reason that the premises constitute land.

17

18 6. The address of Jackson in the State for the service of notice and its
19 description are care of Frank Friel & Company, solicitors, Merton, 11 Dundrum
20 Road, Dublin 14, limited liability company.

21

22 The deed for execution reads: In witness whereof the common seal of the
23 company has been affixed hereby by the liquidator and the liquidator has hereon
24 to set his hand and affixed his seal and the transferee has hereonto caused
25 its common seal to be affixed the day and year having first hereinbefore
26 written."

27 Q.68 If you just read the schedule as well please?

28 A. The schedule reads: (The Premises) "All that and those the hereditaments and
29 premises comprised in folio 4940 of the Register of Freeholders, County
30 Dublin."

1 Q.69 This document is signed Roderick P Harker, the liquidator of the company, the
2 company being Paisley Park Investments Limited and also signed by Alan Holland
3 who is a director of Jackson Way Properties Limited?

4 A. That's correct.

5 Q.70 The last name there is a company secretary -- I'm not quite sure what it is
6 but in any event Alan Holland's name is clear as a director.

7

8 You state at paragraph 24 then of your statement that the deed was executed by
9 the company by affixing of its common seal by the liquidator and by Jackson Way
10 affixing common seal in the presence of the company secretary not readily
11 decipherable and director -- that should be Alan Holland -- if you just read
12 from paragraph 25 please.

13 A. The deed, dated 30th of July 1993, was presented to the Revenue Commission on
14 23rd of August for adjudication of stamp duty payable thereon. They were
15 impressed on the deed on the 16th of May 1994 and at paragraph 26.

16 Paragraph 26: "The application for registration is dated 27th of June 1994 and
17 was received in the Registry on the 1st of July. Queries were raised on the
18 27th of July seeking, amongst other matters, a copy of the resolution upon
19 appointing the liquidator. Reply dated 10th of August 1994 was received on the
20 19th of August, a further query related to the carrying on of a business in
21 Ireland by Jackson was raised on the 24th of August and was dealt with by
22 letter 31st August received in the Registry of the 25th of September."

23 Q.71 If we look at the first query raised, page 3882, I think that's the first --

24 A. That's a handwritten query on standard form addressed to Frank Friel & Company,
25 solicitors, Merton, Dundrum Road, Dublin 14, refers to county folio and
26 application number 94 DN 13342. Quotes Mr. Friel's reference and identifies
27 application for Jackson Way Properties Limited. "Please lodge a copy of the
28 resolution appointing the liquidator which should be certified by the secretary
29 or the law agent" and we asked to confirm that all of folio DN 004940 is being
30 transferred and the Deed of Transfer lodged, if such be the case, and -- the

- 1 third one was confirm the date of the transfer as same as unclear.
- 2 Q.72 And the reply to that of the 10th of August is on page 3879, reply from Frank
- 3 Friel & Company.
- 4 A. And the reply from Frank Friel & Company referred to the same application folio
- 5 number and deal number. "Dear Sirs, we acknowledge receipt of your Registry
- 6 requisition dated 27th July and comment on the point raised therein as follows
- 7 1. We enclose herewith a copy of the resolution appointing the liquidator
- 8 which is certified by the Deputy Assistant Chief Registrar.
- 9 2. We confirm all of the lands comprised in the folio are being transferred.
- 10 3. The date of the transfer is 30th July 1993."
- 11 Q.73 There was a second query on page 3878 by the Land Registry of Frank Friel &
- 12 Company, if we might just go through that document?
- 13 A. A further query relating to the same case, if I may I will have a look at the
- 14 original. It reads: "If Jackson Way Property Limited intend to do business in
- 15 Ireland, please lodge a certificate pursuant to Section 352 of the Companies
- 16 Act 1963. If Jackson Way Properties do not intend to do business in Ireland,
- 17 please certify that Section 352 does not apply."
- 18 Q.74 And the reply to that is page 3877.
- 19 A. And the reply to that is, "Dear Sir, we acknowledge receipt of your Registry
- 20 requisition dated 24th April and enclose herewith a certificate as requested."
- 21 Q.75 Yes, if we then go back to part two of the folio at page 3715?
- 22 A. It shows at entry number 031 in part two dated 5th July 1994, 94 DN 13342
- 23 "Jackson Way Properties Limited (limited liability company), care of Frank
- 24 Friel & Company solicitors, Merton, 11 Dundrum Road, Dublin 14, is full owner."
- 25 Q.76 Can I just ask in relation to carrying on of business in Ireland which in fact
- 26 relates to the second query that the lands registry raised with Mr. Frank Friel
- 27 & Company, would farming partnership be considered as carrying on business in
- 28 Ireland?
- 29 A. What?
- 30 Q.77 If someone was farming the land, for example, would that be considered as

1 carrying on a business?

2 A. I think in the case of companies it wouldn't. In the case of a company like
3 this, it may well be if they were buying and selling land all over the place,
4 that that might be the business.

5 Q.78 That is what you understand --

6 A. Our requirement would be that we ask, we require the question -- in normal
7 circumstances, we require evidence of incorporation and in the case of Irish
8 companies, the evidence of incorporation is the certificate of incorporation
9 from the Companies Office. In the case of companies incorporated outside the
10 State, we get evidence but we ask them to confirm or to comply with Section
11 352.

12 Q.79 I see. So in this case there was no need to comply with Section 352 because
13 Frank Friel replied and confirmed --

14 A. Then the certificate is theirs and they would have certified it doesn't apply.

15 Q.80 I see. Just in your last paragraph of your first statement, you state that the
16 date of registration of the 5th July 1994 would appear to be in error for the
17 1st July 1994 being the date of receipt of the application in the Registry.
18 The registration was completed on the 16th September 1994.

19 A. That is correct. The documents you would have on your screen regarding the
20 application document 94 DN 13342 would have the Land Registry rubber stamp of
21 the 1st of July and it was in the process of examining this documentation that
22 I spotted the difference between the 1st and the 5th.

23 Q.81 I see. Just while we are on that page on screen, the Land Registration
24 Certificate was issued, if you just might run through that?

25 A. Yes, the Land Certificate is a Certificate of Title to the registered owner and
26 the issue of it is noted here on part two. It was requisitioned, a requisition
27 number was 7646 and it issued on the 21st October 2001 to Miley & Miley,
28 Solicitors, at 35 Molesworth Street, Dublin 2.

29 Q.82 I see. And for completeness, before we move from folio 4940 I would like, if
30 you wouldn't mind, if we could go through part three which is page 3791? Sorry

1 3719.

2 A. Yes.

3 Q.83 These are the burdens or the Notices of Burdens that would be registered on the

4 title, if you might go through them one by one please, there are eight I see?

5 A. I will certainly.

6

7 Number one, and again the numbers are simply for ease of subsequent

8 reference -- there is no date

9 Q.84 Sorry, Mr. Hogan?

10 A. The numbers are simply numbered for ease of subsequent reference rather than

11 actually inserting it. And the first burden there, there is no date and no

12 reference number and that's a statutory provision that appears on all non-urban

13 property and it reads -- the property and all non-urban property would be

14 subject to this -- subject to provisions prohibits letting, subletting or

15 subdivision specified in section 12 of the Land Act 1965 and to the provisions

16 restricting the investing of interest specified in the section 45 of the said

17 Act insofar as the said provisions affect same." That's put on all folios

18 opened after 1965.

19

20 Now entry number two, there isn't a date but it goes back to the turn of the

21 20th century, I can get it for you, but what it is --

22 Q.85 I think we'll probably live without it.

23 A. It is a right for the owner or occupier of the cottage on the lands comprised

24 in folio 656 coloured pink on the registry map to use the closet on the

25 property herein and the approach thereto lettered XY on the said map as

26 heretofore used by the occupier of said cottage." That was put on in 1918.

27 When we came to data capturing, it the date wasn't clear so they omitted it.

28

29 Basically I mentioned yesterday that burdens are set out in section 72 of the

30 Act, quite a number of them, this is one of those: The right of a person to

1 effect the property herein.

2

3 Entry number three was registered on the 5th of June 1947. Again, that's a
4 right for an owner of adjoining property. In this case it was registered in
5 1947 and it is the right of "Thomas Vincent Murray, the registered owner of
6 part of the townlands of Carrickmines Great, shown as plan 21 edged red on the
7 registry map thereof OS 26 and 26/2 and of part of the townland of Brennanstown
8 shown as plans 3, 4 and 5 on the registry map of the townland OS 26, his heirs,
9 executors, administrators and assigns to pass and repass over the property
10 herein by the way shown coloured yellow on the plan thereof and drive cattle
11 and other animals over the property."

12 Q.86 This is a landowner who has a right-of-way over the --

13 A. Yeah.

14 Q.87 Over the Jackson Way lands entry number in our --

15 A. There was another form of burden because the section allows different types and
16 this is another form of burden that is actually contained in the same deed.
17 This was a covenant contained in instrument number 275 of 6/47 by John Hugh
18 Wilson, who was the first owner of this property.

19 Q.88 I mentioned in 1947, that's right, he is the first registered owner of folio
20 4940.

21 A. He obviously obtained a portion of the previous folio and opened a new folio
22 for him in bringing his property he covenanted by John Hugh Wilson with Thomas
23 Vincent Murphy and his -- -now I see that there is obviously typing error in
24 entry number three where we said the right of Thomas Vincent Murray, that was
25 on data capturing, because -- anyway this was a covenant contained with Thomas
26 Vincent Murphy, his heirs, executors, administrator and assigns that the said
27 John Hugh Wilson, his heirs, executors, administrator will not erect any
28 building on the property herein."

29 Q.89 Here we have an adjoining landowner who entered into a covenant with earlier
30 owner whereby you can't build any buildings on Jackson Way Properties?

1 A. Yeah. Now entry number five by 1962, that covenant was amended and entry
2 number five in March 1962 there is a note that the covenant at entry number
3 four has been modified to the extent specified in instrument number 45/4 of 62.

4

5 Entry number 6 is, registered on the 17th of February 1982 and again it is a
6 further right, it is a right of the owner of folio 4320 County Dublin to free
7 passage and running of water, sewerage and soil by and through the drain and
8 septic tank shown coloured blue and lettered A on the plan 1 edged red on the
9 registry map OS 26/2, together with all rights conciliary -- but I am sure it
10 should be ancillary -- thereto as specified in instrument number R 1502 of 82.

11

12 Entry number seven again is a wayleave, and that was registered in October 1998
13 and it reads: "The property is subject to a wayleave in favour of Bord Gais
14 Eireann pursuant to section 4243 of the Gas Act 1976.

15 Q.90 And the final entry is entry number eight?

16 A. That's another right-of-way registered in December '99. "The property is
17 subject to the right of the registered owners of folios" -- I will read.

18 Q.91 In fact, no, we will come on in your second statement and these folio owners in
19 fact are O'Halloran Darragh and Kilcoyne lands so that will become apparent?

20 A. "The owners of these folios, their heirs, assigns and licensees to pass and
21 repass at all times and for all purposes thereover on foot and with or without
22 animals and vehicles by the way shown coloured yellow on plan 11 on the
23 registry map OS 26/2".

24 Q.92 They are the registered burdens in part three of folio 4940.

25

26 In fact, that is as much as I am going to do on folio 4940 and I intend to move
27 onto the second statement

28

29 CHAIRMAN: Would it be convenient at this moment to take a short break?

30

1 MS. COGHLAN: That would be perfect. Thank you, Chairman

2

3 CHAIRMAN: A quarter of an hour, about 15 minutes.

4

5 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

6 AND RESUMED AGAIN AS FOLLOWS:

7

8

9

10 MS. COGHLAN: Mr. Hogan, we are now moving on to your second statement dated

11 November, 19th November 2002, and what I propose to do because we are all so

12 familiar now with Land Registry documentation is that I am going to read your

13 statement fully into the record and the additions I give will purely be page

14 referencing from the back of documentation so the Tribunal will have

15 references, and ease of use of the reference at the appropriate point and if

16 there is anything you would like to explain you can stop me. Is that okay,

17 Mr. Hogan?

18 A. Yes.

19 Q.93 "Re: Lands at Carrickmines County Dublin. I refer to the map attached hereto

20 marked A (that map is page 3792), and in particular to the property shown

21 thereon coloured yellow and edged in red.

22

23 The said property forms part of the townland of Brennanstown and part of the

24 townland of Carrickmines Great, both in Barony of Rathdown in the County of

25 Dublin.

26

27 The title to part of the land in Brennanstown so identified is registered in

28 the Land Registry on folio 10410 F County Dublin.

29 (The reference for that is page 3926 and the map is 3930.)

30

1 Paragraph 4, the title to the balance of the land of Brennanstown so identified
2 is not registered in the land registry." There is a part unregistered and I
3 informed that we'll have some evidence at some stage about the ownership of the
4 unregistered land, but not at the moment.

5

6 Paragraph 5: The title to the lands at Carrickmines Great so identified is
7 registered on folio 4940, 10411 F, 10412 F, 101134 F, 102115 F, 101135 F,
8 102133 F and 102134 F.

9

10 I refer to the map attached marked B (page 3969), which is a copy of the Land
11 Registry map of the area in question and set out hereunder particulars of the
12 registered titles by reference to this map." In fact that's a very bad copy on
13 screen, that's a detailed map whereby you have written into it all of the
14 various folio numbers and they are nine in total, we'll look at.

15

16 What might be easier is you put page 3906 on screen, there is a table you have
17 set out in your statement of the ownership of the various folios and I will
18 read into the record now, but we might put the table on screen? I will just
19 start reading, in fact, from the table, it is at page 3906 of book 10.

20

21 So you have four columns in your table, the first is headed townland, then plan
22 which is the plan number which is referenced to the ordinance survey maps that
23 you explained in your first statement, the folio and the registered owner -- in
24 fact that's not great, very clear -- so I am just looking at that table there.

25

26 So Brennanstown plan 5, folio 10410 F, registered owner Austin Darragh and then
27 a blank under townland for secondary, it is a balance of 2.280, that's

28 obviously --

29 A. It is 4.280 acres.

30 Q.94 -- acres that's unregistered part, we'll have evidence about at a later stage.

1

2 Then Carrickmines Great, plan 92, 1041 F registered owner Brian O'Halloran.

3 Reference for that is 3977 to 3981.

4

5 Still in the townlands of Carrickmines Great, plan AV5T folio number 102133 F,

6 registered owner Brian O'Halloran, reference for that folio number is 4054 to

7 pages 4058.

