

09:45:50 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON TUESDAY,**

2 **30TH JANUARY 2007, AT 10.30 A.M:**

3
4 MS. DILLON: Good morning, Sir. The first witness this morning was to have
10:35:31 5 been Mr. William Murray. He doesn't appear to be here. So I understand that
6 Mr. Quinn is ready to proceed with Mr. Dunlop and we can take Mr. Murray's
7 evidence later, if that's agreeable to you.

8
9 MR. QUINN: Mr. Dunlop, please.

10:35:45 10
11 **MR. FRANK DUNLOP, HAVING BEEN SWORN, WAS QUESTIONED BY MR. QUINN**

12 **AS FOLLOWS:**

13
14 CHAIRMAN: I understand the hearing is out of action. But it will be fixed,
10:36:00 15 hopefully, shortly.

16
17 MR. QUINN: Good morning Mr. Dunlop.

18
19 CHAIRMAN: Good morning.

10:36:19 20 A. Good morning.

21
22 MR. QUINN: Mr. Dunlop, in October 2000 you supplied a statement to the
23 Tribunal in which you identified a series of lands with which you had an
24 involvement during the review of the 1983 plan, isn't that right?

10:36:32 25 A. That's correct, Mr. Quinn, yes.

26 Q. 1 And we see it at page No. 8 of the brief, headed the "Pye Lands," isn't that
27 correct?

28 A. That's correct.

29 Q. 2 And I think you said at that time in relation to the Pye Lands the following,
10:36:43 30 that is to say, "To the best of my recollection and belief I received sum of

10:36:48 1 approximately 5,000 pounds from Mr. Aidan Kelly in connection with this
2 development in Dundrum. I paid Messrs. Lydon and Fox a sum of 1,000 pounds
3 each for their support for this development. I also paid Mr. Hand a sum of
4 2,000 pounds for his support for this development." Isn't that correct?

10:37:04 5 A. That's correct, yes.

6 Q. 3 If we could have page 6, please. In your introduction to that statement,
7 Mr. Dunlop, in the second last paragraph you say the following. "Throughout
8 this document the inclusion of an asterisk beside a particular development
9 denotes that monies were given to me with regard to that development in the
10 full knowledge that payments to councillors were required to achieve support."

11 A. Yes.

12 Q. 4 That is to say that the person who gave you the money knew or understood that
13 you would have to pay money to councillors for support, is that correct? And I
14 think if we go back to page No. 8 we see that you have placed such an asterisk
15 beside the Pye Lands, isn't that correct?

16 A. Yes.

17 Q. 5 Now, I think subsequently on the 13th of September 2001, through your
18 solicitors at 1031. You advised the Tribunals that to the best of your
19 recollection and belief, the monies in question were paid by way of cash. That
20 is to say the monies to the three named councillors were paid by way of cash.
21 You also said, I think, to the best of your recollection and belief that the
22 payments were made in or about April 1992 as you believed that the motion in
23 question may have been voted upon in April/May 1992.

24 A. Yes.

10:38:11 25 Q. 6 You say that as regards Mr. Lydon your belief was that the payment may have
26 been made at or in the environs of St. John of Gods. Alternatively you say
27 that the payment may have been made to Mr. Lydon in the environs of Dublin
28 County Council.

29 A. Correct.

10:38:23 30 Q. 7 You say as regards Mr. Fox to the best of your recollection and belief the

10:38:27 1 payment may have been made either in the environs of Dublin County Council or
2 in the environs of the Royal Dublin Hotel, is that correct? And then you say
3 as regards the monies received from Mr. Kelly that to the best of your
4 recollection and belief the sum was 5,000 pounds. It was received in cash from
10:38:43 5 Mr. Kelly.

6 A. Yes.

7 Q. 8 Is that correct? You said once more to the best of your recollection and
8 belief the payment was made by Mr. Kelly in or about April 1992.

9 A. Yes.

10:38:52 10 Q. 9 And I think finally at 1032. You say to the best of your recollection and
11 belief the payment was made by Mr. Kelly in the environs of the Royal Dublin
12 Hotel, is that correct?

13 A. Yes.

14 Q. 10 And then I think last week, after the Module had opened, you supplied the
10:39:08 15 Tribunal with a further statement in relation to the matter and we see that at
16 pages 2507 to 2509.

17
18 "A. You say that Mr. Kelly approached you for assistance regarding
19 difficulties which he alleged he was encountering vis-a-vis rezoning proposals
10:39:24 20 on lands known as the Pye site in Dundrum, in the environs of the offices of
21 Dublin County Council, Upper O'Connell Street, Dublin during the course of a
22 Development Plan meeting on a date which you could not now precisely identify
23 in 1992. You believed initially that Mr. Kelly approached you in April 1992
24 but you're not sure that it was the case as it may have been as late as
10:39:45 25 September 1992 as this appears to be the beginning of any substantive contact
26 with Mr. Kelly," is that correct?

27 A. That's correct.

28 Q. 11 You say, "You understood and it continued to be your understanding that during
29 the period in which you acted for Mr. Kelly that he, through a company,
10:39:59 30 identified as Cabriole construction, owned the Pye site. You dealt solely with

10:40:04 1 Mr. Kelly. You say that you are not aware of nor did you meet nor speak with
2 or take instructions from any other person associated directly or indirectly
3 with Mr. Kelly, Cabriole Construction or any other entity. You say prior to
4 your contact with Mr. Kelly as outlined above you never met him. You were only
10:40:20 5 peripherally aware of the Pye Lands, but it was not something which made any
6 impact on you, is that correct?

7 A. That's correct.

8 Q. 12 You go on to say that Mr. Kelly at an early meeting indicated forcefully that
9 what the Council had outlined as it's intentions for the Pye site wasn't
10:40:35 10 viable, particularly so in circumstances where he and/or his company had and
11 continued to be prepared to cooperate with the Council regarding the provision
12 of infrastructural requirements. He also indicated that he had canvassed a
13 political cross-section of councillors with a view to obtaining their support.
14 You agreed to assist Mr. Kelly specifically regarding the lobbying of certain
10:40:55 15 councillors with a view to achieving, what he regarded as an economically
16 viable zoning mix. Following negotiations 5,000 pounds was agreed and a
17 success fee was mooted but left in abeyance. You believe that Mr. Kelly was
18 aware from the outset that support elicited by you would entail financial
19 payments to the councillors though you do not recall any definitive remarks to
10:41:15 20 which you could contribute that belief. To the best of your recollection cash
21 the payment was made in the environs of the Royal Dublin Hotel, O'Connell
22 Street, Dublin. You say you spoke with a number of councillors regarding the
23 Pye Lands and Councillors Fox, Hand, Lydon, Mitchell specifically. Other than
24 Councillor Fox, each of the other councillors had had previous discussions with
10:41:35 25 Mr. Kelly. You did not prepare any motions or map for submission to Dublin
26 County Council Development Plan regarding the Pye site and you did not obtain
27 any signatures on any motions submitted to the Council.

28
29 You say that Councillor Mitchell expressed surprise when you approached her in
10:41:47 30 the matter and asked you for your view of Mr. Kelly. She was adamant that he

10:41:51 1 was not going to get what he wanted in the full and advised that he should
2 accept what the Council was offering. Both Councillors Hand and Lydon
3 indicated that they had previous contact with Mr. Kelly, both in separate
4 meetings indicated that they had already expressed support for Mr. Kelly and
10:42:08 5 were experiencing negative responses from some fellow councillors and others as
6 a result.

7
8 You say that in each case you agreed after discussion with regard to money
9 initiated by them, that you would pay them for their ongoing support and in the
10:42:21 10 case of Mr. Hand a sum agreed was 2,000 pounds and you paid this money to Mr.
11 Hand shortly after your agreement with him and the payment made in the environs
12 of Dublin County Council's offices. In the case of Mr. Lydon the sum suggested
13 by you was 1,000 pounds and this was accepted by Mr. Lydon and you made the
14 payment in this amount a short time after your agreement with him, either in
10:42:41 15 St. John of Gods Hospital in Stillorgan, where he worked, or in the environs of
16 Dublin County Council's offices. In the case of Mr. Fox after he specifically
17 stated that he required money for his support you agreed to pay him 1,000
18 pounds. You made this payment to him sometime later, either in the environs of
19 Dublin County Council's offices or the Royal Dublin Hotel. In each instance
10:42:58 20 the payments were made in cash.

21
22 A motion in the name of Tom Hand and Don Lydon appeared in the agenda of the
23 meeting of the Dublin County Council on the 16th of October 1992, and
24 subsequent to the unanimous passage of a motion in the name of Councillors
10:43:09 25 Fitzgerald and Mitchell the Hand/Lydon motion fell.

26
27 And you say that you do not recall speaking with or meet Mr. Kelly subsequent
28 to the 10th of November 1992 which is the last recorded telephone call by
29 Mr. Kelly to your office. Neither do you recall the contents of any
10:43:25 30 conversation around that time. Do you into the recall any formal termination

10:43:27 1 of engagement. You ceased any lobbying activities after the 16th of October
2 '92 and had no further business dealings with Mr. Kelly or any other entity
3 involved with the Pye Lands. You definitely had no involvement with the motion
4 of the 2nd of November '93 nor were you aware of the objective notice of the
10:43:44 5 12th of November 1993 or the difficulties it caused. Is that correct?
6 A. That's correct.
7 Q. 13 The objective note is referred to, I think, in the brief supplied to you.
8 A. That's correct.
9 Q. 14 And that's the amended statement and it's the reference given to it in
10:43:58 10 documentation supplied, isn't that right?
11 A. That is correct, yes.
12 Q. 15 So the can the Tribunal take it, that in preparing this statement you had
13 regard to the contents of the brief that was supplied to you?
14 A. Yes.
10:44:11 15 Q. 16 Now Mr. Dunlop, at an early stage I think in May of 2000 you attended at the
16 Tribunal and you provided a list to the Tribunal. If I could have 1579. It's
17 a list entitled "1991/1993 inclusive." Day 148 and identified a series of
18 developments with which you were associated, isn't that correct?
19 A. Correct, yes.
10:44:45 20 Q. 17 I think most of the developments in that list appeared in the statement which
21 you supplied in October 2000, isn't that right?
22 A. Yes.
23 Q. 18 However, excluded from that list was in fact the Pye Lands, isn't that correct?
24 A. Correct.
10:44:49 25 Q. 19 Can you explain to the Tribunal how the Pye Lands came to be excluded from that
26 list at that time?
27 A. In May 2000?
28 Q. 20 Yes.
29 A. Well, the simple answer is no, I can't explain it.
10:45:02 30 Q. 21 But it --

10:45:03 1 A. It obviously didn't have the same impact --

2 Q. 22 Yes.

3 A. -- on me in the context of what we were discussing in those days in May 2000.

4 Q. 23 But it shared the same features --

10:45:14 5 A. Yes.