8

9 Again Carrickmines Great plan 21, folio 101134 F registered owner Austin

10 Darragh, page reference 3972 to 3976.

11

12 Next in Carrickmines Great plan F 724, folio 101135 F. Registered owner

13 Valerie Kilcoyne, page reference there is 3921 to page 3925.

14

15 Next in Carrickmines Great plan AV6B folio 102134 F, registered owner Austin

16 Darragh and Marie Darragh a half share with Valerie Kilcoyne the other half.

17

18 Page reference for that folio is 4049 to page 4053.

19

20 The next is plan AV6D folio 102121 F, registered owner J Gerard Kilcoyne, and

21 the reference to that folio is page 3936 to page 3940.

22

23 The next in Carrickmines Great is on page 94 folio is 10412 F, the registered

24 owner is J Gerard Kilcoyne and reference for that is page 3931 to page 3935.

25

26 And the last you mention there in the townland of Carrickmines Great is on plan

27 11 which we have already looked at earlier in the day a part thereof, on folio

28 4940 and the registered owner is Jackson Way Properties Limited.

29

30 And we already have the page references from your earlier statement.

1

2 "The properties shown on plans 5, 92, 21, F624, 94 and 11 were previously
3 registered on folio 1849 on the 25th of October 1918.

4

5 That folio starts on page 3912 and goes on to page 3916 in the back up
6 documentation.

7

8 The property shown as plan AV5T was registered on the first time on folio
9 102133 F on the 24 of February 1995. And that document can be specifically
10 seen on page 4056.

11

12 The property shown as plan AV6B was registered for the first time on folio
13 102134 F on the 24th of February 1995 and the page reference for this is 4051.

14

15 The property shown as plan AV6D was registered for the first time on folio
16 102121 F on the 24th February 1995. Page reference is 3938."

17

18 You then have a heading "re: Folio 1849 " as I mentioned, the folio of 1849
19 are found on pages 3912 to page 3916.

20

21 Paragraph 11: "Thomas Vincent Murphy of Priorsland Carrickmines, County
22 Dublin, was registered as owner on the folio 1849 on 15th February 1944 and is
23 recorded at entry number 17 on the folio.

24

25 The title to part of the lands shown as plan 11 was transferred to folio 4940
26 on 8th December 1944, as is recorded at entry number 20.

27

28 The Bedford company of 4-5 Trinity Street Dublin became registered as owner of
29 folio 1849 on 12th December 1956 and is recorded at entry number 22. That's
30 specifically page 3915.

1

2 Thomas Kevin Mallen of Priorsland Carrickmines, County Dublin, became
3 registered as owner of folio 1849 on 8th September 1964 and is recorded at
4 entry number 23 on page 3916.

5

6 Dermot Moore Limited of 1 Clare Street, Dublin, became registered as owner of
7 folio 1849 on 30th November 1978 as is recorded at entry number 24, again on
8 page 3916.

9

10 The title to part of the lands in folio 1849 shown as plan 21 was transferred
11 to folio 10405 F on the 30th November 1978, as is recorded at entry number 24."

12 I have written down here that's a typo and it should read entry number 25, it
13 is on page 3916, we might just check that.

14 A. That's correct.

15 Q.95 That's correct, that's perfect "The titled portion of the said plan 21 shown as
16 plan F 724 was subsequently transferred to folio 101135 F and the title to the
17 balance of plan 21 was transferred to folio 101134 F as is recorded on said
18 folio 10405 F.

19

20 The title to a further part of folio 1849 i.e. the part shown as plan 5 was
21 transferred to folio 10410 F also on the 30th November 1978 and is recorded at
22 entry number 26. That's on page 3916.

23

24 The title to a further part of folio 1849 i.e. the part shown as plan 92 was
25 transferred to folio 10411 F also on the 30th November 1978 as is recorded at
26 entry number 27. Again on page 3916.

27

28 The title to a further part of folio 1849 i.e. the part shown as plan 94 was
29 transferred to folio 10412 F also on 30th November 1978 as is recorded at entry
30 number 28." Your next heading is re: Folio 10405 F

1

2 "The land comprised in folio 10405 F County Dublin situate in the townland of
3 Carrickmines Great, barony of Rathdown and County of Dublin, was shown as plan
4 21 edged red on Land Registry map OS 26/2. Plan 21 is page 3945.

5

6 Austin Darragh, medical doctor, and Marie Therese Darragh, both of Manor House,
7 Brennanstown, Cabinteely, County Dublin were registered as full owner of one
8 undivided half share at entry number 001 part two of the folio, on 30th
9 November 1978, reference instrument number R 11954/ 78. That's page 3919.

10

11 Valerie Kilcoyne of Ashfield House, Rathfarnham, County Dublin was registered
12 as full owner of the other undivided half share at entry number 002 part two
13 of the folio on 30th November, reference instrument number R 11954/78. Again,
14 that's page 3919.

15

16 Both were made on foot of a deed of conveyance and transfer of 1st of November
17 1978 made between Dermot Moore Limited of the first part, Austin Darragh and
18 Marie Therese Darragh of the second part and Valerie Kilcoyne of the third part
19 of part of the lands then comprised in folio 1849, a counterpart of this deed
20 is filed in the Registry under reference instrument number R 11954/78. The
21 part so transferred was upon registration shown as plan 21 aforesaid", and that
22 was at page 3945.

23

24 "The said property was sub divided between the parties. The deed of partition
25 is filed in the registry under reference instrument number 93 DN 01549. That's
26 page 4024. The part allocated by the parties to Austin Darragh and Marie
27 Therese Darragh was transferred to folio 101134 F and was shown as plan 21 on
28 the Land Registry map OS 26/2. The transfer is at page 3974.

29

30 The part allocated to Valerie Kilcoyne was transferred to folio 101135 F and

1 was shown as plan F 724 on the land registry map OS 26/2.

2

3 The subdivision and transfer of folio 101134 F and 101135 F are recorded at
4 entry number three, part two, folio 10405 F. That's again page 3919. Folio
5 10405 F was then closed." That's apparent from page 3919.

6

7 Your next heading is "Folio 101134 F. Registered owner: Austin Darragh
8 The land comprised in folio 101134 F County Dublin situate in the townland of
9 Carrickmines Great, barony of Rathdown and County of Dublin, is shown as plan
10 21 edged red on the Land Registry map OS 26/2.

11

12 Austin Darragh and Marie Therese Darragh both of Tarahec, Tara, County Meath
13 were registered as full owners at entry number 001, part two of the folio on
14 18th January 1995 on foot of a deed of partition of the property previously
15 registered on folio 10405 F dated 15th May 1992 and made between Austin Darragh
16 and Marie Therese Darragh of the one part and Valerie Kilcoyne of the other
17 part. Reference instrument number 93 DN 01549." The reference for that was
18 page 4032 to 4037 for the 15th of May 1992.

19

20 "Following the death of Marie Therese Darragh, one of the joint registered
21 owners on the 8th August 1992, and an application to the Registry in 1997 --
22 which is at page 3952 -- by Dr. Austin Darragh, the surviving joint registered
23 opener, instrument number 97 DN 25508, he was registered as sole owner at entry
24 number 002 part two of the folio on 23rd of October 1997. Reference instrument
25 numbers 93 DN 01549 and 97 DN 25508." And that entry at 002 is on page 3974.

26

27 Your next heading is "Folio 101135 F County Dublin. This is to be found at
28 page 3921 to page 3925. Registered owner: Valerie Kilcoyne.

29

30 The land comprised in folio 101135 F County Dublin situate in the townland of

1 Carrickmines Great, barony of Rathdown and County of Dublin, is shown as plan F
2 724 edged red on the Land Registry map OS 26/2.

3

4 Valerie Kilcoyne, Mildmay, Leopardstown, Foxrock, Dublin 18 was registered as
5 full owner at entry number 001 part two of the folio on 18th January 1995,"
6 that's page 3923. "On foot of a deed of partition of the property previously
7 registered on folio 10405 F, dated 15th May 1992, paid between Austin Darragh
8 and Marie Therese Darragh of the one part and the said Valerie Kilcoyne of the
9 other part. Reference instrument number 93 DN 01549."

10

11 Your next heading is folio 10410 F County Dublin this is to be found pages 3926
12 to 3930. Registered owner Austin Darragh:

13

14 "The land comprised in folio 10410 F County Dublin situate in the townland of
15 Brennanstown, barony of Rathdown and County of Dublin, is shown as plan 5.
16 That's at page 3930. Edged red on the Land Registry map OS 26/2.

17

18 Austin Darragh and Marie Therese Darragh of Manor House, Brennanstown Road,
19 Cabinteely, County Dublin are registered as owners at entry number 001, that's
20 page 3928 specifically. Part two of the folio, on 30th November 1978, on foot
21 of a deed of conveyance and transfer dated first November 1978 made between
22 that's page 3985 -- made between Dermot Moore Limited of the one part and
23 Austin Darragh and Marie Therese Darragh of the other part, of part of the
24 lands then comprised in folio 1849. A counterpart of this deed is filed in the
25 Registry under reference instrument number R 11955/78. The part so transferred
26 was, upon registration, shown as plan 5 aforesaid.

27

28 Following the death of Marie Therese Darragh, one of the joint owners on 8th
29 August 1992 and an application to the Registry which is at page 3952 in 1997 by
30 Austin Darragh, the surviving joint owner, reference instrument 97 DN 29888, he

1 was registered as full owner at entry number 002, part two of the folio, on
2 10th December 1997, reference instrument numbers R 11955/78 and 97 DN 29988."

3

4 The next heading is "Folio 10411 F County Dublin. To be found on pages 3977
5 to 3981. Registered owners: Brian O'Halloran.

6

7 The land comprised in folio 10411 F, which is page 3977, County Dublin situate
8 in the townland of Carrickmines Great, barony of Rathdown and County of Dublin,
9 is shown as plan 92 on the Land Registry map OS 26/2. plan 92 is at page 3981.

10

11 Brian O'Halloran, architect, Craigholm, Brighton Road, Foxrock, County Dublin
12 was registered as owner at entry number 001 part two on the folio on 30th
13 November 1978. On foot of a deed of conveyance and transfer dated first
14 November 1978 made between -- that deed of conveyance and transfer is page
15 reference 3995 -- made between Dermot Moore Limited and Brian O'Halloran of
16 part of the land then comprised in folio 1849. A counterpart of this deed is
17 filed in the Registry under reference instrument number R 11956/78. The part
18 so transferred was, upon registration, shown as plan 92 aforesaid."

19

20 Your next heading is "Folio 10412 F, to be found on pages 3931 to 3935.

21 Registered owner: J Gerard Kilcoyne:

22

23 The land comprised in folio 10412 F County Dublin situate in the townland of
24 Carrickmines Great, barony of Rathdown and County of Dublin, is shown as plan
25 94. Plan 94 is page 3935. Edged red on the Land Registry map OS 26/2.

26

27 J Gerard Kilcoyne, company director, Ashfield House, Rathfarnham, Dublin, was
28 registered as owner at entry number 001 part two of the folio on the 30th
29 November 1978. On foot of a deed of conveyance and transfer dated 1st November
30 1978. This is to be found at page reference 4004 made between Dermot Moore

1 Limited and J Gerard Kilcoyne, of part of the land then comprised in folio
2 1849. A counterpart of this deed is filed in the Registry under reference
3 instrument number R 11957/78. The part so transferred was, upon registration,
4 shown as plan 94 aforesaid."

5

6 Your next heading is folio 102133 F to be found on pages 4054 to 4058.

7 "Registered owner: Brian O'Halloran. The land comprised in folio 102133 F
8 County Dublin, situate in the townland of Carrickmines Great, barony of
9 Rathdown and County of Dublin, is shown as plan AV5T, which is on page 4058,
10 edged red on the Land Registry map OS 26/2.

11

12 Brian O'Halloran, Brighton Road, Foxrock, County Dublin was registered as owner
13 at entry 001 part two of the folio on 24th February 1995. Reference instrument
14 number R 12753/80 on foot of an application for first registration of the
15 title.

16

17 The application was based, inter alia, on the Deed of Conveyance and transfer
18 dated first of November 1978 made between Dermot Moore Limited and the said
19 Brian O'Halloran referred to at paragraph 36 above." And I have already given
20 the page reference.

21

22 "Folio 102134 F to be found at page 4059 to 4053. Registered owners: Austin
23 Darragh and Marie Therese Darragh, a half share, and Valerie Kilcoyne the other
24 half. The land comprised in folio 102134 F County Dublin, situate in the
25 townland of Carrickmines Great, barony of Rathdown and County of Dublin, is
26 shown as plan AV6B. This is page reference 4053, edged red on the Land
27 Registry map OS 26/2.

28

29 Austin Darragh, Manor House, Brennanstown Road, Cabinteely, County Dublin and
30 Marie Therese Darragh of Manor House, Brennanstown Road, Cabinteely, County

1 Dublin were registered as owners of undivided half share at entry number 001
2 part two of the folio reference instrument number R 2566/82. That's page 4051.

3

4 Valerie Kilcoyne, Ashfield House, Rathfarnham, County Dublin was registered as
5 owner of the other undivided half share at entry number 002 part two of the
6 folio reference instrument number R 2566/82. Again at page 4051.

7

8 Registration was effected on foot of a joint application for first registration
9 of the title based inter alia on a Deed of Conveyance and transfer dated 1st of
10 November 1978 made between Dermot Moore Limited of the one part, Austin Darragh
11 and Marie Therese Darragh of the second part and Valerie Kilcoyne of the third
12 part referred to at paragraph 23 above.

13

14 Next heading folio 102121 F to be found at pages 3936 to 3940.

15 Registered owner: J Gerard Kilcoyne. The lands comprised in folio 102121 F
16 County Dublin, situate in the townland of Carrickmines Great, barony of
17 Rathdown and County of Dublin, is shown as plan AV6D. This is on page 3969 on
18 the Land Registry map OS 26/2.

19

20 J Gerard Kilcoyne, Ashfield House, Rathfarnham, Dublin was registered as owner
21 at entry number 001 part two of the folio on 24th February 1995, reference
22 instrument number R 2556 A/82, on foot of an application for first registration
23 of the title.

24

25 And the last page of your statement at paragraph 48, "The application was
26 based, inter alia, on a Deed of Conveyance and transfer dated 1st of November
27 1978. That deed is page 4002. Made between Dermot Moore Limited and said J
28 Gerard Kilcoyne referred to at paragraph 38 above.

29

30 Next heading is folio 4940. The folio is to be found at page 3713 to 3720.

1 The land comprised in folio 4940 County Dublin, situate in the townland of
2 Carrickmines Great, barony of Rathdown and County of Dublin, is shown as plan
3 11 edged red on the Land Registry map OS 26/2 and 26/6. Jackson Way Properties
4 Limited is registered as owner.

5

6 And final heading is re: The balance of the land.

7

8 The title to the balance of the land shown coloured yellow and edged in red on
9 the map referred to at paragraph 1 -- this was a map to be found at page
10 3792 -- is not registered in the Land Registry. It is situate in the townland
11 of Brennanstown, barony of Rathdown and County of Dublin, now the county of Dun
12 Laoghaire/Rathdown and is shown hatched on the map attached marked C.

13

14 The map marked C is page reference 3971. It was conveyed by Deed of Conveyance
15 and transfer referred to at paragraph 33 above, dated 1st November 1978 made
16 between Dermot Moore Limited of the one part and Austin Darragh and Marie
17 Therese Darragh of the other part, registered in the Registry of Deeds on 14th
18 November 1978. Book 135, number 25, a counterpart of the deed is filed in the
19 Registry under reference R 11955/78." That deed dated 1st of November is
20 page 3985 and that is signed by yourself, that concludes in fact your second
21 statement.

22

23 I don't have any further questions for this witness, maybe my colleagues might
24 have.

25

26 CHAIRMAN: Any questions you want -- anyone want to ask any questions?

27

28 JUDGE MAHON: Mr. Hogan, in 19 -- between 1988 and 1991 approximately, there
29 were two different solicitors involved, this is now in relation to the, your
30 evidence before the break. Mr. Charlton and Frank Friel & Company, and then in

1 1991 and '92, there were again two different solicitors acting Binchy &
2 Partners and Frank Friel & Company again.

3

4 On both occasions or for both periods they appeared to be acting at the same
5 time.

6 A. That would appear to be so.

7

8 JUDGE MAHON: Yes, is that unusual or --

9 A. Unusual in the sense of uncommon, but not unstrange -- the Registry would
10 occasionally have applications from a solicitor for a purchaser and some short
11 time afterwards, a mortgage might be lodged by another solicitor.

12

13 Or occasionally during the transaction, a certificate may be lodged by the
14 solicitor for vendor or solicitor for bank.

15

16 JUDGE MAHON: But there was no obvious reason here?

17 A. No, not from the documents. No obvious reason.

18

19 JUDGE MAHON: And the only other question I wanted to ask you was in relation
20 to the Land Certificate which, I think in October of last year, was given to,
21 or was issued to Miley & Miley, Solicitors.

22 A. Yes.

23

24 JUDGE MAHON: And presumably they still have it, or at least you don't have it,
25 Land Registry?

26 A. No, Land Registry doesn't have it.

27

28 JUDGE MAHON: What would the Land Certificate show, if you were to look at it,
29 what information would it reveal?

30 A. Contain a certificate on the outside, in a prescribed form which certifies the

1 ownership within and in the body would be a facsimile the exact copy of the
2 folio and it is issued on the application of the registered owner or a
3 solicitor for the registered owner.

4

5 JUDGE MAHON: And is additional information added to it?

6 A. The only additional information would be when there is a change on the folio it
7 would be incorporated in the land certificate. The land certificate would be
8 written up to reflect whatever change is on the folio.

9

10 JUDGE MAHON: Thank you.

11

12 JUDGE FAHERTY: Just on that point, Mr. Hogan, if there was a change obviously
13 on the folio, would you requisition the land certificate then from the holder
14 thereof?

15 A. From the applicant.

16

17 JUDGE FAHERTY: From the applicant

18 A. For the registration. Rule 181 sets out -- sorry, it isn't rule 181, I will
19 just get the rule -- rule 162 sets out the circumstances in which the Land
20 Certificate must be produced and if there is a deal, for example, by the
21 registered owner or with the consent of the registered owner, it must be
22 produced with application.

23

24 So, for example, on a deed of charge by the registered owner which may well be
25 lodged by a lending institution, the lending institution's solicitor making the
26 application will be requested to either produce the Land Certificate or to
27 procure its lodgement from wherever it is.

28

29 JUDGE FAHERTY: I see. That would be for, for example, if there was money
30 borrowed or whatever?

1 A. Basically any transaction with the consent of the registered owner, it could be
2 a mortgage, a transfer a grant of right-of-way, there will be some
3 registrations for which a Land Certificate will not be produced and the best
4 example of that would be a judgement mortgage.

5

6 JUDGE FAHERTY: That's a different --

7 A. That will not be, that application will not be with the consent of the
8 registered owner.

9

10 JUDGE FAHERTY: Operation of law obviously.

11 A. Yes, and cautions and inhibitions are not necessarily with the concert of the
12 registered owner and they would be registered without production of the Land
13 Certificate. On the next lodgement of the Land Certificate before it is
14 reissued, it will be written up the date to incorporate whatever was on the
15 folio at that particular time.

16

17 JUDGE FAHERTY: Right. Thank you very much.

18

19 MS. COGHLAN: Thank you very much, Mr. Hogan

20 A. Thank you.

21

22 MS. COGHLAN: If Mr. Hogan could be stood down.

23

24 CHAIRMAN: It's coming up to five to one, hardly worth putting a witness in the
25 box.

26

27 MS. COGHLAN: The next witness is Mr. Enda Conway.

28

29 MR. QUINN: That's correct, My Lord. He is here, he will be sometime, do you
30 wish to start his evidence?

1

2 CHAIRMAN: It is hardly worthwhile starting at this point, we'll say sitting
3 again at quarter past two is that acceptable to everybody? Very good. Quarter
4 past two.

5

6 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

7

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30

1 THE TRIBUNAL RESUMED AS FOLLOWS AT 2.15 PM:

2

3 MR. QUINN: Mr. Conway, please.

4

5 ENDA CONWAY, HAVING BEEN SWORN, WAS EXAMINED AS FOLLOWS

6 BY MR. QUINN:

7

8 Q 96 Mr. Conway, you have provided, I think, the Tribunal with a statement of

9 evidence and you have also supplied the Tribunal yesterday with a statement of

10 additional evidence, isn't that correct?

11 A Yes, I provided initially two reports which have been amalgamated into one and

12 a subsequent one yesterday.

13 Q 97 Yes. If I could take you through your statement of evidence, I think you say

14 that -- have you got a hard copy of the statement?

15 A I have a hard copy of my statement, yes.

16 Q 98 I think you say you are a retired County Planning Officer of South Dublin

17 County Council, having been appointed prior to the creation of that authority

18 on the 1st January 1994?

19 A That's correct.

20 Q 99 From April 1st 1966 to December 1993, you were employed by Dublin County

21 Council as a planner and from 1974 as a senior planner; is that correct?

22 A From April, not April 1st. Correct otherwise.

23 Q 100 You say you were involved to a minor extent in the 1972 Development Plan

24 process and that you worked exclusively on the review of the 1972 plan which

25 evolved into the 1983 Development Plan assisting Len O'Reilly who was then

26 Deputy City Planner?

27 A That's correct.

28 Q 101 In the period 1987 to December 1993, I think you were responsible for the

29 preparation and processing the 1993 Plan?

30 A Correct. Yes.

1 Q 102And during that period, William Murray was Deputy Planning Officer, Dublin
2 County; is that correct?

3 A That is correct.

4 Q 103During the review process that culminated in the Dublin County Development Plan
5 1993, you say that you were assisted from time to time by other staff members
6 who dealt with specific items?

7 A Correct.

8 Q 104You say Joan Caffrey and Tom Gleeson, senior executive planners, were full-time
9 employed on the task. Dennis Daly, executive draughtsman, headed a drawing
10 office team producing the various maps and presentation material.

11 A That's correct.

12 Q 105And on the administrative side, you say that Al Smith, principal officer,
13 Michael Hodgins and Sinead Collins were also involved?

14 A Correct.

15 Q 106Now, under the heading Dublin Plans, Dublin County, you say that the Local
16 Government Planning and Development Act 1963 imposed on all planning
17 authorities the statutory obligation to make a Development Plan. The Act sets
18 out the procedures to be followed and the general contents, both mandatory and
19 optional of the Plan. You say that the first Development Plan was made by
20 Dublin County Council in 1972, earlier in April 1967 a Draft Development Plan
21 was produced you but this plan was not proceeded with?

22 A That is so.

23 Q 107Can I ask you why that earlier draft, 1967, plan was not proceeded with?

24 A Well, at that time there were two reports that had been commissioned by the
25 Government at different stages. One was the Miles Wright report on the Dublin
26 region and that report was published in 1967 and alongside that, the Colin
27 Buchanan report on regional studies in Ireland was published in September 1968,
28 and these reports were relevant to the topic so the council started then to
29 produce a new plan, the 1972 Plan.

30 Q 108OK. In fact, I think your report or your statement goes on to deal with both

1 of those reports. You say that at the time two reports commissioned by the
2 Minister for Local Government were underway. Professor Miles Wright's report
3 on the Dublin region was published in 1967. The Terms of Reference were to
4 prepare an advisory plan for the planning and development of the Dublin region
5 in order to assist in the preparation of development plans for the constituent
6 planning authorities, and you say that the Colin Buchanan report on regional
7 studies in Ireland was published in September 1968. That report confirmed the
8 potential to sustain social and economic expansion?

9 A That's so, yes.

10 Q 109 Under the heading "The 1972 Development Plan", you go on to say: "This was the
11 first full plan made by Dublin County Council. The Dublin city plan was made
12 in 1971. The settlement strategy concentrated on the development of three
13 major growth areas in the form of new towns of approximately 100,000
14 population, each at Blanchardstown, Lucan/Clondalkin and Tallaght. This
15 strategy was in general conforming with the Miles Wright report on the regional
16 strategy."

17 A That is correct, yes.

18 Q 110 You say under heading "Dublin County Development Plan 1972: This plan
19 established the development strategy for the county for the 20 year period to
20 1992. Extensive areas of lands were zoned for various uses to accommodate the
21 planned expansion of population in the Dublin sub region. It was estimated
22 that the population of Dublin's sub region, that is Dublin city, county and Dun
23 Loaghair County Borough would rise to between 1.2 million and 1.3 million by
24 1991. The actual population recorded in the 1991 census of population was
25 1,025,304. Major drainage and water supply schemes were planned and provided
26 in cooperation with Dublin Corporation to facilitate the expansion. A network
27 of major roads was incorporated and a schedule of road construction works
28 listed in the plan. In all in excess of 9,250 acres were zoned for residential
29 use and large areas were zoned for industrial development in the 1972
30 Development Plan. An analysis of the situation was presented to the council at

1 the council meeting of the 5th September 1973 entitled "Examination of the
2 Development Plan in relation to development potential for residential purposes
3 and population trends"." And we can find that, I think, at pages 407 -- 4078
4 to 4083 of the brief.

5

6 We don't actually have that on screen at the moment, we may return to it if
7 necessary.

8 A I have a hard copy of that.

9 Q 111 You set out the main points emanating from that and would you list them as they
10 appear there in your statement?

11 A The main points emanating were that there were 9,250 acres excluding low
12 density of committed lands zoned for residential development in the plan, with
13 a potential to accommodate 277,500 persons.

14

15 Committed residential lands, i.e, under construction or with full planning
16 permission, could accommodate an estimated 14,700 persons making a total
17 capacity of 336,300 additional persons.

18

19 The revised population increase for the county for 1991 was 310,500,
20 therefore, there are sufficient lands zoned for residential development in the
21 plan.

22

23 The programme for the provision of sanitary services to the lands zoned in the
24 plan should generally result in approximately 3,009 acres of land over and
25 above that required to meet the population increase being realised at any given
26 time. The industrial land situation was also examined and growth demand
27 continued to be accommodated.

28

29 The zoning objectives of the 1972 Plan growth to 1991 remain valid. Any major
30 changes in population rates will be monitored as part of the statutory review

1 process.

2

3 I should say that that was a response given to a question raised at the County

4 Council meeting.

5 Q 112 This is the --

6 A The information at that time was shown on tables and figures which were

7 displayed and these were broken into six planning districts of the county.

8 Q 113 Yes. What districts?

9 A Generally speaking for planning purpose the county was divided into six

10 regions. You had the three new town areas which would be Tallaght, Lucan,

11 Clondalkin, Blanchardstown. You had northern towns and the northern area which

12 is now the Fingal area, you had the south and southeast suburbs which

13 correspond to the area we are dealing with at the moment, the Rathdown area,

14 Dun Laoghaire/Rathdown borough and then the north and northwest suburbs which

15 is the fringe areas along the city.

16 Q 114 Was the Dun Laoghaire borough included as part of the county area at this time?

17 A No, it was separate a authority at that stage.

18 Q 115 As was Dublin city, I think?

19 A Dublin city was a separate authority. However, in the various calculations of

20 populations, they were taken into account.

21 Q 116 Yes. You go on in your statement to say the 1983 Development Plan: "This plan

22 was the first review of the 1972 Plan. This Plan adopted the basic policy to

23 continue the growth strategy set out in the 1972 Plan. It made appropriate

24 adjustments and updated the developments since 1972. "

25

26 You go on to say that additional zonings were introduced by the councillors in

27 most cases contrary to advice by planners and management. Is that in relation

28 to the preparation of the 1983 Plan?

29 A Yes. In the process, the advice given by the planners, by manager was

30 generally speaking, we have enough land zoned to cater for 20 years from 1972

1 yet there were motions passed adopted by the Council at that time, many of
2 which were not recommended by management.

3 Q 117 Yes, but I mean, you will accept, I think, that the whole idea of zoning was a
4 reserve function or a function reserved to the councillors; is that right?