6 Q. 24 -- of the other properties identified in that list?

7 A. Oh, yes it did.

8 Q. 25 That is to say it was a development with which you were concerned. You had

9 been retained to lobby councillors and you had received monies for that purpose

10:45:27 10 and you had disbursed some of those monies to councillors and as with the case

11 of the majority of the identified properties there, you had done that with the

12 knowledge of the developer in question?

13 A. Correct.

14 Q. 26 So you accept that it's something that ought to have been identified at that

10:45:46 15 time and included in the list?

16 A. Oh, yes. I have no difficulty whatsoever in saying if you you're putting the

17 question to me that it should have been included in the that list on that day,

18 it should.

19 Q. 27 And you say it was excluded because?

10:46:00 20 A. I began my remarks by saying that I don't have an answer as to why, other than

21 in the circumstances of preparing the list in the box that day, my

22 concentration was obviously on maybe heavier items or more prominent items or

23 items that had more impact on me.

24 Q. 28 Actually, when you referred to preparing the list in the box. Was that a

10:46:20 25 prearranged list that you brought to the Tribunal on the day, Mr. Dunlop?

26 A. No, I --

27 Q. 29 Did you have --

28 A. Sorry.

29 Q. 30 What I want to put to you Mr. Dunlop is that that is a list that you brought

10:46:33 30 with you --

- 10:46:34 1 A. Oh, yes, sorry, yes.
- 2 Q. 31 So therefore the explanation that whilst preparing it in the box --
- 3 A. Yes.
- 4 Q. 32 -- is not a explanation that would apply to that list because it had been
- 10:46:44 5 prepared by you, isn't that right?
- 6 A. Yes.
- 7 Q. 33 In other words, overnight you had considered the matter, you had prepared a
- 8 list.
- 9 A. Correct.
- 10:46:52 10 Q. 34 So any explanation that because of pressure in the box and preparing the list
- 11 couldn't apply to this list?
- 12 A. Well in fairness, Mr. Quinn, I didn't say pressure in the box. I just said in
- 13 the circumstances of the box. Yes, I did prepare that list overnight and
- 14 brought it to the box, but what I'm saying is that the issue in relation to the
- 10:47:14 15 Pye Lands and Mr. Kelly obviously did not have the same impact on me as other
- 16 major developments that I had been dealing with.
- 17 Q. 35 I just repeat to you, Mr. Dunlop, if I may. The question and answer where you
- 18 referred to the box?
- 19 A. Yes.
- 10:47:29 20 Q. 36 The question is, "and you say it was excluded because?" And your answer is, "I
- 21 began my remarks by saying that I don't have an answer as to why other than in
- 22 the circumstances of preparing the list in the box that day my concentration
- 23 was obviously or may be on heavier items or more prominent items or items that
- 24 had more impact on me".
- 10:47:50 25
- 26 I suggest to you that you were clearly indicating to the Tribunal that you had
- 27 prepared the list in the box and that you had omitted this because there were
- 28 other more pressing items on your mind, isn't that right?
- 29 A. If you want to interpret it in that way, Mr. Quinn, fine.
- 10:48:05 30 Q. 37 Is there another interpretation?

10:48:06 1 A. Ant list that I prepared in the context of monies that I got or gave to
2 councillors in relation to developments were prepared in circumstances to the
3 best of my recollection at the time as to what took place.

4 Q. 38 No. But is there any other explanation or interpretation of your evidence as
10:48:24 5 I've just put it to you, in relation to the reference to preparing the list in
6 the box?

7 A. No, I don't think there is.

8 Q. 39 Sorry, Mr. Chairman.
9

10:48:34 10 MR. COSGROVE: If we could have the date in May. Is that the 9th of May that's
11 being referred to?
12

13 MR. QUINN: That's correct. Day 147.
14

10:48:41 15 MR. COSGROVE: Thank you. I'm just trying to follow it.
16

17 MR. QUINN: Sorry. 148. Apologies.
18

19 Q. 40 Now, I think you attended then at private interview with the Tribunal legal
10:48:51 20 team, Mr. Dunlop, isn't that right?

21 A. Yes.

22 Q. 41 On the 11th and 12th of May 2000. And if we take the 11th of May 2000. We
23 have included it in the brief and you will have seen it an extract from the
24 interview at 1899 and I just read to you, if I may Mr. Dunlop, that extract.

10:49:12 25

26 Mr. Hanratty is talking to you in the context of Mr. Lydon and it says, "MR.
27 HANRATTY: Just to go back to Don Lydon for a minute. You're right in saying
28 that he was on list. But he wasn't on a list of people that had received
29 payments he was on a list that asked for payments." And your response, "Sorry
10:49:26 30 that is why I wrote his name on this list last night. I visited Mr. Lydon it

10:49:31 1 would probably be some place I may have to go to, St. John of Gods. I visited
2 him on a number of occasions and on a number of occasions I gave him money.
3 Q: Do you have any idea what amounts?
4 A: Oh, yes

10:49:41 5 Q: And what amounts
6 A: 2,000, 2,500. Never be anything else".
7
8 Now, I think in your statements to the Tribunal in relation to the Pye Lands.
9 You've indicated that the 1,000 pounds that you gave here may in fact have been
10:49:56 10 given in John of Gods?
11 A. Or, one or other, yes.
12 Q. 42 But if this is correct, you would never have given him a sum less than 2,000
13 pounds in John of Gods?
14 A. Yes.

10:50:07 15 Q. 43 So can the Tribunal take it that you are excluding the possibility of the
16 payment to Mr. Lydon being in the environs of John of Gods?
17 A. No, I'm not excluding the possibility because the payments that I made to Don
18 Lydon were either in his place of work, which was St. John of Gods, or in the
19 environs of Dublin County Council.

10:50:24 20 Q. 44 So it would be more correct to say that you could have given sums ranging from
21 1,000 pounds to 2,500 pounds to Mr. Lydon in the environs of John of Gods?
22 A. Yes.

23 Q. 45 Now Mr. Hanratty goes on to say, "Approximately how much in total would you
24 estimate you gave him?
25 A: If I refer back to the motions I can go through them. He certainly would
26 have got money in relation to Ballycullen. He certainly would have got money
27 in relation to Carrickmines, Paisley Park, St. Gerards. Now I want to refer to
28 an issue that I don't feel sort of comfortable or competent to begin now. I
29 want to talk about lands called the Pye Lands in Dundrum.

10:50:55 30 Q: We have heard about them.

10:50:57 1 A: He got, he would have got monies on a fairly regular basis on the basis of
2 you know a support coming and supporting and just coming in and voting. Not
3 having to do either signing the motion or actually voting for it but please
4 don't stand up on your feet and say anything about it. We don't want you to
10:51:13 5 talk about it.

6 Q: You have told us about Cosgrave and Fox in that last list without numbers
7 as it were you have also have identified --" and he goes on to deal with other
8 councillors that you have dealt with there.

9
10:51:26 10 But can I take it that on that date and in that context, that is to say the
11 11th of May 2000, your only reference to the Pye Lands was a reference as --
12 which we see there at page 1900 of the brief where you say, "I want to talk
13 about lands called the Pye Lands in Dundrum," isn't that right?

14 A. Correct, but Mr. Hanratty had other items in mind I think --

10:51:49 15 Q. 46 Yes

16 A. -- in the context of that transcript.

17 Q. 47 And I think the second reference to the Pye Lands. You were you expressed
18 yourself as being not comfortable or competent to deal with those on the 11th,
19 was on the 12th of May 2000.

10:52:05 20
21 And we see a reference to that at 1034. Where you return to the Pye Lands,
22 isn't that right? And we see there if we take it up from the question 124.
23 "You mentioned Rathfarnham area as being one of the locations, sorry Mr.
24 Dunlop, yesterday you mentioned the Pye Lands.

10:52:23 25 A: Pye Lands. The Pye Lands were run by a man if I may name called Kelly.
26 You go on to say he was as mad as a hatter in fact quite insane in your view.
27 Being run by Hand and a variety of other people. He wasn't getting anywhere
28 and he came to me. Now, to the best of my recollection I can't remember he
29 gave me the thing, just went completely cock eyed, there was huge activity by
10:52:48 30 various people, some people deeply against it, Eithne Fitzgerald, Olivia

10:52:52 1 Mitchell, Tom Hand a 100% in favour of it. And the reason I mentioned it, I
2 went down through the documentation you sent me the other day, I did have
3 conversations with a person involved his name I think is Kelly. I am just
4 having to dig a little deeper in my mind in relation to it. It was a hugely
10:53:08 5 controversial issue at the time. I have a suspicion that Richard Lynn was also
6 involved from recollection in some fashion or another."
7

8 Now, I want you to agree with me, Mr. Dunlop, there is no reference there to
9 the issue of you receiving monies from Mr. Kelly in relation to the Pye Lands.
10:53:24 10 Nor indeed is there any reference in either of two passages to you paying
11 monies in relation to the Pye Lands. You accept and agree that?

12 A. Correct.

13 Q. 48 Can you give any explanation to the Tribunal as to why that omission took
14 place?

10:53:36 15 A. Well I can't is the simple answer.

16 Q. 49 You were dealing I think with other properties where you had received money and
17 where you had laid off money to councillors, isn't that right?

18 A. Correct, yes.

19 Q. 50 Had you received money and laid off money in relation to the Pye Lands, is
10:53:48 20 there any reason why you would have excluded it from your conversations at that
21 time?

22 A. No, not really. Other than in the context of the generality that was being
23 discussed in the private sessions about the totality of what was occurring.

24 Q. 51 Yes. So uniquely, this is a property or a development where there is no
10:54:14 25 allegation of corruption by you or indeed anyone else in relation it, isn't
26 that right? Up until your statement of October 2000, isn't that correct?

27 A. Correct, in October 2000.

28 Q. 52 Even though you had previously given evidence to the Tribunal and you had
29 spoken privately with the Tribunal legal team?

10:54:29 30 A. Correct.