5 A Oh indeed it is, yes.

6 Q 118 And they were entitled, where appropriate, to reject the views of the planners?

7 A Oh, yes, they were entitled to make such decisions.

8 Q 119 You go on to deal with the review of the Development Plan 1983. You say that

9 "the review of the Dublin County Development Plan 1983 commenced in 1987,
10 between October 1987 and January 1989 a series of working papers, 14 in all,
11 were presented to the council for consideration and the working papers were
12 considered and noted at the various special County Council meetings."

13

14 Can I stop there and ask you, had it been decided there would be special
15 meetings at the council at which the Development Plan would be reviewed?

16 A That is correct. Special meetings were organised and this was the first phase
17 of it, the series of meetings which went through the various working papers.

18 Q 120 If I could just go through those 14 papers and when they were considered, the
19 first working paper I think was entitled "The Review Process" and that was
20 considered at a meeting, a special meeting on the 16th October 1987?

21 A That is correct.

22 Q 121 The next was the paper entitled "The Planning Issues" which was reviewed again
23 on the 16th October 1987. The third was "A Review of Objectives" which was
24 considered on the 29th January 1988 and then paper number 4, which was headed
25 "Industry" was considered at a special meeting on the 26th February 1988?

26 A Yes.

27 Q 122 The paper number five entitled "Rural Housing" was considered on the 25th March
28 1988.

29 A That's right.

30 Q 123 Paper number six, "Urban Housing", was considered on the 15th April 1988. Then

1 paper number seven, "Shopping" was considered at two meetings, one on the 20th
2 May 1988 and the other on the 15th June 1988. Paper number 8, "Recreation and
3 Leisure", was considered at a meeting on the 15th June 1988 and the 16th
4 September 1988. Conservation was considered on the 16th September 1988 and
5 paper number 10, neighbourhood concepts was considered on the 14th October
6 meeting 1988; isn't that right?

7 A That is correct.

8 Q 124 Paper number 11 entitled "The Western Town" was considered on the 18th November
9 1988 and the 12th January 1989. Paper number 12, "Population Labour Force and
10 Land Budget", was considered at the meeting of the 12th January 1989 and paper
11 number 13, "Transportation", was considered on the 27th January 1989.

12 A Yes.

13 Q 125 And finally, paper number 14, "Resources", was considered at a meeting on the
14 27th January 1989?

15 A That is correct, yes.

16 Q 126 Now, your statement goes on to say that "working paper number one set out in
17 detail the legal requirements, content procedures formative of the Development
18 Plan review and figure reproduced below set out the step by step procedures to
19 be followed in the course of the review process." I think we have that page
20 at -- between page 8 to 20.

21

22 If we look at page 13, I think we see the steps -- can you see page 8 or page
23 13?

24 A Yes. This is the diagram which was submitted to the council to explain in
25 diagrammatic form the various processes that had to be gone through in reaching
26 the making of a Development Plan.

27 Q 127 Yes. So the individual councillors were being advised that there would be,
28 first of all, the preparation of the review working papers and reports,
29 consideration of these various working papers, a formulation of a policy
30 objective in the production of written statements and zoning maps, the adoption

1 of a Draft Development Plan, which would be followed by a statutory public
2 display period of a minimum of three months; isn't that right?

3 A Three months.

4 Q 128Then there would be oral and written objections?

5 A The hearing of oral objections, yes.

6 Q 129But there would also be a period where written submissions would be received?

7 A That's right, yes.

8 Q 130Then there would be a statutory public display of amendments to the Draft Plan

9 between the hearing of the oral representations and the publication of the

10 amendments, presumably the motions in relation to the map or to objections to

11 the map would be debated?

12 A Yes. The consideration of all representations, yes, was itemised.

13 Q 131And then there would be a consideration again of written representations of the

14 original draft changes; isn't that right?

15 A That is correct, yes.

16 Q 132And then finally there would be the making of the plan.

17 A Yes.

18 Q 133You say that working paper number two dealt with the main planning issues to be

19 addressed in the process. The main issues included: the recession, population,

20 housing, industry, labour force, transportation, the western towns, Dublin city

21 Development Plan, financing and amenities, and these are to be found at pages

22 21 to 34 of the brief; is that right?

23 A That's correct.

24 Q 134And you are going to deal with those, I think, and some of the other working

25 papers in more detail?

26 A That was an introduction basically to the other ones.

27 Q 135Yes. Now, I think one of the more important working papers was working paper

28 number four in that it dealt with industry; isn't that right?

29 A Yes. If I could explain here generally that all my reports deal with the two

30 major items; namely, the residential development and industrial development

1 situation throughout the county.

2 Q 136 Yes. And you had responsibility for spearheading the compilation of these
3 working papers?

4 A Indeed, yes. So working paper number four was a fairly comprehensive study of
5 the whole industrial situation as it pertained at the time and projections for
6 the future and all aspects of it really.

7 Q 137 OK. Perhaps if we could maybe deal in some detail in what's contained in
8 working paper number four. It's to be found at page 79 of the brief.

9 A I think it's 37. Yes. This working paper analysed the many pertinent factors
10 contributing to industrial development. Topics considered included economic
11 backgrounds, manufacturing employment, unemployment, population, rental and
12 investment, trends, 1960 to 1987, state support.

13

14 And as part of the analysis, a comprehensive industrial survey was carried out
15 during 1987. Table number 6 shows the results in terms of development,
16 developed and undeveloped zoned lands by district.

17 Q 138 Well, if we perhaps just have a look at that paper in more detail, I think the
18 paper itself commences with the summary and conclusions and they are to be
19 found at page 82. Could I just ask you to list the summary and conclusions?

20 A Yes. Page 1 of that document, working paper number four, stated the following,
21 under summary and conclusions.

22

23 "The Dublin area represents a very significant proportion of the over all
24 national industrial base. Dublin county is strategically important in this
25 context. Accordingly, the fortunes of industrial activities in the county have
26 national as well as local significance.

27

28 Since 1983, there has been a serious decline in the rate of industrial growth.

29 Despite the growth in population, employment and manufacturing in the Dublin
30 area has declined steady at the rate of around 2,000 job losses per annum.

1 See table number 1.

2

3 3. Unemployment is also rising. The numbers have doubled since 1982.

4 See table number two. The rate of unemployment is growing at a faster rate
5 than population and labour force growth. See figure one.

6

7 4. Productivity and manufacturing (output by volume) has increased steadily in
8 recent years. This is largely attributable to new technological advances.

9 These changes have to be accommodated.

10

11 5. The slowing down in demand for industrial floor space has resulted in
12 reduction of rentals and capital values of industrial property. This in turn
13 diverts potential investors away from industrial.

14

15 6. Since 1976, the IDA has invested considerable capital and expertise in the
16 Dublin area. The IDA policy is changing in the light of recent economic
17 trends. This will in effect result in a severe curtailment in its land
18 acquisition and industrial properties development activity in the Dublin area
19 as well as throughout the entire country for the immediate future.

20

21 7. The nature of industrial property development is such that changing demands
22 result in functional obsolescence of buildings over 20 years old. This is
23 likely to create land use and environmental problems for the future.

24

25 8. The slow rate of development of industrial areas extends the environmental
26 unattractiveness under construction stage. The council's policy should
27 recognise the need to minimise the ill effects of slow development.

28

29 9. The need for an attractive industrial environment as an influence in
30 attracting industrial enterprises has been emphasised by the IDA. The council

1 could review its developments standards in the area of site development,
2 landscaping, building lines etc, to improve the attraction potential of
3 industrial estates."

4

5

6 Q 139 Now, I think you go on to refer to a land use survey of 1987, was that a survey
7 conducted by the Council itself?

8 A That was conducted by the Planning Department of the Council, yes.

9 Q 140 We will --

10 A In the council industrial land survey of 1987 indicates: "A. The rate of take
11 up of zoned industrial land has declined to approximately 12 hectares per
12 annum."

13 Q 141 Can I ask you, what had it been at prior to the decline?

14 A It had varied, it would have been quite higher than that earlier on, it varied
15 from year to year. This would probably have been the lowest period.

16

17 "B. 57 percent of the industrial zoned lands have not yet been developed.

18

19 C. Of the undeveloped land, one third (300 hectares) has planning permission
20 for development.

21

22 D. Industrial force base in the county has doubled since 1976. There has been
23 a 50 percent increase in manufacturing floor space whilst warehousing has more
24 than doubled in the same period.

25

26 E. One tenth of all floor space in industrial estates was vacant in 1987. In
27 Tallaght, 14 percent was vacant.

28

29 F. There is an adequate supply of serviced industrial land to meet the future
30 requirements for many years to come."

1 Q 142 Does that stem from the fact that you had three hundred acres of industrially
2 zoned undeveloped but serviced land and you had a take up rate at approximately
3 12 hectares per annum?

4 A Yes, well --

5 Q 143 So that continued --

6 A Planning permission for development -- in fact, the developers would start
7 building in the morning effectively, there was 300 hectares ready for that.

8 Q 144 But had they started taking up the land industrially zoned and developed and
9 serviced? There was a 12 hectares per annum, almost 25 years of industrially
10 zoned lands in 1987?

11 A Indeed, if that rate persisted, yes, or even more so because it was also
12 significant that there was considerable vacancy in the industrial buildings
13 being vacant, 10 percent, they would also --

14 Q 145 Have to come on-stream?

15 A -- On-stream as well, there was further capacity in that.

16 Q 146 In fact, if anything, it was likely the downward trend in the take up of
17 industrially zoned land for the foreseeable future in 1987?

18 A At that point in time, yes.

19 Q 147 I interrupted you.

20 A 11: "The survey of industries not located on industrial zoned lands
21 (non-conforming uses) means that there is a considerable amount of industrial
22 floor space, as much as 10 percent of the county total located outside the
23 established industrial estates dispersed throughout the county in all sorts of
24 locations. A high percentage of these premises are devoted in manufacturing.
25 Six percent are vacant.

26

27 The magnitude and location of this sector has significant employment and
28 environmental implications and will require formulating a policy for such
29 activities.

30

1 12. The Council's role in the promotion of industry has been significant. A
2 more than adequate supply of zoned lands have been serviced so that there has
3 been a plentiful supply of land ripe for development available at all times.
4 The Council has successfully developed its own industrial estates. The Council
5 may wish to reassess its role and contribution in this field in the light of
6 recent changes."

7 Q 148 Can I just ask you in relation to that, you are making the point that there was
8 a sufficient amount of industrially zoned land in 1987 but that the Council may
9 wish to reassess its position into the future; is that right?

10 A Yes, because the IDA was readjusting its policy, national policy in this regard
11 also.

12 Q 149 Yes.

13 A "13: The need to concentrate development in the next few years in areas where
14 the infrastructural facilities have already been provided makes obvious sense
15 if the maximum and most economic utilisation of scarce resources is to be
16 achieved."

17 Q 150 Can I stop you there and ask you what you intended by that statement?

18 A Well, it means that it makes no sense going into new areas and providing new
19 services, in roads and new development and leaving serviced areas undeveloped.
20 Therefore, concentrate on the areas already in the course of development.

21 Q 151 So, for example, in so far as industrial zoning is concerned, you had more than
22 an adequate supply within the county of an industrially zoned land which was
23 serviced, and the point you are making here is that you are advising the
24 councillors that it makes no sense for them to promote the concept of new
25 zonings of industrial lands, particularly in areas where those lands are
26 neither serviced by roads or other infrastructure?

27 A Yes, precisely. Yes.

28

29 "14. There's a growing pressure to allow the extension of resale uses into
30 industrial estates where to date specific retail warehousing has been

1 permitted. The Council's policy in this regard needs to be considered in the
2 light of the effects on established retail outlets ." There's a summary.

3 Q 152If we could perhaps in a broad outline go through the remainder of the report
4 and see what backs up that summary. I think the introduction sets out the
5 basis upon which you came to your various conclusions in the works that you had
6 carried out on your behalf; isn't that right?

7 A Yes, indeed.

8 Q 153You had consulted widely with a large number of people; isn't that right?

9 A Yes, indeed.

10 Q 154And you had updated surveys carried out by the Planning Department, isn't that
11 right, on all existing industry?

12 A Yes, yes.

13 Q 155And you had discussion papers which showed economic trends, etc; isn't that
14 right?

15 A Yes, and that survey that was carried out specifically for the information of
16 the councillors as an input into this Development Plan.

17 Q 156Yes. And then at paragraph 2 I think you set out the economic backgrounds
18 which led to this; isn't that right?

19 A I beg your pardon?

20 Q 157It's at page 85 of the brief. I think you said that since 1983, manufacturing
21 employment in the Dublin area continued its serious decline and there had been
22 a major decrease in the demand for and supply of industrial premises?

23 A Yes. That was quite a significant and fairly serious situation that was
24 developing in the sense that manufacturing industry was declining, the
25 employment in manufacturing industry was declining.

26 Q 158Yes. That's dealt with, I think, at paragraph 2.2; isn't that right? You say
27 that "manufacturing employment in the Dublin area had been in decline since
28 1971" and I think at table number 1, the manufacturing employment in the Dublin
29 area, '82 to 1986, showing job gains and losses is set out; isn't that right?

30 A That's correct, yes.

1 Q 159And your source for that information was the IDA; is that correct?

2 A The IDA, yes, they produced figures on that basis.

3 Q 160And then at paragraph 2.3 you deal with unemployment and we see there at page

4 87 a graph produced showing the population, unemployed and manufacturing

5 employment in the Dublin area.

6 A Yes. This showed on the top the population as it was increasing. The

7 unemployment, which was rising and the manufacturing employment which was

8 declining.

9 Q 161So --

10 A That's a major interpretation of what was --

11 Q 162What we had was a rising population.

12 A Yes.

13 Q 163And a rising unemployment --

14 A That's right.

15 Q 164And a decline in manufacturing?

16 A Manufacturing.

17 Q 165Now, you go on, I think, at table 3 to give an index of the national

18 manufacturing production volume and your source for that information was the

19 Central Statistics Office; is that right?

20 A That's correct, yes.

21 Q 166And you deal with construction trends and construction output nationally for

22 industrial purposes, 81 to 87. That's table number 4?

23 A Table number 4, yes, that gives a various -- from 1981 to 1987.

24 Q 167Can I just ask you to explain that table as we see it there, I think the source

25 of which is the Department of the Environment.