10:54:30 1 Q. 53 There is no suggestion, for example, that Mr. Kelly was corrupt?
2 A. None.
3 Q. 54 No suggestion that you yourself had behaved improperly in relation to the
4 matter?
10:54:38 5 A. No.
6 Q. 55 Or indeed that Councillors Lydon, Hand or Fox had behaved improperly?
7 A. Correct.
8 Q. 56 And you say that your explanation for that exclusion is that it didn't rank in
9 your order of priority?
10:54:54 10 A. Well I'm not so sure that the order of priority is the correct term, Mr. Quinn,
11 but certainly there were other developments of a much larger dimension, both in
12 terms of money and in terms of developmental size and in the context of
13 controversy and with whom I had an ongoing closer relationship than I ever had
14 with Mr. Kelly.
10:55:25 15 Q. 57 For example, if we've 1580. This is the second page of the list provided by
16 you. There are two properties -- or two developments there were the amounts
17 paid were in the same order as --
18 A. Yes.
19 Q. 58 -- this particular amount, isn't that right?
10:55:40 20 A. Yes.
21 Q. 59 Yet you had included those and I think the White payment was a 1991 payment,
22 isn't that right?
23 A. Correct, yes.
24 Q. 60 Whereas this is a '92 payment, isn't that correct?
10:55:51 25 A. Correct, yes.
26 Q. 61 And you say that your involvement was not as great with Mr. Kelly as it had
27 been with either Mr. White or Mr. Fox, is that correct?
28 A. Yes. Well I think it's a subject of -- I'm sure, Mr. Quinn, that you will be
29 dealing with it, but just to flag it, I think it's, if I met Mr. Kelly half a
10:56:12 30 dozen times I think it was the maximum. I probably only met him four times.

10:56:18 1 But, I mean, if I met him half a dozen times it was a maximum.

2 Q. 62 Well if we take your meetings with Mr. Kelly. I think originally you thought

3 that you had met Mr. Kelly and you had received and made the payments in

4 April/May 1992 --

10:56:32 5 A. Yes.

6 Q. 63 -- but in your most recent statements I think you feel it may have been

7 September '92, is that correct?

8 A. That's correct, yes.

9 Q. 64 And I think that we see, if we look at your diary entry at 777, you see an

10:56:48 10 entry on the 28th of September 1992. Monday the 28th, isn't that right?

11 A. That's correct, at 10.30, yes.

12 Q. 65 Do you think that that was the first meeting you had with Mr. Kelly?

13 A. It probably was not the first meeting I had with him. I probably had met him,

14 been introduced to him or met him outside of the office. This is in -- this is

10:57:15 15 a diary entry in my --

16 Q. 66 Yes.

17 A. For obviously for him to come to my office or for a meeting of some sort at

18 10.30 and --

19 Q. 67 Yes?

10:57:25 20 A. And given that --

21 Q. 68 In your statement you referred to meeting him and being approached by him in

22 the environs of Dublin County Council.

23 A. Correct, yes.

24 Q. 69 That's not something I take it that would be entered in your diary, that would

10:57:35 25 have been a chance meeting.

26 A. That would have been a chance meeting.

27 Q. 70 And do you believe that your first meeting was a chance meeting with Mr. Kelly?

28 A. Well, yes. He either approached me or was introduced to me by whom I cannot

29 say to you. Although I -- there is a telephone message in my telephone records

10:57:57 30 from another person who alludes to Mr. Kelly.

- 10:58:02 1 Q. 71 This is Mr. Lynn?
- 2 A. Mr. Lynn, yes.
- 3 Q. 72 Yes.
- 4 A. In or around the time that I was acting for Mr. Kelly. Now, I know
- 10:58:11 5 subsequently, I know now, Mr. Quinn, that there was an arrangement or a
- 6 professional association between Mr. Kelly and Mr. Hand, Mr. Lynn, I beg your
- 7 pardon. But I wasn't I aware of anything of that nature and Mr. Lynn never
- 8 told me anything of that nature at that time. He did leave a message in my
- 9 office that my secretary recorded saying that he had had or was having some
- 10:58:45 10 association with Mr. Kelly. What that was I did not know until I saw the
- 11 brief.
- 12 Q. 73 Yes. Are you saying that you did not know that Mr. Lynn was involved with
- 13 Mr. Kelly?
- 14 A. No, other than the comment, the message that Mr. Lynn left in my office, which
- 10:58:59 15 was recorded by my secretary.
- 16 Q. 74 Yes.
- 17 A. I can't remember the wording that was actually used but I do know --
- 18 Q. 75 I'm going to put it that on screen in a moment and I'll come back to it, Mr.
- 19 Dunlop, but had you spoken to Mr. Lynn concerning either Mr. Kelly or the Pye
- 10:59:14 20 Lands prior to meeting with Mr. Kelly?
- 21 A. No, I've no recollection of speaking to Mr. Lynn about Mr. Kelly.
- 22 Q. 76 I take it that Mr. Lynn was in the same business as yourself and you would meet
- 23 regularly and we have had evidence of those meetings in, certainly in the
- 24 Cherrywood Module, isn't that right?
- 10:59:30 25 A. Yes, that is correct, yes.
- 26 Q. 77 You would have been regulars at various Council meetings.
- 27 A. Yes.
- 28 Q. 78 And this was a development that he, we know, was involved with, probably in or
- 29 around the same period as yourself, that is to say September/October '92?
- 10:59:45 30 A. I'm not so sure, well I don't know is the answer. Certainly Mr. Lynn never

10:59:52 1 indicated to me neither did Mr. Kelly indicate to me that Mr. Lynn was working
2 in any capacity for Mr. Kelly or for the Dundrum Pye site.

3 Q. 79 Yes. If we could have 789? This is the reference to which you refer. It's
4 dated the 5th of October '92 and it's a reference, 3:10 message from Richard
11:00:14 5 Lynn that he'd been in contact with Aidan Kelly.

6 A. Yeah.

7 Q. 80 Now, I think your telephone attendances on Mr. Kelly commence with an
8 attendance of the 28th of September '92. At 775?

9 A. Yes.

11:00:27 10 Q. 81 Where he rings you on two separate occasions on that date, isn't that right?

11 A. Yes, that's correct.

12 Q. 82 The first attendance at 10:40 advises you that he'll be 15 to 20 minutes late.

13 A. Uh-huh.

14 Q. 83 I think your diary entry for the same date, at 777, shows a 10.30 meeting with
11:00:41 15 Mr. Kelly, isn't that right?

16 A. That's correct, yes.

17 Q. 84 So it's almost certain that that meeting took place and took place in your
18 offices, is that correct?

19 A. Yes.

11:00:48 20 Q. 85 Now, if you look at the 12:55 attendance at 775. It says, "Aidan Kelly wants
21 to distribute some around the area of the two councillors what does FD think of
22 this?" Can you tell the Tribunal --

23 A. Sorry, where are we, Mr. Quinn?

24 Q. 86 12:55 on the 28th of September.

11:01:05 25 A. Yeah.

26 Q. 87 Again on Monday the 28th of September.

27 A. Yes. Well, I -- the only answer that I can give you in relation to that
28 because it's the only two that is provided. And that is obviously Aidan Kelly
29 wanted to do some promotional work or distribute some promotional work in
11:01:24 30 relation to, whatever he envisaged was going to take place or what he wanted on

11:01:28 1 the Pye site, to residential areas around the area.

2 Q. 88 Yes. Can you recall your discussions, your earlier discussions with Mr. Kelly,
3 Mr. Dunlop?

4 A. I'm loathe to say no because I do recall having discussions with Mr. Kelly, in
11:01:57 5 which he outlined the difficulties that he was having.

6 Q. 89 Were these --

7 A. Sorry.

8 Q. 90 Sorry. Were those discussions the discussions you had with him in the environs
9 of Dublin County Council?

11:02:09 10 A. Yes.

11 Q. 91 Or were they the discussions commencing, it would appear, with that attendance
12 at your office on the 28th of September?

13 A. No, I think at the first meeting either introduced to me or when I met him
14 casually, as you described it, in Dublin County Council. He outlined the
11:02:28 15 reason he was there and that he had lands in a place called the Pye Lands in
16 Dundrum and that he was having difficulties with them. And he was quite
17 forceful about it in the sense that he felt that he was being hard done by in
18 the context of what was being proposed and -- as distinct from what he wanted.
19 Other than that, other than that conversation and subsequent conversations in
11:02:57 20 relation to proposals for the site or changes in relation to what he wanted or
21 how he would go about it and discussions about my acting for him, I have no
22 recollection other than that of any other discussions with Mr. Kelly. And if
23 Mr. Kelly, I don't know whether this is true or not, so I'm just directing my
24 attention to you specifically, I don't know whether Mr. Kelly is in this room.

11:03:24 25 Q. 92 Yes.

26 A. And if he was, I would not be able to identify him.

27 Q. 93 Yes. So you were approached, you say, in the environs of Dublin County Council
28 by a complete stranger about property --

29 A. Yes.

11:03:41 30 Q. 94 -- with which you were only vaguely familiar.

- 11:03:41 1 A. Yes.
- 2 Q. 95 Who explained his difficulties to you and asked you to act for him, is that
3 correct?
- 4 A. I cannot say to you definitively that I had never seen Mr. Kelly before in the
11:03:48 5 environs of Dublin County Council because I think as I have outlined and
6 explained to this Tribunal on many an occasion, though it is not a particularly
7 sort of elegant illusion, it was like a cattle mart down there, you could meet
8 anybody, at any time, at any stage, and there were lots and lots of people down
9 there. So I cannot discount the fact that I may have seen Mr. Kelly as a body
11:04:12 10 down there.
- 11 Q. 96 Yes.
- 12 A. But I had never spoken to him.
- 13 Q. 97 And had you a procedure in place for agreeing to act in those circumstances for
14 someone who had not been introduced to you by, for example, Mr. Collins as you
11:04:26 15 have indicated in the past or other people who, Mr. Lawlor or others who
16 introduced clients to you?
- 17 A. I don't follow. How do you mean had I a procedure?
- 18 Q. 98 How were you going to approach your discussions with a complete stranger and
19 how you might act for them and what you might do and how much you would charge
11:04:44 20 them and what the possibility of a success fee?
- 21 A. Yes. Well, it was very straight forward. I mean, obviously this man, he
22 wasn't going to come to me if he had nothing in front of Dublin County Council
23 so he obviously had something in front of Dublin County Council about which he
24 was concerned and as it transpired, when he explained it to me, this site had a
11:05:08 25 history, a rather peculiar history, a convoluted history as it turned out. And
26 that he had already done some lobbying himself. He had been in fact been in
27 touch with some of the named councillors that are in this Module and had had
28 discussions with them.
- 29 Q. 99 Yes. And did you ascertain that from him when you met?
- 11:05:28 30 A. Oh, yes. He told me that he had been in discussion and in fact he -- I'm not

11:05:39 1 going to put a tooth on this, Mr. Quinn, I mean, he expressed his view as to
2 what he thought councillors should or shouldn't be doing or what he thought the
3 capacities of councillors to do what they should be doing, was. And I mean, he
4 was, I have used the word forceful, he was a particularly individualistic type
11:05:58 5 of man, as I recollect it, though I have said I couldn't recognise him even if
6 he was in the room and he was quite forceful about the position that he was in.