26 A Yes. Well, this really compares the output year by year at a constant value

27 and it shows that the volumes produced were declining rapidly and percentage

28 was given there, so that from 1981 continually down to 1987 the amount of

29 production was reducing.

30 Q 168Yes. I think the 1987 figure was in fact a forecast figure?

1 A That was a forecast because we hadn't got the full annual figures for that at
2 the time.

3 Q 169At paragraph 2(6) you deal with rental investment indices and at table 5 you
4 show the industrial property, and it says for Dublin, 1982 to 1986.

5 A Yes. These were figures obtained from Messrs. Lisney & Son at the time and the
6 Department of Banking and Finance in UCD.

7 Q 170Again, could I ask you to explain that table as we see it.

8 A The changes in the rental values was declining slowly from 1982 to 1986.

9 Q 171From minus .4 percent in 1982 to minus .4 percent in 1985?

10 A This is a measure of the market out there and what influences investors in
11 terms of what they might invest and what the returns they might expect.

12 Q 172And the percentage changes in capital values are also given; isn't that right?

13 A That's also given in the other column, there was a reduction year by year to a
14 maximum at that stage in 1985 of minus 8.6 percent.

15 Q 173At paragraph 3 I think under the heading "Development of Industrial Land" you
16 deal in a historic way with what had been happening to date.

17 A Yes. Now, in our survey we did calculate all those things on the basis of the
18 floor space involved as distinct from acreage and that.

19 Q 174You say: "Between January 1960 and June 1982 a total of 1.5 million square
20 metres industrial floor space was constructed in the Dublin area."

21 A That's right, and in the early 1960s the pace of development was slow but by
22 1966 it had picked up and the output of space increased substantially between
23 1966 and '72, most of it being taken up by owner occupiers. An over supply of
24 space in relation to demand resulted in a slowing down in the annual rate of
25 development in 1973 to 1977 period, the time of the oil crisis. By 1978 there
26 was a shortage of prime industrial space and the pace of development picked up
27 again in response to a rise in rents and this boom continued until late 1981
28 and early 1982.

29 Q 175And I think you go on to say that between 1978 and 1981 period, the -- it saw
30 the involvement of the institutional investors; namely, semi-state body, life

1 assurance companies. You say they did not generally develop industrial
2 properties themselves but bought properties for commercial developers for
3 investment purposes?

4 A That's correct.

5 Q 176 You say until 1976 the IDA concentrated its efforts on promoting industrial
6 development outside the Dublin area. Heavy job losses in Dublin forced a
7 reassessment of the IDA policy and in 1976 it began promoting Dublin as an
8 industrial location by acquiring lands for industrial development and providing
9 factory space at the periphery and inner city, and by 1982, mid 1982 the IDA
10 had assembled a large portfolio making it the largest investor in industrial
11 space in Dublin?

12 A That was the case.

13 Q 177 Would it be fair its increased uptake in industrially zoned land in this period
14 was probably as a result of the IDA acquiring lands at that time?

15 A Yes, there was a lot of activity by the IDA.

16 Q 178 You say in the period 1983 to 1987, you say since 1983 very little industrial
17 space has been developed, the IDA only developed 22,000 square metres of
18 industrial floor space in the 1983-87 period, 85 percent of which was in the
19 form of two purpose-built factories at Snugborough. The financial institutions
20 have not been developing or acquiring industrial space for the past three to
21 four years. The speculative development has virtually ceased and the only
22 private development which has occurred has been for purpose built units only;
23 is that correct.

24 A Yes.

25 Q 179 So would it be fair to say that all of this leads to a slowing up of demand for
26 industrial space?

27 A Yes, indeed, yes.

28 Q 180 And you deal with the demand factors at 3.3, you say that "in contrast to the
29 1960s/'72 period, in recent years most users of new industrial floor space
30 prefer to rent space. The amount of industrial floor space developed is

1 dependent on the requirements of both users and suppliers which may not always
2 coincide. User demand for industrial floor space depends primarily on economic
3 growth, both in the manufacturing and distribution sector. User demand is also
4 affected by technological and organisational challenge which may render
5 existing buildings and sites functionally obsolete." And you give an example;
6 "modern warehouse equipment requires a head room of 7.3 to 7.9 metres compared
7 to older requirements of 5.4 metres." You say: "Modern enterprises also have
8 a higher office content, up to one third of total area compared to 10-15
9 percent in older premises. It has been estimated that industrial buildings
10 have a life span order of 20 to 30 years."

11 A Yes.

12 Q 181 If that is the case, there's nothing to prevent developers or investors in
13 placing a or replacing existing industrial buildings with other industrial
14 buildings, provided they are on industrially zoned areas; isn't that right?

15 A That would be correct, that was the general situation. Industry varies a great
16 lot from one to the other, but the more modern ones required more modern and
17 different type of facilities.

18 Q 182 Yes. I think you go on to deal with public private suppliers and State
19 supports for the remainder of that paragraph; isn't that right?

20 A "The private investor, e.g. financial institutions will invest in industrial
21 space if it is profitable relative to other alternative investment
22 opportunities.

23

24 Land servicing and building costs, potential rent levels, risks involved and
25 the relative value of different locations will all affect the decision whether
26 to invest or not. On the other hand, the provision of industrial space by the
27 IDA is determined to a great degree by government policy and finance."

28 Q 183 I think in paragraph 3.42 you go on to say that "institutional investors differ
29 in another way from the IDA in that the former tend to concentrate mostly on
30 the provision of standard warehousing which amounts for about four fifths of

1 the holding while the IDA provide assistance for the manufacturing industry".

2 A That is right. The IDA policy was towards the production manufacturing
3 industry. A lot of the other commercial stuff would include warehousing and
4 non-manufacturing uses --

5 Q 184I think there were significant state supports by way of tax advantages at this
6 time for these types of developments?

7 A That's right.

8 Q 185And that's dealt with I think at paragraph 3.5; is that correct?

9 A The development of new buildings and the refurbishment costs of old buildings
10 for manufacturing related purposes benefits from significant tax advantages up
11 to 20 years. In addition to providing advance factory units, the IDA can
12 assist in the development of property for manufacturing use by providing grants
13 for land purchase, building construction and through rent subsidies. Incentive
14 areas receive a high level of grants towards fixed assets -- sorry, they
15 receive a higher level of grant towards fixed assets than non-designated areas.
16 The development of buildings for warehousing/wholesaling use does not benefit
17 from state support.

18 Q 186Presumably that's because they are not involved in high employment and --

19 A That's right.

20 Q 187I think your survey then went on to do what is effectively an audit of
21 industrial land in 1967 or 1987.

22 A '87, yes.

23 Q 188I just want to concentrate on this for the moment, if I may. I think the
24 position is that you set out in the succeeding pages there the up to date
25 position in relation to industrially zoned lands in Dublin at this time; isn't
26 that right?

27 A Yes. I think all the previous pages had all the relevant factors that would
28 influence councillors' consideration of development.

29 Q 189As to whether or not they might consider rezoning additional lands for
30 industrial purposes?

1 A Indeed, yes.

2 Q 190 Now, I think you commence by saying that there were 1,707 hectares of land in
3 the county zoned for industrial use. You say that this land was concentrated
4 in a relatively small number of extensive area. 741 hectares are developed,
5 namely 43 percent of that is zoned while 966 hectares remain undeveloped, 57
6 percent. And you refer to the figures which we will come to in a moment.

7 A OK.

8 Q 191 You say, 36 of percent of all the undeveloped land was in Blanchardstown with
9 17 percent of the Lucan/Clondalkin area and 15 percent of the western suburbs
10 and 6 percent in Tallaght.

11

12 You say that 68 percent of all of the undeveloped land was serviced and that an
13 additional 22 percent was likely to be serviced within the next five years.

14 A That is so, yes, yes.

15 Q 192 So just to recap there, I think the position was that 57 percent of the zoned
16 land was not taken up?

17 A Not yet developed, yes.

18 Q 193 And of that 57 percent -- 68 percent of it was not developed. 68 percent of it
19 was serviced?

20 A Yes, it had services available to it. And the remaining 22 (sic) percent,
21 there were plans to have that serviced within the next five year period.

22 Q 194 So, in essence, within five years, 90 percent of the undeveloped zoned land was
23 capable of being developed.

24 A Of development, yes.

25 Q 195 Now, you deal with the take up to date. You say, between 1981 and 1986, only
26 62 hectares of land was developed, giving you an average of 12 hectares per
27 year; is that right?

28 A That's right.

29 Q 196 You say, this compares with an annual average of 52 hectares during the '76 to
30 '81 period?

1 A Yes.

2 Q 197Is that --

3 A That was the earlier period when things were quite good, yes.

4 Q 198And when the IDA were involved in acquiring --

5 A Yes.

6 Q 199So really the period 1981 to 1986, only 12 hectares per annum were taken up,

7 whereas between 1976 and 1981 52 hectares would have been taken up?

8 A That's right.

9 Q 200Almost half of the industrial land developed between 1981 and 1986 was in the

10 north city suburbs and Blanchardstown area. You say most of the industrial

11 development which took place in the 1983 to 1986 period was undertaken by the

12 IDA. That's 22,850 square metres of floor space.

13 A Yes, and that's in appendix 6.

14 Q 201You say that Dublin County Council has only sold 15 hectares of industrial land

15 since 1982 at Damastown, ten hectares, Sandyford, four hectares and one hectare

16 at Coolmine. You say when the county boundaries altered in 1985 Dublin County

17 lost 213 hectares of zoned industrial land of which the three hectares were

18 developed and 130 hectares undeveloped. In 1985 there was a review of county

19 boundaries?

20 A That's right, and there was a change in population of the various land use at

21 the time. The -- I think the graph we saw earlier showed a kick in the

22 population which represents that changeover. Effectively I think what happened

23 was that there was an increase in population --

24 Q 202An increase in the population and decrease in the city population?

25 A A correspondence decrease in the corporation.

26 Q 203Brought about as a result of the change in the boundary?

27 A Yes.

28 Q 204If we look at some of the tables produced by you, starting with table number 6

29 which is headed "Industrial Lands Survey 1987and Undeveloped Zoned Land by

30 District ".

1 A Those three districts would correspond to the committee districts in operation
2 at the time and they would largely generate correspond to the three new
3 counties, Fingal area, Belgard would be south Dublin and the Rathdown would be
4 the Rathdown portion of Dun Laoghaire/Rathdown.

5 Q 205OK. So if we look at land surveyed at this table, number 6, I think we see
6 that 1,707 hectares of land was zoned between Fingal, Belgard and Rathdown, of
7 which 13 percent or 227 hectares was zoned in the Rathdown area; isn't that
8 right?

9 A 227, yes.

10 Q 206Of that zoned land, I think 43 percent or 741 hectares was developed?

11 A That was developed, yes.

12 Q 207Of which 15 percent or 109 hectares was developed in Rathdown.

13 A Yes.

14 Q 208And of the remaining undeveloped lands, 966 hectares or 57 percent, 118
15 hectares or 12 percent was in the Rathdown area.

16 A Was undeveloped, yes.

17 Q 209So --

18 A There's a footnote there to recall the fact that 24 hectares of non-industrial
19 zoned lands were being developed at Leopardstown Service Park. This was lands
20 acquired by the IDA not zoned for industry at the time but nevertheless they
21 were developing it at that stage. There was 24 hectares there.

22 Q 210Yes. But that 24 hectares is not included in the figures as we see them here?

23 A No, it wasn't zoned industrial lands in the survey as such, yes.

24 Q 211So, just before we leave that, by 1987, it's fair to say that there were 118
25 hectares of zoned but undeveloped industrial land in the Rathdown district?

26 A The Rathdown district, yes.

27 Q 212And the annual take up at this time was 12 hectares per annum?

28 A For the entire county. Yes.

29 Q 213Now, I think at table number 7, we have undeveloped industrial lands serviced
30 and committed by district, and again we see make up of the total area of

1 serviced land for the county, this is serviced undeveloped land; isn't that
2 right?

3 A That is right, yes.

4 Q 214 Now, we know from the previous graph that there were 966 acres of serviced
5 undeveloped zoned land; isn't that right?

6 A That's correct, yes. So this represents the status of those lands in terms of
7 the planning permission.

8 Q 215 Sorry, of the 966 zoned but undeveloped industrial lands, 301 hectares were
9 serviced and had planning permission and the balance of 357 were uncommitted;
10 is that right?

11 A Yes, both of those were serviced.

12 Q 216 They were serviced, the 301 acres were serviced and had a planning permission
13 and 357 acres were serviced but didn't have planning --

14 A Yes.

15 Q 217 And you say that lands to be serviced within five years --

16 A This was anticipated programme, the subsequent five years.

17 Q 218 So there was 215 acres of lands to be serviced within five years, two of which
18 had already got planning permission and 210 acres without planning permission,
19 or uncommitted, and you say there was 96 acres unserviced?

20 A Yes, Unserved. Yes.

21 Q 219 Now if we look at figures for the Rathdown region, we see that there is zoned,
22 undeveloped, 118 hectares; isn't that right?

23 A That's it, 118 Rathdown.

24 Q 220 And of that, 59 have planning permission and have services?

25 A And have services, yes.

26 Q 221 And 11 have services but do not have planning permission?

27 A Correct.

28 Q 222 And that 48 have no services nor planning permission?

29 A At that stage, yes.

30 Q 223 And then you go on at table 8 to deal with the location of industrial zoned

1 lands developed in the 1981-1987 period.

2 A Yes, in the various districts here.

3 Q 224Now, these districts differ slightly from the ones we have been looking at, and

4 I wonder if you wouldn't mind grouping the various districts under the headings

5 Fingal, Belgard and Rathdown, or if it would make it easy identify which of

6 these districts would fall into Rathdown.

7 A Yes. I would say that the bottom two, the south suburbs and southeast suburbs,

8 they would generally speaking fall into the Rathdown area. The top two would

9 be the north county and north county suburbs, they would go together. Then you

10 have Blanchardstown, separate entity, Lucan and CLondalkin and Tallaght, and

11 the western suburb was known as south Dublin, basically.

12 Q 225So, is it fair to say that of the industrial zoned land developed between

13 1981-1987, 62 hectares, there were in all 62 hectares developed between 1981

14 and 1987 of which eight fell into the Rathdown area?

15 A Yes. That would be approximately it, yes.

16 Q 226So if that trend continued, you would have eight hectares of lands developed in

17 Rathdown in a six year period?

18 A Six-seven years, yes.

19 Q 227Which would be less than one hectare per year?

20 A Approximately less than one hectare per year, yes.

21 Q 228Now, I think at page 95, we have a graph and I wonder could I just ask you to

22 look at that graph.

23 A Yes. This is just a pictorial representation of what we have been talking

24 about there, showing the situation in the three -- showing the developed and

25 undeveloped lands by the portion.

26 Q 229Have you got a copy of that graph?

27 A I have, yes.

28 Q 230I am now going to point to the area Rathdown, do you see the area Rathdown?

29 A Yes.

30 Q 231Now, I think the industrial lands identified there are some lands here just

1 north of Bray; is that correct? (Pointing.) That region there?

2 A Yes. Well, it's that general area there.

3 Q 232 This area here, then there's an area here, here and some pockets here

4 (Pointing.) Just to identify the different regions -- I wonder could we just

5 go back to the Rathdown region again. Are these the lands at Sandyford that

6 were developed, do you know?

7 A I would think that would represent the Sandyford Industrial Estate there.

8 Q 233 Yes, and all of that appears to have been developed?

9 A Yes, yes.

10 Q 234 And these lands here, the majority of which were zoned but undeveloped?

11 A Offhand I can't remember those.

12 Q 235 OK. We can return to those I think. I think at page 96, we have a

13 representation of an industrial survey showing the western towns and suburbs,

14 that's just a representation of the western side of the county; isn't that

15 right?

16 A Yes. This gives a little more detail in the sense that it indicates the

17 developed lands, the undeveloped serviced lands and the undeveloped unserved

18 lands, and that gives a picture of the three western towns.

19 Q 236 That's Blanchardstown, Clondalkin/Lucan and Tallaght?

20 A Exactly.

21 Q 237 Paragraph 4.2 I think under the heading "Floor Space Survey", you gave a floor

22 space survey for the three regions.

23 A That's right, yes.

24 Q 238 Setting out the floor space provision from 1976 to 1987, district by district;

25 is that correct?

26 A This is part of the same survey that was carried out at the time. The floor

27 spaces were surveyed.

28 Q 239 Yes.

29 A And --

30 Q 240 I think your conclusion there effectively is the floor space seems to have

1 doubled in this decade?

2 A Yes. It had gone from 1.1 to 2.6. Nearly doubled.

3 Q 241By a hundred percent. Was that a survey carried out on your behalf as a

4 planning --

5 A It was part of the extensive study we carried out at the time and we identified

6 all the quantity of floor space that had been produced.

7 Q 242You go on to say there is a total --

8 A The total was 2,026 square metres of industrial floor space, that's on lands

9 zoned for industrial use in the county. And during the period 1976 to 1987,

10 the total amount of industrial floor space increased by 80 percent, by 945,900

11 square metres.

12 Q 243Of that 14 percent was represented in the Rathdown area; is that right?

13 A 14 percent of that was the Rathdown area, yes.

14 Q 244You say the total number of industrial units more than doubled in the

15 correspondence period. You say that the most significant increase occurred in

16 Rathdown reflecting the rapid growth of the Sandyford Industrial Estate in the

17 earlier part of the decade?

18 A Yes, indeed. This was a very successful venture by the county council in -- it

19 developed the Sandyford Industrial Estate and the take up was very successful.

20 Q 245I think that the council at this early stage decided to acquire lands itself

21 which would be zoned and owned by the council for industrial purposes, and that

22 the council thereby could control the level and type of development, industrial

23 development that went on in the industrial estate?

24 A Yes. In fact, it had reflected -- this reflected the change in the IDA

25 policies. They were promoting a joint venture approach between the local

26 authority and the IDA for promotion of lands and for the making available of

27 large quantities of large sites, hundred-acre sites for to attract, ready-made

28 sites to attract industry from outside.

29 Q 246Yes. I think if we look at figure number 4, which is a representation of that

30 graph in pictorial format, it's at page 98?

1 A Yes. This really demonstrates what I mentioned earlier on about the divisions
2 of the county, the loose planning divisions, the six divisions, the northern
3 towns, Blanchardstown, Lucan/Clondalkin, Tallaght, the north and northwest
4 suburbs, south and southeastern suburbs.

5 Q 247Now, I think table number 10 on page 99 gives the number of industrial units by
6 district between 1976 and 1987.

7 A That's correct. Total county was 482 in 1976 and that increased to 1,529 in
8 1987.

9 Q 248Does that mean there was a 200 percent increase in the county?

10 A Yes, in units.

11 Q 249In Rathdown it had increased by 700 percent, which is almost three times the
12 county average?

13 A It was, yes.

14 Q 250They had gone from 34 to 272. Was that again as a result of the successful
15 Sandyford Industrial Estate?

16 A Yes. It also reflects the type of development that takes place. In other
17 words, development of smaller units which would represent more service type
18 than manufacturing.

19 Q 251OK. I think you say that the average size of the industrial unit had decreased
20 from 2,450 square metres in 1976 to 13,090 square metres by 1987, and the
21 average size of manufacturing units decreased by 53 percent while the average
22 size of warehousing units decreased by 21 percent. Two thirds of all units are
23 under 1,000 square metres.

24 A Indeed, that's the situation.

25 Q 252And table number 12, you gave the size of industrial units?

26 A Again by the three districts; Belgard, Fingal and Rathdown.

27 Q 253Yes. And again, I think there is a graph on page 100, it shows --

28 A It shows the picture, yes.

29 Q 254And then I think on paragraph 4 you go on to do an analysis of floor space.

30 A Yes. The floor space devoted to manufacturing use increased by 21 percent

1 between 1976-87, the amount of warehouse increased by 139 percent. The amount
2 of floor space in manufacturing use represents a smaller proportion in total
3 floor space in 1987, 45 percent, and in 1976 when it was 53 percent, whilst
4 warehousing represents a higher portion, and that's shown in table 13
5 subsequently.

6 Q 255 And I think the manufacturing floor space is shown on table 14; is that right?

7 A On table -- yes, manufacturing floor space by sector, in the various sector,
8 food, beverages, etc.

9 Q 256 I think on page 102 we again see a chart identifying that?

10 A Again a chart to show that graphically.

11 Q 257 You had referred to the summary of the vacancies in the take up of space and I

12 think this is dealt with at paragraph 4.2. 4.2, it says: "Almost 10 percent

13 of total industrial floor space, 219,500 square metres in the county and 12

14 percent of all industrial units are vacant. The highest percentage of vacant

15 industrial units occurs in Belgard where 14 percent of all units are vacant.

16 Eleven percent and seven percent of all industrial units in Fingal and Rathdown

17 respectively are vacant. Rathdown, 7 percent are vacant. In addition to this,

18 evidence suggests that there's a significant amount of vacant industrial space

19 in the city."

20

21 I should say our survey was confined to Dublin County but our indications were,

22 in the city there was a lot of vacancies. We knew that really.

23 Q 258 Yes. So it would be fair to say that of the county average of 10 percent, 7

24 percent was the average in Rathdown?

25 A In the Rathdown area, yes.

26 Q 259 Of vacant floor space.

27 A Yes.

28 Q 260 So if one is looking to the need for the necessity for industrially zoned

29 lands, one looks to the amount of land that has been zoned industrial but that

30 hasn't been developed but is capable of being developed because it is being

1 serviced or about to be serviced, but in addition one also looks to the amount
2 of existing zoned developed but vacant --

3 A Yes, yes.

4 Q 261 And that was up to 7 percent of floor space in 1987 in the Rathdown district?

5 A That's the situation, yes. Another important point I suppose in a sense, four
6 to eight, "it's estimated about 30 percent of the total industrial floor space
7 in the county is more than 20 years old. The nature of changing industrial
8 accommodation requirements are such that buildings erected more than 20 years
9 ago are now approaching the end of their functional life, the future use of
10 these buildings and indeed of entire estates could cause problems in the future
11 in terms of obsolescence, dereliction and environmental problems." This
12 reflects what happened elsewhere, particularly in Britain, areas that were huge
13 employment areas, attracting a great lot of activity suddenly became derelict
14 areas. That's a fear in relation to industrial buildings.

15 Q 262 The important thing to try and avoid that happening is to keep down the amount
16 of industrially zoned lands so that new industries would be forced or induced
17 to go into those areas and keep the level of occupation --

18 A Yes. Concentration on the area has already developed so it would attract
19 industry rather than going looking for green field sites.

20 Q 263 Yes. 4.29.

21 A With the change in the county and city boundaries, approximately 334 430 square
22 metres of industrial floor space was transferred from the county to the city,
23 almost all of which was located in the north fringe area. With a total of
24 96,060 square metres in turn being transferred to the county, the net loss to
25 the county being 238,370 metres.

26

27 The uses of the floor space is shown in table 16 and it gives a breakdown in
28 terms of what was devoted to manufacturing, to warehousing and 8 percent was
29 vacant and there were miscellaneous and others.

30 Q 264 You go on to deal with retail warehousing, would that also be regarded as

1 industrial zoning, the site of retail warehousing?

2 A Yes. Retail units in industrial estates, we are talking about the big retail
3 place where you need a car to go and collect the stuff and big bulky stuff
4 rather than the conventional, and these are retail units with a lot of space
5 for storage and access, and they are more generally accepted as being more
6 appropriate in industrial estates than, say, shopping centres or district
7 centres.

8 Q 265 You go on to deal with starter units in paragraph 4.2.11?

9 A There were 20 starter/enterprise units in the county which amount to 4,410
10 square metres. All are located in the Belgard area.

11 Q 266 And then in addition to all this, there were industrial floor space which were
12 outside the industrially zoned areas; isn't that right?

13 A Yes. "These are uses that are sort of back yard or back lane uses in places
14 like that that were not zoned as such. This is an estimated figure as it is
15 not possible to identify all the smaller enterprises but it gives a good
16 indication of the scale of this development. These premises are widely
17 dispersed in the county. Many have been operating prior to 1963, some marked
18 by low cost redundant agriculture buildings. Others occupy newer buildings and
19 many are located in residential areas. The level of floor space in each of the
20 planning districts is shown in table 17."

21 Q 267 And we see at page 105 in table 17 that 12 percent of these were located in the
22 Rathdown district?

23 A That's right.

24 Q 268 Again, that's part of your planning survey but it said it was part of an
25 estimate done by the officials.

26 A Yes. There were a total of 1/141 units, a total of which were over a thousand
27 square metres shown area, the distribution inside the units is somewhat similar
28 to that in industrial estates. Six percent of the floor space is vacant, and
29 table 8 just gives the various size of the units from below one hundred square
30 metres to over 1,000 square metres.

1 Q 269I think table 19 then deals with non-conforming floor space by use and by area,

2 1987?

3 A Yes. This table gives the distribution generally of them. Manufacturing, 57

4 percent was devoted to manufacturing, 24 to warehousing and 6 percent were

5 vacant and 13 were other sort of miscellaneous uses.

6 Q 270And there was 71 percent of the, as opposed to 16 percent in the Rathdown; is

7 that right?

8 A Yes. 16 percent of that was warehousing, 3 percent vacancy and 9 percent other

9 miscellaneous uses. And the report goes on to say: "The high amount of

10 industrial floor space out outside the industrially zoned areas and

11 implications it has for adjoining land use suggests a need for a clear policy

12 to protect established employment on the one hand and safeguard the amenities

13 of the adjoining properties, especially residential."

14 Q 271Can I ask you, was it the case that most non-conforming industrial buildings,

15 that they were cited in built-up areas rather than in green field sites?

16 A Yes. Most of them would be in built up areas and they would have been there

17 since pre-1963, therefore, they had established use.

18 Q 272Yes. And I think you go on at table 20 to give the manufacturing floor space

19 by sector?

20 A Yes, and that breaks it down into various sectors in some detail.

21 Q 273And then industrial serviced parks are dealt with at 4.4; isn't that right?

22 A Yes. We referred to the IDA serviced industrial park and a 24 acre site at

23 Leopardstown.

24 Q 274Is that the same as the Sandyford Park?

25 A It's adjoining, it's across the road from it. Same area.

26 Q 275Sandyford, was that a joint venture with the IDA or stand alone?

27 A No, strictly County Council. The IDA for some reason or another went across

28 the road and bought a green field site and developed their own.

29 Q 276I see. They developed their own at Leopardstown on a 24 hectare site?

30 A On the north side of the city, outline permission was granted to the IDA for an

1 international services park on a seven hectare site at Santry demesne.
2 Services parks are a relatively new land use, they require high quality
3 premises located in secure and attractive environment. The purpose of these
4 parks is to accommodate high-technological international industries in a low
5 density. It's possible there may be more of this type of development in the
6 future.

7 Q 277 That's the council giving direction to the councillors as to the way forward
8 perhaps in relation to industrial parks; is that right?

9 A This was a new trend being developed at the time by the IDA, marketing
10 employment, making it a more attractive environment for people to work in.

11 Q 278 They would come into a readily serviced site?

12 A It would be a pleasant landscape as such.

13 Q 279 Now, I think you go on to deal with the roles and policies of the council and
14 existing roles and policy of the council at paragraph 5; is that right?

15 A It deals with existing roles and policy of the council.

16

17 "The Development Plan policy is to encourage and facilitate the growth of
18 manufacturing industry in order to increase the numbers and range of industrial
19 job opportunities. (That's section 2.11.1 .) It also policy to provide for a
20 range of job opportunities in the new towns.

21

22 5.1.2. The council has wide powers and responsibilities under the Planning
23 Acts to promote and facilitate industrial development. The planning authority
24 can under Section 77 of the 1963 Planning and Development Act, purchase
25 compulsorily, if necessary, develop, manage, maintain or sell land or sites or
26 beings. It can carry out this on work on its own or jointly with a person or
27 body.

28

29 5.1.3. There are various state and state assisted organisations which have
30 specialised functions in relation to the promotion and employment. Most

1 important of these are the IDA and FAS, previously AnCO and the YEA.

2 Coordination between the council and the IDA is facilitated by regular liaisons
3 meetings between officials of both organisations.