7 Q. 100 And what did he think you could do or what did you tell him you could do?

8 A. Well I think his main objective was that he realised at this stage, by the time
9 he came to me, given the history in the site and his involvement with it and
11:06:29 10 with officials, whom he expressed himself forcefully about as well, that I
11 shouldn't, I was going to say that he couldn't rely on people, but that he
12 certainly gave me the firm view that he had lost faith in the process and that
13 he needed somebody, other than himself, to help him.

14 Q. 101 And I think at 2507, you've told the Tribunal that he retained you to assist
11:07:01 15 regarding the lobbying of certain councillors --

16 A. Yes.

17 Q. 102 -- is that correct?

18 A. Correct.

19 Q. 103 This is a slightly different situation to be retained to lobby on behalf of a
11:07:12 20 project in general.

21 A. Yes.

22 Q. 104 You were here being retained to lobby specific or certain councillors, is that
23 correct?

24 A. Well, yes. I mean, Mr. Kelly -- the locale of Mr. Kelly's site, he had
11:07:24 25 obviously either on his own initiative or somebody had told him or educated him
26 how to go about this in the context of lobbying the local councillors, getting
27 signatures, doing whatever it entailed in relation to correspondence and
28 explaining to him what was envisaged and he had done that. And I now know that
29 there was some, you know, terse correspondence between himself and one or two
11:07:56 30 councillors in relation to what was being proposed. But his main objective was

11:08:01 1 in relation to named councillors in relation to the site. People that he had
2 approached and what he thought had on side.

3 Q. 105 Yes.

4 A. Including councillors, in particular, Councillors Hand and Lydon.

11:08:15 5 Q. 106 Yes. He thought, he had approached them. He thought he had their support.

6 A. Yes.

7 Q. 107 And are you saying that you were being retained to ensure their support?

8 A. Well I think two things. I think one, to revert to the phrase I used earlier
9 that he had lost faith in the process and he may well have the estimated that
10 notwithstanding the fact that he was being told that he had their support, he
11 didn't believe it.

12 Q. 108 He didn't believe that they would support him on the day, is that correct?

13 A. That he couldn't rely on them.

14 Q. 109 Yes. And why did he think that you could ensure that they would continue to
11:08:51 15 support him?

16 A. Well, I can't account for what he was told.

17 Q. 110 I see?

18 A. But I suspect and it's purely a suspicion and therefore completely speculation,
19 speculative. That he had been told that if he came to me that I would
11:09:03 20 guarantee that certain councillors would continue to support.

21 Q. 111 Yes that gives the impression, Mr. Dunlop, that it was known generally that you
22 could guarantee the support of certain councillors?

23 A. I can't --

24 Q. 112 Am I being unfair in doing that to you?

11:09:22 25 A. No, no, no.

26 Q. 113 That is to say that you would be identified with specific councillors and that
27 you could ensure the support of specific councillors.

28 A. Yes. Well, I think without descending into generalities --

29 Q. 114 Yes?

11:09:36 30 A. -- I think it would be absolutely flying in the face of credulity if, given my

11:09:42 1 presence at Dublin County Council during the course of the Development Plan and
2 the association that I had with certain clearly visible developers and
3 certainly my association with clearly visible overt associations with elected
4 councillors, that people would not have been able to come to a specific
11:10:08 5 conclusion.

6 Q. 115 Namely, that you could guarantee the support of specific councillors.

7 A. Yes. And I cannot account what others may well have said to other developers.
8 For example, I said that earlier, I can't account for what Mr. Kelly may have
9 been told by Richard Lynn, for example. Sorry, I shouldn't have mentioned
11:10:25 10 Richard in that context. I am just mentioning him in the context that he is in
11 the frame in the sense that he left a message in my office. But, Tom Murphy,
12 if there is a Tom Murphy, who is a lobbyist, could have said to Mr. Kelly,
13 "listen the best thing you can do is to go to Frank Dunlop."

14 Q. 116 If you have a problem with specific councillors and you include in that
11:10:46 15 Councillors Hand and Councillor Lydon.

16 A. Yes.

17 Q. 117 Any other councillors subject to this Module, what about Councillor Fox?

18 A. No, I have no recollection that Councillor Fox was ever mentioned to me by
19 Mr. Kelly.

11:10:57 20 Q. 118 Yes.

21 A. And certainly I have, I did not then have and I do not recollect now having
22 Mr. Fox telling me that he had any connection prior to my approaching him with
23 Mr. Kelly. If he had he certainly didn't then tell me.

24 Q. 119 Well can the Tribunal take it to be your evidence then, Mr. Dunlop, that you
11:11:17 25 were retained by Mr. Kelly to ensure the continued support of Councillors Lydon
26 and Hand?

27 A. Yes.

28 Q. 120 And it was in that context that you had your discussions with Mr. Kelly?

29 A. Yes and Mr. Kelly did mention Councillor Olivia Mitchell as well because as I
11:11:36 30 know now, from the brief, that he had had correspondence with her. I don't

- 11:11:40 1 have any recollection of ever seeing that correspondence previously.
- 2 Q. 121 Yes. Did he mention Councillor Mitchell as someone you could also deliver to
- 3 him in the way that you could deliver Councillor Fox and Councillor Hand?
- 4 A. No I think he mentioned Councillor Mitchell particularly in circumstances where
- 11:11:54 5 he was having difficulty.
- 6 Q. 122 Yes. She was creating difficulties for him.
- 7 A. She was creating difficulties for him.
- 8 Q. 123 But are you saying that you were retained to try and influence Councillor
- 9 Mitchell?
- 11:12:03 10 A. Well if I could.
- 11 Q. 124 Yes.
- 12 A. He didn't, I don't recollect him specifically saying, but I do recollect him
- 13 outlining to me the difficulties that he had and the difficulties that he was
- 14 encountering with particularly Councillor Mitchell and there is another
- 11:12:21 15 councillor whose name escapes me know.
- 16 Q. 125 Councillor Fitzgerald.
- 17 A. Eithne Fitzgerald, yes.
- 18 Q. 126 So would it be fair to say then, Mr. Dunlop, if I'm wrong in my summary of what
- 19 I understand to be your evidence, please correct me, that Mr. Kelly approached
- 11:12:34 20 you having been advised that you could perhaps assist in influencing perhaps
- 21 Councillors Mitchell and Fitzgerald who were creating difficulties for him, but
- 22 that specifically you could ensure that Councillor Hand and Lydon would remain
- 23 on-site, they already having given their support to Mr. Kelly?
- 24 A. I think that's a fair summary, yes.
- 11:12:55 25 Q. 127 You didn't ask Mr. Kelly how he came to ask you to act for him or who he had
- 26 spoken with or how he came to select you?
- 27 A. No, I have to say to you, Mr. Quinn, that I presumed and again this is a
- 28 presumption and therefore it is, evidentially it is not of value other than
- 29 that in the circumstances he was obviously there because he had land.
- 11:13:19 30 Q. 128 Yes.

11:13:19 1 A. And --

2 Q. 129 He was in difficulty.

3 A. Yes and he had a motion.

4 Q. 130 Yes.

11:13:23 5 A. Or he had, he had a proposal and he had, was -- and had encountered

6 difficulties both officially and politically.

7 Q. 131 Yes.

8 A. And he either saw of his own initiative or somebody said to him that to assist

9 him in his difficulties or to get him out of his difficulties he should

11:13:48 10 approach me. That I cannot say, the source of that I cannot identify.

11 Q. 132 I appreciate that. Now, presumably then, when you came to put a price on your

12 services you had regard to a number of factors. Firstly, the value of the

13 development and the value to Mr. Kelly of the development.

14 A. Yes.

11:14:00 15 Q. 133 The likely cost to you for the support that you anticipated you would --

16 A. Uh-huh.

17 Q. 134 -- need, isn't that right?

18 A. Yes.

19 Q. 135 And the monies you would have, effectively the monies that you would have to

11:14:11 20 spend. And in this case I think you've advised the Tribunal that you agreed a

21 fee of 5,000 pounds, is that correct?

22 A. Correct.

23 Q. 136 That was after negotiation?

24 A. Yes.

11:14:19 25 Q. 137 And how much can you recall you asked about Kelly for?

26 A. Well I cannot recall how much I asked him for, but I can absolutely tell you

27 that it would have been unusual in the circumstances that negotiation didn't

28 take place. In other words, that I probably, the likelihood is I probably

29 asked him for more.

11:14:43 30 Q. 138 Yes. But you are not saying that you have a recollection of asking him for

- 11:14:48 1 more?
- 2 A. I'm not.
- 3 Q. 139 You are saying it was your practice to ask for more?
- 4 A. Except in -- well I won't say that because you'll probably ask me to tell you
- 11:14:58 5 which one it was, so therefore I won't give a hostage a fortune in that case.
- 6 It would be highly unlikely for a situation to arise where I did not ask for
- 7 something and it was disputed or negotiated by the parties concerned. Namely,
- 8 the developer concerned and myself.
- 9 Q. 140 Can you tell the Tribunal whether that conversation would have taken place at
- 11:15:22 10 that first meeting in the environs of Dublin County Council or at a meeting in
- 11 your office subsequently?
- 12 A. Yes. It could well have taken place at the first meeting, given the immediacy
- 13 of what was happening in relation to the particular site.
- 14 Q. 141 Yes?
- 11:15:39 15 A. And notwithstanding the fact, Mr. Quinn, that I thought that this would have
- 16 taken place in April of 1992. I don't -- certainly there is no evidence that I
- 17 have, notwithstanding the fact that the Tribunal may have other material or
- 18 evidence available that I haven't seen, but I think in the immediacy of what
- 19 was occurring in relation to Mr. Kelly. Mr. Kelly came to me in specific
- 11:16:07 20 circumstances where he was facing a supreme difficulty. In other words, he was
- 21 looking at a motion of his being discussed or voted upon or decided upon in
- 22 Dublin County Council within a relatively short period.
- 23 Q. 142 And --
- 24 A. And in those circumstances, I would say that certainly, if not finalised, the
- 11:16:35 25 process about fees was initiated at the first meeting.
- 26 Q. 143 Yes, and if we could have 620. This is a motion signed by Councillors Hand and
- 27 Lydon and it would appear to be a motion which would support what Mr. Kelly was
- 28 seeking at this time on his site.
- 29 A. Yes.
- 11:16:51 30 Q. 144 Now, I think you've told the Tribunal that you had no hand act or part in

- 11:16:55 1 either the preparation of that motion or obtaining the signatures for it.
- 2 A. No.
- 3 Q. 145 So the Councillors Hand and Lydon had already signed and perhaps drafted that
- 4 motion, is that correct?
- 11:17:05 5 A. Yes. That is the likelihood. I cannot say to you that Mr. Kelly showed me
- 6 that motion or provided me with a copy of that motion at my first meeting or
- 7 shortly thereafter wards. But certainly I have no doubt whatsoever that I did
- 8 not prepare that motion and I did not obtain the signatures.
- 9 Q. 146 Yes. And you would have been speaking to Councillors Hand and Lydon in the
- 11:17:27 10 context of that motion which they had previously signed.
- 11 A. Yes, correct.
- 12 Q. 147 And Mr. Kelly was coming to you in the context of ensuring that Councillor Hand
- 13 and Lydon would remain on board in relation to that motion, isn't that right?
- 14 A. Broadly, yes.
- 11:17:41 15 Q. 148 And you had Mr. Kelly told you that both Councillor Hand and Lydon had
- 16 supported a similar zoning on the lands in the 1991 vote?
- 17 A. I cannot recollect Mr. Kelly outlining the fact that Mr. Hand and Mr. Lydon had
- 18 actually done that. I know that that is the case.
- 19 Q. 149 Yes.
- 11:18:04 20 A. But I cannot say to you. I think it's fairly obvious that he would have, in
- 21 some circumstances in which he outlined the history of the site and the history
- 22 of the involvement of these two gentlemen.
- 23 Q. 150 Presumably this would be of significance from your point of view --
- 24 A. Oh, yes.
- 11:18:23 25 Q. 151 -- had they voted against these proposals previously it would be more difficult
- 26 for them to justify --
- 27 A. Correct.
- 28 Q. 152 -- a change of attitude, isn't that correct?
- 29 A. Correct.
- 11:18:32 30 Q. 153 But in fact, the position was that they were being consistent in their approach

- 11:18:37 1 to these lands, isn't that correct?
- 2 A. Yes, they were.
- 3 Q. 154 Not alone were they consistent in their approach. But for whatever reason they
- 4 had drafted and signed a motion which was supportive of Mr. Kelly's position?
- 11:18:49 5 A. That's correct.
- 6 Q. 155 And that motion was on the agenda for the meeting of the 16th of October, isn't
- 7 that correct? It was voted on at that special meeting on the 16th of October?
- 8 A. No, it fell.
- 9 Q. 156 Sorry, yes, you're quite right. Sorry, it was on the agenda but it fell.
- 11:19:05 10 A. It was never voted on because --
- 11 Q. 157 You were not to know that though in September.
- 12 A. No, no, no I didn't know anything about that at that stage.
- 13 Q. 158 But I have to suggest to you, Mr. Dunlop, that that being the case, namely,
- 14 that they having supported the position previously and now having drafted and
- 11:19:21 15 signed the motion, that it would be unthinkable for them not to carry through
- 16 with their motion at an upcoming meeting. In other words, whatever about
- 17 getting the support of unnamed councillors, the support of the two councillors
- 18 who had signed the motion which was on the agenda, I would have thought, was a
- 19 given?
- 11:19:40 20 A. Well, I don't mean to preempt you. But, I mean, I think Mr. Kelly's view as to
- 21 his faith in the democratic process and in Mr. Hand and in Mr. Lydon was fairly
- 22 well founded in the context of what did occur. I mean, there was a unanimous
- 23 vote in relation to the land and this motion was the next to be considered, but
- 24 of course fell procedurally because of a unanimous vote that took place in the
- 11:20:14 25 Council five minutes earlier. But that's preempting something that you may
- 26 well come to.
- 27 Q. 159 Yes.
- 28 A. But on the question that you say that it's unthinkable. No, I wouldn't accept
- 29 that whatsoever.
- 11:20:24 30 Q. 160 You think people could sign a motion and not support it?

11:20:26 1 A. There are a number of factors. One is, I am now in the frame, I am known to
2 these two gentlemen, I have an association with these gentlemen. These two
3 gentlemen expressed their view to me which was sort of a very interesting
4 counter poise to Mr. Kelly's expression of the view of them to me. They were
11:20:47 5 now expressing their view of Mr. Kelly to me and I did use a phrase in the
6 course of the private sessions which may be a little bit unkind, saying, when I
7 said that Mr. Kelly was as mad as a hatter. That wasn't my view solely. That
8 was a view that was expressed in the context of contacts that I had with a
9 number of councillors at the time. Mr. Kelly was very persistent. He was on
11:21:17 10 his own. He was not accompanied by any assortment of advisors. He did all of
11 the work himself. He approached the councillors himself. He lobbied them. He
12 wrote to them and obviously came to a conclusion that he wasn't having very
13 much success and therefore brought me on board. I am now brought on board in
14 the context that I am able to be able to assist him with stiffening the backs
11:21:46 15 of these two councillors whom he suspected may well have been losing faith or
16 losing interest and these two councillors are known to me. I approached them,
17 they discussed the matter openly with me, they expressed their views openly as
18 to Mr. Kelly. The view was and I think I put this in particular context in
19 relation to, what is she, what is she -- Olivia, oh, she's a TD. Olivia
11:22:19 20 Mitchell. That she said "look it, Aidan Kelly is not going to get what he
21 wants. He can bang his head off a wall as long as he wants to around here but
22 he's not going to get it and he should take what he's being offered by the
23 Council." That was the view virtually, I shouldn't say everybody because I
24 didn't speak to everybody, but it was the prevailing view.

11:22:43 25 Q. 161 Did you discuss the question of a success fee with Mr. Kelly?

26 A. Yes I did.

27 Q. 162 And how much did you seek?

28 A. Well, again, I cannot tell you how much I sought, but in circumstances where an
29 individual with a valuable piece of land, such as the Pye site was, and as
11:23:01 30 history has shown, it turned out to be extremely valuable. That I would be

- 11:23:07 1 assisting somebody in view of charging a fee, some of which I knew was going to
2 be disbursed, there would be no question but that a success fee would have been
3 mentioned. Now, I've said in my statement that it was left in abeyance, and it
4 was, there was no agreement. Mr. Kelly said something to the effect and I
11:23:29 5 don't wish to put words in his mouth, but he said something to the effect,
6 "well let's see how far we get with this and we'll discuss that with you
7 later".
- 8 Q. 163 Are you saying that the concept of a success fee being paid was agreed but the
9 actual precise amount was left in abeyance?
- 11:23:46 10 A. Correct. I cannot recollect, I cannot say to you with any certitude or
11 conviction that a certain amount was mentioned.
- 12 Q. 164 But it was your understanding that had this motion been successful and had you
13 been successful in your endeavours, you would have got money from Mr. Kelly, is
14 that the impression that you want to give to the Tribunal?
- 11:24:03 15 A. Yes. And I also want to indicate to you that having discussed it with
16 Councillors Hand and Lydon and with Councillors Fox and Olivia Mitchell, by the
17 way, I did not ever speak to Councillor Eithne Fitzgerald about this matter,
18 although her name appears on various motions. I certainly would not have had a
19 conversation with her. And in fact, I recollect once having a conversation
11:24:30 20 with the same Councillor and that's about it to date and I'm sure it will
21 continue to be the same. Sorry, I meant to indicate something to you there,
22 Mr. Quinn, and now I've lost my train of thought. It will come it back to me,
23 I'm sorry.
- 24 Q. 165 Yes. I would have thought, Mr. Dunlop, that having discussed the matter with
11:24:57 25 all of the councillors that you referred to, that you would have come to the
26 conclusion that it was unlikely that this motion would be successful?
- 27 A. Sorry, I beg your pardon. That's it --
- 28 Q. 166 In those circumstances I would have thought that you would have increased your
29 up front payment and perhaps decreased the possibility or the amount of a
11:25:15 30 success fee?

- 11:25:16 1 A. No, having -- I think, I think when we -- when I discussed the matter with
2 Mr. Kelly, on the first occasion, it undoubtedly is the case that whether or
3 not agreement was reached but that fees were discussed. Secondly, on foot of
4 discussing it with councillors, including the signatories to the motion,
11:25:40 5 Councillors Hand and Lydon, I came to the view, perhaps unkindly, and maybe
6 uncharitably, that you know Mr. Kelly had gone around, had gone about this in
7 sort of a cack-handed way and was not for compromise, notwithstanding the fact
8 that he and his company were willing and prepared to discuss infrastructure
9 with the County Council. But I came to the view that one, Mr. Kelly was
11:26:19 10 probably right in relation to the commitment of Councillors Hand and Lydon,
11 they had originally supported him, they had indicated to me that they were
12 getting criticisms from their own colleagues on the Council to the effect that
13 this was going nowhere and why were they persisting with the motion or were
14 they persisting with their support. And finally, I think it would be wrong of
11:26:54 15 me to suggest to you that I did not come to the conclusion, as you suggested,
16 that this wasn't going to go very far and that it would probably, as events did
17 turn out, it would probably be concluded very very quickly. And I didn't
18 realise how quickly in the circumstances.
- 19 Q. 167 Does all that mean, Mr. Dunlop, that you did or did not go back to Mr. Kelly
11:27:21 20 and seek more money from him?
- 21 A. No, I never went back to Mr. Kelly and sought, whatever it was agreed, whether
22 it was agreed at the first meeting or the second meeting. Whatever was agreed,
23 stood.
- 24 Q. 168 Yes.
- 11:27:32 25 A. There was no further question obviously in relation to a success fee because no
26 success attended.
- 27 Q. 169 Yes.
- 28 A. And other than a telephone call to my office, sometime in November I think it
29 was of 1992 from Mr. Kelly of, which I don't recollect speaking to Mr. Kelly at
11:27:55 30 that stage, in fact I don't recollect speaking to Mr. Kelly at all after the

- 11:27:59 1 16th of October 1992.
- 2 Q. 170 What about the payment of the monies due to you Mr. Dunlop?
- 3 A. Yes.
- 4 Q. 171 You say that the payment was paid, a sum was paid in cash, isn't that right?
- 11:28:12 5 A. Yes, that is my belief that the money was paid to me in cash.
- 6 Q. 172 Now Mr. Kelly's recollection, if we could have page 368. I'm sorry, 365. Was
- 7 that you had been retained as a consultant lobbyist to Cabriole Construction
- 8 Limited and that you had paid by cheque, made payable to Frank Dunlop in
- 9 respect of the fees and he was not sure whether the payment was to Frank Dunlop
- 11:28:50 10 or Frank Dunlop or Frank Dunlop & Associates. Now, can you advise the Tribunal
- 11 where you say the cash payment was made to you by Mr. Kelly?
- 12 A. Yes. I have one recollection -- I have a recollection only of one meeting with
- 13 Mr. Kelly in my office. I believe any other meetings that took place, if there
- 14 was another meeting in my office, I don't recollect it, but I think there is a
- 11:29:24 15 reference to my meeting in my office with Mr. Kelly, but my meetings with
- 16 Mr. Kelly took place in the environs of Dublin County Council and I believe
- 17 that is where the payment was made.
- 18 Q. 173 And that was not obviously the first meeting because he would have to have --
- 19 A. Correct.
- 11:29:35 20 Q. 174 And you say that the payment was made in cash?
- 21 A. I believe the payment was made in cash. I have no evidence whatsoever to
- 22 suggest that it was otherwise, if somebody produces the evidence that it was
- 23 otherwise, I would freely accept it.
- 24 Q. 175 Well do you have a recollection, leaving aside the question of evidence for the
- 11:29:54 25 moment, have you a recollection of receiving 5,000 pounds in cash from
- 26 Mr. Kelly?
- 27 A. Yes. I have a recollection of having a discussion with Mr. Kelly in the
- 28 environment of Dublin County Council, particularly the Royal Dublin Hotel.
- 29 Q. 176 That's the first meeting you say that --
- 11:30:09 30 A. Yes.