4 Q 280 Had the IDA asked the council to provide or join with them in the provision of
5 additional industrial lands?

6 A Yes, and that comes up in a subsequent report to the council. The council were
7 circulated with correspondence from the IDA.

8 Q 281 This was in January 1990?

9 A That's right, yes.

10 Q 282 I think under the headings zonings you deal with the position, the current
11 position as of 1987. You say that "the primary statutory responsibility of the
12 council as planning authority is to designate sufficient lands for industrial
13 use to cater for the demand.

14

15 The extent to which this has been achieved is clearly illustrated in the
16 preceding chapter. Since the making of the 1972 Development Plan, there has
17 always been an adequate supply of lands zoned for industrial use and this
18 supply has been strategically distributed throughout the county."

19

20 And you refer to table 6.

21 A That's right.

22 Q 283 Can we just have another look at table 6.

23 A Yes.

24 Q 284 It's page 93, I think.

25 A Yes. This is the one we referred to earlier on, there was 1,707 hectares of
26 zoned land.

27 Q 285 In advising the councillors on the review of the 1983 Plan, you are here making
28 two points in relation to industrial zoning. Firstly, you are saying -- three
29 points perhaps. Firstly, the council has always discharged its duties in
30 relation to the provision of industrially zoned lands?

1 A Indeed, yes.

2 Q 286 You are saying there are sufficiently zoned industrially zoned lands as of 1987

3 and you are saying that the -- that that, the location of those lands are

4 distributed throughout the county?

5 A Yes, fairly well throughout the county, yes.

6 Q 287 Now, at 5.3 under the heading "Infrastructure" you make the point you go on to

7 say that following: "The zoning of lands for industrial use.

8

9 It is the responsibility of the council to achieve the servicing of the lands

10 to enable development to take place. This includes road access, water

11 supplies, sewage and surface water drainage. Again the success of the council

12 in this respect is evidenced by the extent of the lands fully serviced and ripe

13 for development.

14

15 At all times during the last decade, there has been a substantial reserve of

16 lands with planning permission ready to be developed. This has ensured that no

17 opportunity has been lost as a result of lack of zoned lands or serviced sites.

18 The continuation of the major road development programme is a major

19 contributory factor towards the improvement in accessibility for existing

20 industry as well as promoting and attracting new industry."

21

22 I think you are cautioning against perhaps additionally zoned lands or

23 additional lands being industrially zoned and the necessity perhaps, if they

24 are industrially zoned, to install services and infrastructure; is that right?

25 A Yes, and it was important to note in relation to industrial lands, that access

26 is a very important factor, and whereas the County Council had the full

27 authority to provide service in terms of water supply and drainage, the roads

28 infrastructure was not fully within the power of the County Council and they

29 had no really great control over it.

30 Q 288 Why was that?

1 A Because major roads are national funding and national programmes.

2 Q 289 Yes. So, therefore, it was important, you say, that the existing supply of
3 industrially zoned lands would be used up before additional lands were zoned
4 for industrial purposes?

5 A Oh indeed, yes.

6 Q 290 And this was your advice or the planners' advice to the councillors as appears
7 from this working paper?

8 A That is it, yes.

9 Q 291 You go on at 5.4 to deal with environmental quality, and you say: "It's
10 generally agreed that a high quality environment is necessary to attract many
11 prime industries and the council has a vital statutory role to play here in
12 protecting and improving the environment of industrial estates. The council
13 also has had a major role to play in facilitating recreation and amenity
14 services to complement the industrial activities.

15

16 The slowing down in the rate of development can lead to problems in the
17 completion of estates and the subsequent taking in charge. Further policy
18 should consider how best this problem can be overcome in the interests of the
19 quality of the environment."

20

21 Dealing with serviced sites. You say: "The council also plays an important
22 role in providing serviced sites and land for industrial development. The
23 Council's two major estates are Sandyford, 53 hectares, which is particularly
24 successful and Coolmine, 10.5 hectares. The corporation has had a longstanding
25 role in providing land for industrial development in the county. The council
26 and the corporation have a joint land holding at Damastown where 10 hectares of
27 the 80 acres approximately is being developed by Yamanusi. The council has a
28 total of 105 hectares of undeveloped zoned land and the corporation has 75
29 hectares approximately in the county."

30 A Yes.

1 Q 292 You deal with community enterprise under 576.

2 A The community development section of the council has been given responsibility
3 for assisting community enterprise. Along with their other duties, the
4 community development officers have their task of encouraging and facilitating
5 community enterprise in their local area.

6

7 It is the opinion of the local enterprise groups that lack of premises is a
8 major stumbling block. The Council has a small number of vacant buildings in
9 its ownership for which it has no immediate use and it has used this
10 opportunity to provide small enterprise units at Parslickstown House and
11 Turnapin Lane. Sites have been reserved at Neilstown and Esker and Mountview
12 neighbourhood centres for a community enterprise projects. The council has
13 also provided for a craft centre at Marley Park.

14 Q 293 That concluded that working paper, appendix A, floor space development since
15 1983.

16 A Yes.

17 Q 294 Is there anything you wish to refer to there? Do you see that?

18 A Leopardstown, this particular area, that's the only one really -- in the
19 Rathdown area.

20 Q 295 Is this the only lands in the Rathdown area as we see there in that appendix?

21 A The reference to the international services park would be the IDA.

22 Q 296 And am I correct in thinking that from this, that the IDA had 15.4 hectares of
23 lands available for manufacturing and internationally serviced use in the
24 County Dublin at this time?

25 A Yes, the figure was quoted earlier on.

26 Q 297 Looking at the second part of the appendix A, under the heading IDA land
27 available for manufacturing and international services uses in County Dublin,
28 and Leopardstown is 15.4?

29 A 119 hectares, yes.

30 Q 298 There was a total of 119 hectares but of that 15.4 were in the Leopardstown

1 area? These were the figures made available by the IDA themselves, they would
2 refer to all their lands in respect of zoning. Now I think that was the
3 position paper number 4 was presented in 1987-88 based on your workings but I
4 think an up-to-date paper was presented then at a meeting in January 1990 which
5 updated the position between 1987 and 1990, isn't that right?

6 A Yes, on the 31st January 1991.

7 Q 299 Look at page 346 --

8 A Page 220 would be the --

9 Q 300 This is at a special meeting on the 31st January 1991?

10 A Yes, page 220.

11 Q 301 220, yes, sorry. Again, were you responsible for the preparation of this
12 working paper, this revised working paper?

13 A Yes, I was involved in this, yes.

14 Q 302 And this is a working papers which was presented to a special meeting of the
15 council, as I say, on the 31st January 1991.

16 A 1991, yes.

17 Q 303 And it followed on what was referred to as a 1990 survey which was an update
18 done in June/July of 1990 of the 1987 survey?

19 A Yes, and the main conclusions of that were listed there.

20 Q 304 If we just look very briefly at that, at the figures represented there, I think
21 if we look at page 222 --

22 A That's the 1990 survey, there was an updated survey. And in June and July
23 1990, the survey was updated.

24 Q 305 Table number 1 shows industrial lands developed in the period after the survey
25 we have just been speaking about up to 1990, isn't that right?

26 A That's right, yes.

27 Q 306 And I think there was a total of 56.5 hectares developed in that period?

28 A 56.5, yes, hectares.

29 Q 307 That's slightly larger than the annual --

30 A -- the previous annual rate.

1 Q 308The previous one was 12.

2 A Yes. Yes.

3 Q 309And it would bring it up to about 18 hectares per annum during this period?

4 A Something of that order, indeed, yes, it was going to improve a little bit.

5 Q 310Of that 18 -- 19.7 were developed in the Dun Laoghaire/Rathdown?

6 A The total was 19.7.

7 Q 311That's of course over the three-year period?

8 A Exactly, yes.

9 Q 312Which would have been approximately 6 hectares, a little over, per annum?

10 A Yes.

11 Q 313Approximately a third of the county average, isn't that right?

12 A Yes, yes.

13 Q 314And those developments I think were at Meadowmount and at Sandyford?

14 A Yes. These were still quite small figures at that stage.

15 Q 315Just to put it in context, I think at that time there would have been serviced

16 lands of approximately 118 hectares available for development, isn't that

17 right?

18 A Yes.

19 Q 316And --

20 A We are taking up about seven or eight per annum.

21 Q 317You still had well over 100 hectares available with seven or eight per annum

22 being taken up, that's an increased seven or eight per annum. Now, I think if

23 we look at the page 224 --

24 A Yes.

25 Q 318Do we there see a representation of the position under the 1983 plan and what

26 was referred to as the 1990 draft plan.

27 A Yes. Yes.

28 Q 319I think, and this is now for the Rathdown district?

29 A This is a breakdown of the Dun Laoghaire/Rathdown area.

30 Q 320Just take a moment or two to go through this, if you don't mind, Mr. Conway. I

1 think we see that in Sandyford, Leopardstown, there were 107 acres zoned in
2 1983.

3 A Yes.

4 Q 321For industrial development?

5 A Yes.

6 Q 322And of that, 52 had been developed, leaving a balance of 55 zoned industrial
7 but undeveloped acres available, isn't that right?

8 A Yes.

9 Q 323Now, under the 1990 plan, I think it was proposed that there would be, in fact,
10 150 acres zoned industrial.

11 A Yes, yes.

12 Q 324Of which 75 was undeveloped?

13 A Yes.

14 Q 325Can I just ask you to explain that then. Does that mean that there were 20
15 acres developed between 1983 and 1990?

16 A This takes into account at this stage what we referred to earlier as the IDA 24
17 hectares which --

18 Q 326This is now --

19 A -- industrial land was being developed and now we are going to recognise it as
20 being developed.

21 Q 327This is now --

22

23 CHAIRMAN: I think you have been talking about acres there instead of hectares.

24

25 MR. QUINN: I am sorry, yes, you are quite correct, Chairman, I should have
26 been referring to hectares, is that right?

27 A Yes.

28 Q 328But you say that the difference may be, the IDA lands in Leopardstown have now
29 been added back in, is that correct?

30 A Yes, it was proposed in the 1990 draft to give that its zoning.

1 Q 329And how many hectares were assigned?

2 A It was 24 I think we are talking about there.

3 Q 33024.

4 A Sorry, I'll just check that. Yes, 24 hectares and that was IDA development on
5 non- industrial lands.

6 Q 331Yes.

7 A So it was proposed to rectify -- give that its proper zoning now, recognise it
8 as industrial lands so that was an additional 24 hectares.

9 Q 332And they had already been developed, is that right?

10 A Well, it was under construction, at various stages of development.

11 Q 333But that still wouldn't explain the full 150, some additional lands in the
12 Sandymount/Leopardstown area must have been also earmarked for industrial
13 zoning?

14 A Offhand I don't know what that extra figure was.

15 Q 334I think approximately 16 hectares of additional lands.

16 A Yes, about that.

17 Q 335Proposed in the 1990 plan.

18 A Yes.

19 Q 336Then in the Ballyogan area, I think there had been 48 hectares of industrially
20 zoned land in the 1983 plan, none of which had been developed?

21 A Yes.

22 Q 337And it was now proposed, under the 1990 plan, that there be 94 hectares zoned
23 industrial, isn't that right?

24 A Yes, yes.

25 Q 338And in Loughlinstown, it was proposed there would be an additional 17 acres
26 zoned industrial?

27 A Yes, yes.

28 Q 339And then of the balance, there seems to have been a reduction of two acres?

29 A Yes, that would be where some industrial land had been developed otherwise.

30 Q 340Had been dezoned or zoned?

1 A Or developed otherwise perhaps.

2 Q 341 Or developed otherwise. Now, I think there are a series of conclusions

3 reached and these are to be found at page 229 but before I get to page 229,

4 could I just ask you to look at table number 5 which is at page 228.

5 A Yes.

6 Q 342 And I think this is really just a further breakdown of what figures we have

7 just been looking at, isn't that right?

8 A Yes, there is, it's a comparison of the 1987 survey figures and the 1990

9 survey.

10 Q 343 Can I just ask you to take us through that diagram and just explain to us in

11 some detail what's represented there. I think starting with Belfield, Belfield

12 fell within the Dun Laoghaire/Rathdown area, I think, is that right?

13 A It would have, yes, yes.

14 Q 344 And I think --

15 A There was an acreage there, 23 hectares was zoned in 1983.

16 Q 345 Of which four were undeveloped in 1987?

17 A In other words, most of them were developed and 1.5 was developed in a

18 subsequent period up to 1990.

19 Q 346 So by 1990 there was only 3.5 hectares undeveloped there?

20 A Yes, that's right, yes.

21 Q 347 In Dundrum, there had been 3 acres zoned in 1983 and --

22 A Nothing had happened since then.

23 Q 348 It had not been developed?

24 A It was developed, there was nothing undeveloped in 1987. It must have been

25 developed because the second paragraph, there's a zero there.

26 Q 349 Yes.

27 A Similarly the five hectares in Meadowmount in Ballinteer.

28 Q 350 You say it may have been developed because there's none undeveloped in 1987 but

29 it was proposed the zoning would be increased by 6.5 hectares?

30 A Yes, yes.

1 Q 351 And in Ballinteer, similarly there were two hectares zoned in 1983, presumably

2 all of that had been developed and it retained its zoning in 1990?

3 A Yes, obviously, yes.

4 Q 352 And then Clonkeen there had been 24 hectares zoned in 1983 of which five was

5 undeveloped in 1987?

6 A Yes.

7 Q 353 And five undeveloped in 1990.

8 A Yes. I am not familiar at this stage of those areas. I haven't had access

9 to the papers as such, it's in the back of my memory. I should also say in the

10 review process, certainly so many changes were recommended by the manager by

11 way of updating, the situation had elapsed between 1983 and 1990.

12 Q 354 So if we take by way of example the IDA lands in Leopardstown.

13 A Yes.

14 Q 355 They had not been zoned industrial but when the review of the Development Plan

15 came round, the manager recommended that the position be regularised

16 effectively and the councillors give it a proper zoning at that time?