11:30:09 1 Q. 177 -- he first approached you in relation to the matter.
2 A. Yes.
3 Q. 178 Now, and we then have a possible meeting in your offices on the 28th of
4 September, which I put on screen earlier and I think there is a diary entry for
11:30:22 5 the 2nd of October '92 at 777. Again, the 28th of September '92, isn't that
6 right? That's that first meeting?
7 A. That's the first one, yeah.
8 Q. 179 And then if we look at 788. There's a meeting on the 5th of October '92.
9 "Aidan" do you see that? A Monday meeting, is that Mr. Kelly?
11:30:47 10 A. Yes, well there were a number of Aidans.
11 Q. 180 Yes.
12 A. It could well be Aidan Kelly, yes.
13 Q. 181 If we look at 789, for example, it might help you because there is a telephone
14 attendance for 9:40 that morning from Aidan Kelly seeking to rearrange a
11:31:05 15 meeting for any time this week.
16 A. This week, yes.
17 Q. 182 And again, do you think you may have met Mr. Kelly later that week?
18 A. Given the telephone message it is quite possible, yes.
19 Q. 183 For example, if we look at the 9th of October '92 at 801. There is a reference
11:31:25 20 at 3:15, "Aidan Kelly, 9am, Monday morning meeting okay."
21 A. Yeah.
22 Q. 184 If we go to 802. We see a nine o'clock meeting for Aidan Kelly at F. D. A.
23 A. Yeah.
24 Q. 185 That would suggest, that was the Monday of the week of the vote, isn't that
11:31:40 25 right?
26 A. Yes.
27 Q. 186 That would suggest there were at least two meetings in your offices --
28 A. Yes.
29 Q. 187 -- and at least one meeting in the environs of Dublin County Council and there
11:31:47 30 was telephone contact in between, isn't that correct?

- 11:31:51 1 A. Yes.
- 2 Q. 188 Were do you say, you say that the payment of 5,000 pounds in cash was made to
3 you in the environs of Dublin County Council?
- 4 A. Yes.
- 11:31:58 5 Q. 189 Not in your offices?
- 6 A. No.
- 7 Q. 190 It would be a more discreet place to receive cash from a customer, I suggest to
8 you, than the environs of Dublin County Council?
- 9 A. I think discretion is a very loose, a loose concept in the context of what
11:32:16 10 we're talking about Mr. Quinn, as we've proven in the past. There is no
11 invoice from either Frank Dunlop & Associates for Frank Dunlop or Shefran to
12 Mr. Kelly extant. I don't believe there was ever such an invoice.
- 13 Q. 191 And at whose suggestion was it that it be paid in cash?
- 14 A. I can't say whether it was mine or his but I think it just eventuated. That
11:32:43 15 was the way that it occurred.
- 16 Q. 192 The fact that no invoice was raised, would that suggest that it might have been
17 at your suggestion?
- 18 A. It could well be, yes.
- 19 Q. 193 Now, you say in your statement because you have an asterisk beside the lands
11:32:56 20 that Mr. Kelly would have known that you were going to distribute some of the
21 monies that you had received, isn't that right?
- 22 A. Yes.
- 23 Q. 194 And are you saying that Mr. Kelly would have known that you were likely to
24 distribute some of that cash to Mr. Hand and Mr. Lydon in particular?
- 11:33:09 25 A. From the context of my meeting with Mr. Kelly and again, conditional on what I
26 said earlier. That I have no knowledge of how I was recommended to him. It
27 was my belief then and it is now that Mr. Kelly knew that the only way that
28 anybody could be kept on side was by way of payment.
- 29 Q. 195 And is there any reason why Mr. Kelly would require your assistance in making a
11:33:39 30 payment to two councillors whom had already agreed to sign the motion for him,

- 11:33:42 1 surely he could have paid them directly if that were --
- 2 A. Of course he could, yes.
- 3 Q. 196 Did he suggest to you or give you any reason to believe that they had either
- 4 asked him for money or he had offered them money prior to your involvement?
- 11:33:57 5 A. No, I don't believe there was any such discussion with me.
- 6 Q. 197 Or did Mr. Hand or Mr. Lydon give you the impression that they had asked Mr.
- 7 Kelly for money or that he had offered them money for their signatures?
- 8 A. No, but, no, certainly there was no such suggestion by either man, other than
- 9 the context in which I spoke to Mr. Hand and Mr. Lydon about Mr. Kelly and his
- 11:34:15 10 proposal and there was a strong element of frustration on their part that
- 11 obviously Mr. Kelly had been very persistent with them.
- 12 Q. 198 Yes.
- 13 A. And they either felt that, in the context of what they had done or were
- 14 continuing to do or would do for him, required reimbursement in some fashion or
- 11:34:36 15 other, but that that was neither suggested by him nor they didn't ask him.
- 16 Q. 199 And your evidence to date seems to suggest that their wavering stemmed from the
- 17 opposition of their colleagues to the proposal rather than from a failure on
- 18 the part of Mr. Kelly to pay them for what they had done or what they were
- 19 likely to do?
- 11:34:57 20 A. Well I would say that their wavering was in the context of some of the
- 21 criticisms that was coming to them from some of their own colleagues. And
- 22 probably too, and I say this without any, I don't mean to be critical of
- 23 Mr. Kelly, that Mr. Kelly obviously had a project and he was as persistent as
- 24 anybody else would have been and he probably was fairly persistent with them.
- 11:35:19 25 Q. 200 But they could have refused to even sign the motions for Mr. Kelly, isn't that
- 26 right?
- 27 A. Oh, they could, yeah.
- 28 Q. 201 And it wasn't just question of the motions, a question of perhaps even of being
- 29 on side to the extent that they would oppose any proposals which would have
- 11:35:32 30 been contrary to Mr. Kelly's wishes?

- 11:35:35 1 A. That is true.
- 2 Q. 202 And yet, you say that they asked you for money to support a proposal which they
- 3 had already given a commitment to in respect of a motion, which they had
- 4 already signed, and which would appear too have been consistent with the
- 11:35:51 5 approach and position that they had adopted heretofore, is that correct?
- 6 A. Correct.
- 7 Q. 203 And where do you say that you paid Mr. Hand the sum of 2,000 pounds?
- 8 A. In the environs of Dublin County Council.
- 9 Q. 204 Yes. And can you recall the circumstances under which you came to pay Mr. Hand
- 11:36:06 10 2,000 pounds?
- 11 A. I gave him 2,000 pounds in cash.
- 12 Q. 205 Had you received the 5,000 pounds from Mr. Kelly?
- 13 A. I wouldn't have given the money to, in those circumstances in this particular
- 14 instance, I wouldn't have given the money to Mr. Hand if I hadn't got it.
- 11:36:22 15 Q. 206 Yes.
- 16 A. Hadn't got it from Mr. Kelly.
- 17 Q. 207 Yes. But your commitment to Mr. Kelly was that you would seek to influence
- 18 Councillors Mitchell and Hand?
- 19 A. Yes.
- 11:36:32 20 Q. 208 Sorry, Mitchell and Fitzgerald. But that you would ensure that Councillors
- 21 Hand and Lydon would remain on side --
- 22 A. Yes.
- 23 Q. 209 -- and that any attitude that you, on the part of Mr. Kelly to the payment of
- 24 councillors would have applied solely to Councillors Hand and Lydon and not to
- 11:36:49 25 any other councillors?
- 26 A. Yes, I didn't describe your outline of that earlier, ten minutes ago, as being
- 27 fair and I would suggest that that is fair, yes. That is a fair summation.
- 28 Q. 210 Yes. So the Tribunal can take it that in giving your evidence to the Tribunal
- 29 on this Module is that you were retained specifically to ensure that
- 11:37:06 30 Councillors Hand and Lydon would remain onside, you were given money that they

- 11:37:10 1 should remain onside, and that you were given it in the context that the giver,
2 namely Mr. Kelly, knew that you were going to have to give some of what he gave
3 you to Councillors Hand and Lydon?
- 4 A. The only councillors mentioned to me by Mr. Kelly were Mitchell, Fitzgerald,
11:37:26 5 Lydon and Hand.
- 6 Q. 211 Yes?
- 7 A. I have no recollection of ever mentioning Councillor Fox.
- 8 Q. 212 Are you suggesting that Mr. Kelly thought that you might have been giving some
9 money to Councillors Mitchell and Fitzgerald to ensure that they would water
11:37:39 10 down their opposition to his proposals?
- 11 A. No, no and I think I made that clear earlier on, Mr. Quinn, in fairness now.
12 That when I said in the context of Councillors Mitchell and Fitzgerald the
13 conversation with Mr. Kelly was on the basis of the difficulties that he had
14 encountered with them, in fact he regarded them as sort of blocks in the road
11:38:01 15 of his progress.
- 16 Q. 213 Yes.
- 17 A. Whereas Councillors, his view of Councillors Hand and Lydon were that they had
18 signed the motion or that they were supportive or had been supportive but that
19 he was of the view that that support was waning.
- 11:38:16 20 Q. 214 Yes. And did you not suggest to Mr. Kelly that he might approach Councillors
21 Hand and Lydon directly himself and offer them money for their continued
22 support or did you question whether or not he had been asked for or had paid
23 monies to Councillors Hand and Lydon or did you not discuss with him that he
24 might find great relief from approaching them and offering them money?
- 11:38:39 25 A. No, I don't think that type of conversation ever took place. He outlined his
26 view in the context that I've mentioned and that his belief or his fear, one or
27 other, or both, that Councillors Hand and Lydon were going offside because they
28 were coming under criticism from their own councillors or because they were
29 losing interest or because he felt that they suspected that this was going to
11:39:11 30 go nowhere.