17 A Yes, and the same would happen in some cases where residential land might have

18 been developed and zoning changed the recommended -- if a residential estate

19 had been developed and now we could identify the open spaces within that area,

20 then that land, that zoning would change to recreation open space. And here

21 and there an odd rationalisation, rationalisation would also include, for

22 example, in the intervening periods the council might have acquired some lands,

23 at the instigation of the IDA and it was intended to use it for industrial, it

24 would be appropriate to update the situation then.

25 Q 356 Of course the fact that someone had developed an area which hadn't the correct

26 zoning for the planning application doesn't mean that it was an unauthorised

27 development because there was still a procedure whereby you could get planning

28 permission by way of a material contravention?

29 A Yes, material contravention process would have been applicable at the time.

30 Yes.

1 Q 357 Presumably that's what had happened in the IDA lands?

2 A Yes, that happened with the IDA lands, it was material contravention.

3 Q 358 And in Sandyford I think you referred to the 107 hectares zoned in 1983, 55 of

4 which were undeveloped in 1987?

5 A Yes. 19 had been developed between 1987 and 1990 and there were 36 remaining

6 hectares undeveloped in 1990.

7 Q 359 Yes. Bray environs, I think we referred to 12 hectares as being zoned in 1983,

8 four of which had remained undeveloped by 1987 and that was the position again

9 in 1990?

10 A There had been no change there.

11 Q 360 And then in Ballyogan, there had been 48 hectares zoned in 1983, 48 hectares

12 undeveloped in 1987, no developments between 1987 and 1990, the proposal was

13 that there would be 94 hectares zoned in 1990 and none developed. In

14 Leopardstown there had been no industrial zonings in the Leopardstown area but

15 by 1993 it was suggested that 43 hectares were zoned industrial and 39 of which

16 were undeveloped by 1990.

17 A Could I say that is perhaps the figure representing the IDA lands for --

18 Q 361 Yes. The 43 hectares might include the --

19 A The other lands beside that for development also.

20 Q 362 -- might include the 26 hectares you referred to a moment ago as being -- it's

21 unlikely to be the IDA lands because 39 hectares were undeveloped by 1990

22 unless the IDA lands had not been fully developed at that time?

23 A Yes, OK.

24 Q 363 And in Loughlinstown, there had been no industrial zonings in 1983 and by 1990,

25 the plan had recommended that there be, the proposed plan would be there would

26 be 17 hectares zoned industrial.

27 A Yes.

28 Q 364 And 17 hectares undeveloped.

29 A Yes.

30 Q 365 So in essence, between 1983 and 1990, the industrial zonings had increased from

1 a figure of 227 hectares to a figure of 331.5 hectares?

2 A That is correct, yes.

3 Q 366 Partially explained by the IDA Leopardstown lands being brought into the
4 figures.

5 A Yes, yes. Bear in mind of course these were proposals at the time, they had to
6 be subsequently confirmed.

7 Q 367 Now I think that the figures which we have just been dealing with then were
8 addressed to the members at this meeting and in the report, it had a number of
9 conclusions and I wonder could I ask you to deal with the conclusions as we see
10 them on page 229 and following pages?

11 A Having recommended additional zonings in different areas, the conclusions were

12 1. In the three years 1987 to 1990, 56 hectares were developed. This
13 recommends an annual rate of development of approximately 18 hectares per
14 annum, compared with an average rate of 12 hectares per annum in the mid '80s.
15

16 2. In 1987, 10 percent of the floor space in existing industrial premises was
17 vacant. Although this figure has not been updated, it appears that a large
18 proportion of these vacant premises had a been taken up.
19

20 3. The bank of undeveloped industrial lands would be increased considerably
21 by the current review proposals, there would be now 1300 hectares zoned for
22 development, compared with 960 hectares provide the in 1983 plan.
23

24 4. The present analysis of the situation confirms that the conclusion of
25 working paper 4 in relation to the adequacy of the lands zoned in the 1983
26 plan, the 1300 hectares of undeveloped land now proposed is ample to meet
27 requirements for the foreseeable future based on current predictions of
28 population and/or labour force.
29

30 5. In relation to the Tallaght Lucan/Clondalkin area, the suggested rezonings

1 at Ballycullen, west Tallaght, Corkagh and Kilmahuddrick will add to a total of
2 215 hectares to the existing zoned land. This should meet the problem of the
3 lack of availability of large sites for major firms which has been raised by
4 the IDA.

5

6 Q 368 Sorry, you go on to deal with or make a number of remarks you say apply to the
7 lands as set out, isn't that right?

8 A Yes. The Kilmahuddrick lands are currently available for development and a
9 detailed topographical survey is being made of the area. The problem of access
10 to the primary road network remains and this could best be provided by the
11 construction of a section of the outer ring road and an interchange with the
12 Naas Road.

13

14 In order to release this land for early development, therefore, arrangements
15 for the construction of this road, including any necessary CPOs, are now being
16 put in hand. The road line is being adjusted to avoid severance effects in
17 Corkagh park and the Old Mills at Kilmateed.

18

19 B. There are no physical difficulties in relation to the Corkagh lands at
20 present except access and a solution to this problem is being evolved. The
21 lands should be reserved to provide a site for a single major industry if such
22 should be required at this location.

23

24 C. The development of the Ballycullen land would depend on the completion of
25 the new road network in the area, Southern Cross route and the link to the
26 Ballycullen lands -- and therefore they would not become available for
27 development until the latter portion of the review period.

28

29 D. The west Tallaght lands are currently available for development and these
30 lands are currently zoned for housing purposes.

1

2 E. In view of the above provision which would ensure the supply of substantial
3 areas of lands in locations which would conveniently serve the population of
4 Tallaght and Clondalkin, it is not considered that there is any merit in
5 considering further zoning in the Tallaght/Clondalkin area."

6 Q 369 You go on to refer to the letter from the IDA?

7 A In response to an inquiry from the council, the IDA submitted a letter dated
8 5th December 1990, a copy of which is attached to this report. This letter
9 with the appendix thereto sets out the criteria which the IDA would use to
10 determine the suitability of lands for marketing purposes and attached thereto
11 is the letter of the IDA, dated 5th December 1990.

12

13 "Following on our discussions concerning land availability for IDA-backed
14 industrial projects in Dublin city and county, I would advise as follows:

15

16 IDA's need is to have a number of significant fully developed and marketing
17 sites available for promotions in the greater Dublin area at any time. These
18 requirements, if not met, greatly reduces the possibility of securing
19 internationally mobile industrial development for the capital city.

20

21 We have outlined our land needs on a number of occasions to officials and at
22 all full briefings to special meetings of Dublin city and county elected
23 representatives.

24

25 The main criteria for determining suitability of lands for marketing purposes
26 have been discussed with the officials and are as outlined in the attached
27 appendix. There are in the local authority ownership, lands which would meet
28 the IDA's marketing criteria. I would envisage that these lands could form
29 part of the new necessary response.

30

1 The zoning of appropriate lands together with the provision of services thereto
2 and the issues of planning permissions is a matter for the county council
3 officials and the elected representatives."

4

5

6 Q 370I think accompanying that letter then was a schedule setting out the criteria
7 for major sites in Dublin?

8 A That's correct, and they were as follows.

- 9 1. The size, 100 acres to 200 acres.
- 10 2. Fully developed road infrastructure.
- 11 3. Fully developed water, foul and storm services. 3,000 gallon per acre per
12 day water supply for a dry site together with equivalent foul disposal
13 facilities via treatment works to sea outfall, 5,000 gallons for a mixed usage
14 site.
- 15 4. Power facilities, full looped supply.
- 16 5. Contouring, a gradient of 3 percent preferable.
- 17 6. Good natural drainage, not prone to flooding.
- 18 7. Suitable foundation conditions, no rock influxes.
- 19 8. General environment must be marketable.
- 20 9. Relationship with local housing to be such as not to create potential
21 planning issues.
- 22 10. Suitable zoning."

23 Q 371I think there was an addendum added to the report on the industrial lands at
24 County Dublin. Is that an addendum to the report we have just been dealing
25 with?

26 A Yes. It says "The IDA have been expressing an interest in the development of
27 an international business park in County Dublin, specifically the west county
28 and local authorities as a joint venture arrangement. This is in accordance
29 with the recently published programme for economic and social progress which
30 includes the statement that lands suitable for industrial development in local

1 authority ownership will be developed by the IDA in cooperation with the
2 authorities concerned, in particular in County Dublin, with a view to having
3 privately financed factories built to meet the growing needs of the industrial
4 sector.

5

6 2. There is now agreement in principle that the IDA will develop and market
7 approximately 150 acres of lands at Kilmahuddrick for this purpose.

8 Q 372 This the location of the lands referred to in paragraph 1?

9 A These are lands in west County Dublin owned by the county council.

10 Q 373 But it's a follow on from paragraph 1?

11 A Yes, it's the same area.

12 Q 374 So following on the proposal paragraph 1, the agreement is referred to at
13 paragraph 2.

14 A Yes. At present, approximately 110 acres of these lands are zoned for industry
15 and the recommendation in the present review is that a further 250 acres should
16 be so zoned. The IDA is prepared to develop the site with the present road
17 structure in place but with the knowledge that it is the intention of the
18 council to initiate the necessary CPO and design procedures to enable the
19 direct link to be put in place from the road. The remaining land would be
20 developed and marketed on the lines of the Sandyford Industrial Estate and it's
21 considered that this approach will complement the joint venture project. The
22 road link would improve further the economic viability of the project and would
23 have additional benefits in opening up other council lands reserved for amenity
24 purposes.

25 Q 375 I think that concluded the reports to the council on the question of zoning
26 lands for industrial purposes.

27 A Yes.

28 Q 376 Now I think if we return to your statement and we move to working paper number
29 6 which was the paper presented to the council meeting in April 1988. This is
30 a paper dealing with urban housing, isn't that correct?

1 A Yes, we always differentiate between the housing in the built-up areas and the
2 rural housing.

3 Q 377We find this paper at page 111 to 150. I think in this paper, as you had done
4 with industrial lands or industrial zoning, you sought to set out what ought to
5 be the position of the council in relation to the zoning of lands for
6 residential use, isn't that right?

7 A Table number 11 set out the status of the zoned residential lands in June 1987.

8 Q 378Yes.

9 A In hectares in six planning districts in the county, these are the same
10 districts we were talking about earlier.

11 Q 379If we look at page 128.

12 A Yes.

13 Q 380Does that set out the --

14 A This sets out the zoned residential lands. It shows that there were 9,961
15 hectares of zoned land in the county all together. And of that, 7,441 were
16 developed, 757 were undeveloped but had planning permission and then there was
17 a further 1,763 uncommitted. And these figures now didn't include some areas
18 where we had low density zonings.

19 Q 381Yes. I wonder could we just look at those figures again in the context of the
20 Rathdown area, or what was to become the Rathdown area. I think would it be
21 fair to say that of the residentially zoned lands, 3,503 hectares of this been
22 zoned in the Rathdown district for residential development of which 3,085 had
23 been developed?

24 A Yes.

25 Q 382And then -- of the balance --

26 A 58 with planning permission and 260 not yet committed. I think the council
27 were presented with maps showing the various locations and --

28 Q 383Well if we go back to page 116, I think that sets out your summary of your
29 conclusions in relation to housing. You might be just as well if you were to
30 read for the Tribunal your conclusions in that regard. As you presented them

1 to the council at that meeting.

2 A Yes, in the decade 1977 to 1987, the level of house construction nationally
3 declined from a peak in 1980-81 to the level Dublin county and the Dublin
4 region and that was indicated in figure number 1 of the paper.

5 Q 384 That's table one on page 118. Maybe if we look at that. We see there the 1971
6 figure for private house holds at 51,798?

7 A Yes.

8 Q 385 And by 1986, that figure had increased to 119,000, isn't that right?

9 A Yes, it increased, the increase from one five-year period to the next was
10 shown. 1971 to 1979 it increased 78 percent, next it increased 11 percent and
11 to 1986 it increased 15 percent.

12 Q 386 That would have been a 3 percent increase per annum between 1981 and 1986?

13 A Of that nature, yes. 25 percent of all the residential zoned lands were
14 developed in the ten-year period 1977 to 1987. As of 1987 30 percent still
15 remained undeveloped. That's illustrated on table 10.

16 Q 387 If we go to table 10. This is on page 126, I think. This sets out district by
17 district the percentage of planned total housing developed over the period
18 '77-87?

19 A It moved from 44 percent in 1977 to 69 percent in 1987.

20 Q 388 Can I just ask you to look at the south and southeast suburbs?

21 A Yes, 58 percent to 81 percent.

22 Q 389 What does that mean in layman's terms?

23 A It would be more or less the same sort of trend as the county wide, same rate
24 of development as the county wide, except that at that stage there was 81
25 percent was developed whereas county wide there was only 69 percent.

26 Q 390 But I think that as of 1987, up to 30 percent of the zoned lands still remained
27 undeveloped?

28 A That's right, yes. 30 percent still remained undeveloped .

29 Q 391 And what did that mean?

30 A On the basis of the probable rate of development, there's enough undeveloped

1 residential zoned land to last for many years to come.

2 Q 392Did this apply to the full county?

3 A This is a county wide report.

4 Q 393Did it also apply to the individual future counties and, in particular, did it
5 apply to Dun Laoghaire/Rathdown?

6 A Yes, it would. From time to time, an issue that constantly arose was the
7 question of the availability of suitable lands in local areas.

8 Q 394Yes.

9 A And I would say at this stage that if one looks at the development of Dublin
10 around these areas, the number of areas to have development -- it was amazing
11 how many different locations was available and this was unique. I am not aware
12 of any other capital city in the western world that would have had this variety
13 of choice, choice of location potential.

14 Q 395When you say choice of location, you are saying areas which have been zoned
15 residential?

16 A Yes, and even areas being developed, you know. You could go to ten different
17 locations around Dublin if you were looking for a house and that's quite
18 unusual and of course it was unique because there was such a great rate of
19 development taking place, but I never accepted that as a valid argument to say
20 that you need to have lands zoned in every single area, you know, within every
21 half mile of each other. What I'm saying is that there was such a spread of
22 zoned land or spread of development at any one time that there was a great
23 choice available.

24 Q 396It's just four o'clock, Chairman.

25

26 CHAIRMAN: I think we'll rise there until tomorrow morning at half past 10.

27

28 THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY, WEDNESDAY,
29 4TH DECEMBER, 2002.

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