- 11:39:12 1 Q. 215 In your negotiations for your monies with Mr. Kelly, Mr. Dunlop, did you put
2 forward the proposition that you would have to expend some of these monies on
3 Councillors Hand and Lydon and therefore that that should be taken into
4 consideration or had been taken into consideration by you in fixing your charge
11:39:31 5 at a particular amount?
6 A. No, no. I don't think any discussion of that substance took place between
7 Mr. Kelly and myself and I never, I do not recollect either telling Mr. Kelly
8 that or Mr. Kelly asking me how much that would entail.
9 Q. 216 Yes. But you're saying that there was no misunderstanding between you but that
11:39:52 10 of the monies you were receiving, you were going to have to lay off some of
11 that money to ensure the support of Councillors Hand and Fox.
12 A. Well I --
13 Q. 217 Or Hand and Lydon I should say.
14 A. Lydon, yes. I've gone through this, you know, quite a number of times and I
11:40:07 15 mean, there are two people sitting in a particular location discussing a
16 particular issue in relation to named individuals vis-a-vis a problem and this
17 gentleman has come to me in the context that he has been recommended that I act
18 for him on the basis that I can solve his problem or alleviate it in some way
19 and notwithstanding the fact that I don't know what he was told, I have
11:40:29 20 absolutely no doubt in my mind, then or now, that Mr. Kelly knew that parts of
21 the money that he was giving me would have to be expended in the context of
22 payments to councillors.
23 Q. 218 Yet there was no specific discussion on that matter --
24 A. No.
11:40:44 25 Q. 219 -- between you, at any stage --
26 A. No there was not.
27 Q. 220 -- either when you came to agree on the 5,000, receive the 5,000 or when you
28 came to report back on your report?
29 A. I would just park report back for a moment.
11:41:01 30 Q. 221 Yes.

- 11:41:01 1 A. No, that is correct.
- 2 Q. 222 Did you know when you agreed the 5,000 with Mr. Kelly, how much this adventure
3 was likely to cost you, how much profit you would have from the 5,000?
- 4 A. No, I didn't. As in other occasions, it was a matter of negotiation.
- 11:41:20 5 Q. 223 Well when you came to Mr. Hand, was there a -- when you settled on the sum of
6 2,000 pounds, was there negotiation leading up to that? In other words, did
7 Mr. Hand seek from you more than the 2,000 you agreed to pay him?
- 8 A. There was always negotiation from Mr. Hand.
- 9 Q. 224 And would you have indicated to Mr. Hand how much you had received?
- 11:41:40 10 A. No, I would never have indicated to Councillor Hand or any other councillor how
11 much I had received, that would be a fairly poor game of poker, Mr. Quinn.
12 But, no, I would have indulged in negotiations, as I did previously, with
13 Mr. Hand and agreed the figure.
- 14 Q. 225 Can you recall whether you agreed the figure with Mr. Hand before you agreed
11:42:07 15 with it with Mr. Lydon or Mr. Lydon before you agreed it with --
- 16 A. No, I think the first person on call in this particular instance was Mr. Hand.
- 17 Q. 226 Okay and you agreed the figure with Mr. Hand and at some stage you were in
18 receipt of funds and you paid the 2,000 which you had agreed with him, is that
19 correct?
- 11:42:23 20 A. Yes.
- 21 Q. 227 Do you think that you paid him at a subsequent meeting, in other words, your
22 discussions with Mr. Hand in relation to his support and the payments to
23 Mr. Hand, were they all the one discussion or were they spread over a period?
- 24 A. No, in the context of Mr. Hand and we're solely dealing with Mr. Hand, in the
11:42:41 25 context of Mr. Hand, if you made an agreement with Tom Hand, Tom would seek
26 you, seek of you, a date of payment of when he was going to get it and if you
27 didn't agree that he would certainly make his presence felt by telephone call
28 or otherwise as to when he was going to get it.
- 29 Q. 228 And then you went to Mr. Lydon, is that correct?
- 11:43:05 30 A. Yes.

- 11:43:05 1 Q. 229 And I think you have told the Tribunal that you paid Mr. Lydon 1,000 pounds?
2 A. Yes.
3 Q. 230 And did you have a similar discussion with Mr. Lydon?
4 A. Yes, I think I made the remark in relation to Mr. Lydon that in the discussion
11:43:19 5 that I had with him when it was indicated to me, by him to me, that he had been
6 supportive of this and that Mr. Kelly had been very persistent and that I
7 cannot say specifically the language that was used but it was indicated to me
8 that Mr. Lydon had, hadn't got anything and required something and I suggested
9 1,000 pounds.
11:43:45 10 Q. 231 And he --
11 A. And he accepted that.
12 Q. 232 Yes. And are you saying that you paid him sometime subsequently?
13 A. Yes.
14 Q. 233 Did Mr. Lydon give you any indication as to why he came to sign or co-sign that
11:44:00 15 motion?
16 A. Sorry, I missed that.
17 Q. 234 Did Mr. Lydon tell you why he signed the motion?
18 A. No, I don't recollect him telling me why he signed the motion. I think, and
19 again, this, given the context of the suppositional nature of this, I think it
11:44:21 20 was obvious to me at a certain stage that Mr. Kelly had been advised by
21 somebody, whom I don't know, that the two old reliables, in the context of
22 getting a motion signed, were Tom Hand and Don Lydon. Now it so happened that
23 in this particular context that the lands in question, the Pye Lands, in
24 Dundrum, fell right bang into the middle of Mr. Hand's --
11:44:47 25 Q. 235 Constituency.
26 A. -- local area.
27 Q. 236 Yes.
28 A. While it was part of and I'm subject to correction on this, part of the Dun
29 Laoghaire/Rathdown general Council area, I'm not so certain that it fell bang
11:45:02 30 in the middle of Senator Lydon's immediate local area, but certainly it would

11:45:09 1 be completely disingenuous for anybody to suggest that somebody had not gone to
2 Mr. Kelly at some stage and that, this is matter for Mr. Kelly himself, I
3 can't, Mr. Kelly never discussed this with me, neither did Councillors Hand or
4 Lydon that Mr. Lydon and Mr. Hand were reliable people to go for signatures for
11:45:31 5 a motion in a context where other people mightn't sign, or, as was the case,
6 happily, by happenstance in this particular instance, that Councillor Hand was
7 a representative of the particular area. And either Councillor Hand
8 recommended to Mr. Kelly that he get Don Lydon to sign or guaranteed that Don
9 Lydon would sign or Mr. Kelly independently went to Don Lydon and received Don
11:45:57 10 Lydon's signature.

11
12 Now, I've seen statements by Senator Lydon in relation to, that his signature,
13 which is appended to this motion and I think he has said that he can't
14 recollect the circumstances in which he signed.

11:46:12 15 Q. 237 Well I think he says he believes that he signed it at the invitation of a
16 Mr. Hand, isn't that right? At the request of Mr. Hand, at 1311.

17
18 He is referring to this motion and the motion which is dealt with in 1993 and
19 if you see in the second paragraph there that he believes that he signed the
11:46:33 20 motions at the request of Councillor Hand.

21 A. Sorry, I didn't hear.

22 Q. 238 In fairness --

23 A. Yes, that would accord with a procedure that was perceived of at the time.

24 Q. 239 Would accord with a procedure that was perceived --

11:46:50 25 A. That either an individual developer was looking for signatures, would go to Tom
26 Hand and/or Senator Lydon or would go to Tom Hand and Tom Hand would secure the
27 signature of Don Lydon.

28 Q. 240 And would Senator Lydon secure the signature of Tom Hand?

29 A. I don't think that the converse applied, at least not to my specific
11:47:13 30 recollection.

- 11:47:14 1 Q. 241 And are you saying that there was a, that there was a system in place where
2 Councillor Hand invariably managed to get the signature of Councillor Lydon for
3 motions?
- 4 A. Well I don't mean to suggest that this was an invariable practice. What I'm
11:47:31 5 suggesting to you is that it was known that in circumstances where you might
6 not be able to obtain signatures of other councillors that you could go to Tom
7 Hand and Don Lydon and get their signature either individually, as I have
8 outlined to you, or go to Tom Hand and Tom Hand would obtain the signature of
9 Don Lydon, again as I have outlined to you, and as Senator Lydon has stated in
11:48:05 10 his statement, that's how it occurred on this occasion.
- 11 Q. 242 Now, was there any question when you were paying Councillors Hand and Lydon of
12 them obtaining the support of members of their own party?
- 13 A. Sorry, I didn't hear you.
- 14 Q. 243 Was there any suggestion or question of Councillors Hand and Lydon obtaining
11:48:22 15 the support of others for their proposal?
- 16 A. No, I don't -- I -- certainly I don't recollect any discussion with Mr. Kelly
17 to that effect. The response that I got from both Councillors Hand and
18 Councillor Lydon was to the effect that they had been -- they had worked in the
19 vineyard long and hard in the context of this particular individual and
11:48:47 20 development, they were getting no thanks for it and I'm saying this
21 specifically now in the context of your question. They were getting no thanks
22 for it among some of their own colleagues and in the case of Councillor Hand, I
23 took that to mean that he was having difficulty with a member of his own party,
24 namely, Olivia Mitchell. And in the case of Senator Lydon, I didn't come to
11:49:19 25 any conclusion as to who specifically it was, but that obviously Aidan Kelly
26 had lobbied other councillors in Fianna Fail and as a result, they had gone to
27 Don Lydon because he was a named individual and a signatory and arising from
28 that, they had either told him that it was going nowhere or they queried why he
29 was supporting it.
- 11:49:45 30 Q. 244 Now, the payments having been made, you were now certain, all other things

11:49:50 1 being equal, that this motion would at least have the support of Councillors
2 Hand and Lydon, isn't that right?

3 A. Yes.

4 Q. 245 Were you also seeking their support to counter the proposals of Councillors
11:50:03 5 Mitchell and Fitzgerald?

6 A. Specifically, no. But that was, we were obviously, we were aware of what
7 Councillors Mitchell and --

8 Q. 246 You had spoken with Councillor Mitchell at this stage?

9 A. I never spoke to Councillor Eithne Fitzgerald at all.

11:50:22 10 Q. 247 You explained that. You earlier in relation to Councillor Fitzgerald, if I
11 could have 2403. You say that you only ever once spoke to her and there was an
12 entry in your telephone attendance for 10:25, message left on the 10th of
13 September '92. Just to exclude it. Helen Eithne Fitzgerald, number given,
14 "will be in a meeting from 10.30 to one o'clock please give Helen any
11:50:45 15 information to pass on." Had that message anything to do with this
16 development?

17 A. It could well have or it could well have or be a reference to something else.

18 Q. 248 Okay.

19 A. That we were seeking another person and myself were seeking to make a
11:51:02 20 presentation to the Labour Party at the time in relation to a development.

21 Q. 249 Now, you now had spent 3,000 of the 5,000 you had received. You knew you had
22 the support of Councillors Hand and Lydon. You had effectively fulfilled your
23 obligations to Mr. Kelly, isn't that right?

24 A. Correct.

11:51:22 25 Q. 250 Did you report back to Mr. Kelly?

26 A. Yes, I -- I don't recollect any very detailed conversations with Mr. Kelly
27 about the ongoing process. I think it would be completely wrong to suggest
28 that no such discussions did take place because Mr. Kelly called my office on a
29 number of occasions. It would be completely impractical and unrealistic to
11:51:50 30 suggest that he wasn't seeking to find out how I got on or I was not telling

11:51:57 1 him how I had got on or what I was able to tell him or guarantee to him.

2 Q. 251 Yes. For example, if we look at 802. That meeting on Monday 12th of October

3 '92. Do you think you had fulfilled your contract by the 12th of October '92?

4 That is to say the Monday proceeding the vote, the Friday vote?

11:52:16 5 A. That I can't say to you.

6 Q. 252 Did you do any other works for Mr. Kelly in relation to this development? In

7 the past for example we have seen where you drafted letters of, or assisted in

8 drafting letters which have been circulated to councillors. Did you do any?

9 A. No.

11:52:34 10 Q. 253 Any?

11 A. No, I think there is a reference at some stage Mr. Quinn, I can't, I don't have

12 the actual reference, the page reference here, but I think there is some

13 reference to some draft of a letter that Mr. Kelly was intending sending to, I

14 think, Councillor Mitchell and it would seem to indicate that he discussed the

11:52:56 15 contents of that with me. There is the indication also in relation to a

16 telephone message that he either discussed with me or proposed to discuss with

17 me the circulation of documentation in relation to the proposal in the local

18 area.

19 Q. 254 Yes. For example, at 2073. There is a draft in a letter to the Chairman and

11:53:18 20 each member of the Dublin County Council on the 13th of October 1992.

21 A. Uh-huh.

22 Q. 255 A copy of that letter appears to have gone to Councillor Healy, for example, on

23 the 9th of October 1992 and we see that at 796. Did you have any input into

24 that letter or that draft?

11:53:33 25 A. Yes. I can't say that I did or did not. I have no recollection of it.

26 Q. 256 Yes.

27 A. It is distinctly possible that I did. I would, for ease of procedure, I would

28 just say to you that the typeface and the layout of the letter would seem to

29 suggest that I, it was either prepared in my office or I had some input into

11:54:02 30 it.

- 11:54:02 1 Q. 257 The typeface and the content of the letter you say suggest that you were --
- 2 A. Yes. I think having looked at it in the brief, I would have to say that it
- 3 would be remiss of me not to say that it does look as if I had some involvement
- 4 in that.
- 11:54:17 5 Q. 258 You do know that Mr. Kelly denies any impropriety in retaining you?
- 6 A. Yes.
- 7 Q. 259 Well, can I now ask you Mr. Dunlop, how you came to distribute the last of the
- 8 2,000 pounds that you had from this contract with, to Mr. Fox. In other words,
- 9 you I think paid Mr. Fox 1,000 pounds, isn't that right?
- 11:54:41 10 A. Yes.
- 11 Q. 260 Why did you pay Mr. Fox?
- 12 A. Because he asked for it.
- 13 Q. 261 Well had you refused to pay Mr. Fox, you would have been 1,000 pounds better
- 14 off, isn't that right?
- 11:54:54 15 A. Yes, but I had a relationship with Tony Fox. I know these Modules are dealt
- 16 with on an individual stand alone basis, so therefore there is an element of
- 17 the people who are here on a constant basis listening to repetition but
- 18 nonetheless it stands on his own feet, that is I had a relationship with Tony
- 19 Fox. He was as he himself used to say, sort of mantra like, that he was
- 11:55:20 20 pro-development, but he was pro-development on the basis that he was
- 21 recompensed for it. And in the many occasions that I had to seek Councillor
- 22 Fox's support either by way of signature or by way of support I paid him money
- 23 at his request.
- 24 Q. 262 For example, if we look at 588. This is 31st of May 1991, you weren't retained
- 11:55:45 25 at this time, Mr. Dunlop.
- 26 A. Yes.
- 27 Q. 263 And if we look at 589. We see a proposal from Councillors Hickey and Mitchell
- 28 that the lands in question be zoned C.
- 29 A. Uh-huh.
- 11:55:58 30 Q. 264 And we see there the vote on that proposal and we see that Councillor Fox and

- 11:56:02 1 indeed Councillor Hand supported and indeed Councillor Lydon supported that
2 proposal at that time.
- 3 A. Correct.
- 4 Q. 265 So Councillor Fox was already on record as supporting the rezoning of these
11:56:15 5 lands, isn't that right?
- 6 A. Yes, it was the in the names of two -- it was in the names of cross party
7 support, one of his own.
- 8 Q. 266 But his commitment to --
- 9 A. Paddy Hickey and Olivia Mitchell.
- 11:56:27 10 Q. 267 But his commitment to the support of the rezoning of these lands was already
11 recorded, isn't that right?
- 12 A. Correct.
- 13 Q. 268 And are you saying that he, notwithstanding that commitment, when you came to
14 discuss the matter with him that you agreed to pay him 1,000 pounds?
- 11:56:43 15 A. Yes.
- 16 Q. 269 You were really only getting one extra vote for that 1,000 pounds, isn't that
17 right?
- 18 A. That's the way I would view it --
- 19 Q. 270 In circumstances where you thought or believed that the motion was unlikely to
11:56:55 20 be successful, isn't that right?
- 21 A. Yes, that is the way I would view it, but Tony Fox consistently and repeatedly,
22 though without giving a great deal of specifics, indicated that he would talk
23 to others.
- 24 Q. 271 Yes. Are you saying he gave a commitment that he would try and persuade others
11:57:18 25 to support the proposal?
- 26 A. Yes, he normally did, I'm not suggesting that he specifically did so in this
27 instance. That was the specific orientation of my relationship with Tony Fox.
- 28 Q. 272 I think you identified, is it Councillor Matthews in the past as someone that
29 he --
- 11:57:33 30 A. Well, yes, I am I have, I know absolutely nothing whatsoever to say in relation

11:57:41 1 to Councillor Trevor Matthews vis-a-vis payments of monies. I never did, I was
2 never asked by him, but Councillor Fox did on occasion mention his name as a
3 person that he, Councillor Fox, would approach to support.
4

11:57:56 5 CHAIRMAN: Mr. Quinn, I am just going to break there for about ten minutes.
6

7 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED**

8 **AS FOLLOWS:**
9

11:58:26 10 MR. QUINN: Thank you.

11 A. It's freezing.

12 Q. 273 Mr. Dunlop, I think before we broke we were dealing with Councillor Fox and why
13 you felt it necessary to pay him 1,000 pounds in relation to his support for
14 this motion, isn't that right?

12:16:26 15 A. Yes.

16 Q. 274 A motion which you believed was unlikely to be successful.

17 A. Yeah, I came to the conclusion that certainly from the views expressed to me by
18 Councillors Hand and Lydon that given the criticism or the views that they had
19 been expressed to them by their own party colleagues that it wasn't likely to
20 succeed.

12:16:52 21 Q. 275 And in the past I think you have given evidence to the Tribunal of other
22 councillors whom you say took money from you for their support, isn't that
23 right?

24 A. Yes.

12:17:01 25 Q. 276 Did you approach any of those other councillors for support?

26 A. No. Again, to reprise, if I may, what I said at the very outset, that the
27 relationship with Mr. Kelly was in the context of named specific councillors.
28 And I did not, other than having a conversation with Councillor Mitchell, I did
29 not approach any other councillors other than the councillors that I named.

12:17:30 30 Q. 277 Yes. And the named councillors from Mr. Kelly's point of view, other than

- 12:17:36 1 councillors Mitchell and Fitzgerald, were Councillors Hand and Lydon?
- 2 A. Because they had signed the motion.
- 3 Q. 278 You hadn't discussed Councillor Fox with Mr. Kelly nor had you discussed
- 4 Mr. Kelly with Councillor Fox?
- 12:17:46 5 A. No. And as I said, Mr. Quinn, neither Mr. Fox mentioned Mr -- neither
- 6 Mr. Kelly mentioned Mr. Fox and when I had my discussion with Mr. Fox, he did
- 7 not give me any indication, at all, that he had had consultations or
- 8 discussions with Mr. Kelly.
- 9 Q. 279 You see, I am still at a loss, Mr. Dunlop, as to why you would spend 50 percent
- 12:18:06 10 of your profit or what was to be your profit on this venture on Mr. Fox in
- 11 circumstances where it was unlikely that this vote would be successful and
- 12 where you had already fulfilled the terms of your agreement with Mr. Kelly?
- 13 A. Well that wasn't my relationship with Mr. Fox, my relationship with Mr. Fox was
- 14 when I went to him, invariably, it resulted in a payment for his support,
- 12:18:28 15 either for himself or for others that he could garner and that was always the
- 16 basis on which I knew as soon as I approached Mr. Fox that that is what would
- 17 happen.
- 18 Q. 280 Now in, relation to the actual date of the motion or the special meeting of the
- 19 Council in which the motion was considered, that's the 16th of October '92, if
- 12:18:51 20 we could have 802, please? I think you are not recorded in your diary, at
- 21 least, as being in attendance on that date of that Development Plan meeting,
- 22 isn't that right?
- 23 A. No, it's not in my diary. No.
- 24 Q. 281 Do you think you were there on the day?
- 12:19:05 25 A. I think it is highly likely that I was present at some stage during the course
- 26 of --
- 27 Q. 282 Yes.
- 28 A. I would find it extraordinary if I was not. It might have been something very
- 29 very significant and the name that appears in the October the 16th 1992 for
- 12:19:24 30 11:30 is another councillor.

12:19:28 1 Q. 283 Well if we look at 624, Mr. Dunlop, I don't think that other Councillor was in
2 attendance or is deemed to be in attendance on that day.
3 A. No. Sorry, that's my mistake and it was a councillor.
4 Q. 284 I was going to come to that, that in fact in fact lost his seat in June '91?
12:19:50 5 A. Yes. He was a Councillor but he was --
6 Q. 285 And I think the meeting was in the morning and it's recorded at 631 that the
7 meeting concluded at 1:15 p.m, isn't that right?
8 A. That's correct, as I see here, yes.
9 Q. 286 So does that help you in any way, reverting again to 802, in recollecting
12:20:12 10 whether or not you were in attendance on that date at the Council?
11 A. No, I would say that -- I cannot recollect specifically. But I would say that
12 it would be somewhat surprising if I wasn't there, even for the shortest of
13 short periods.
14 Q. 287 Yes. Now, you had referred I think in your evidence to the unanimous support
12:20:32 15 for the Councillor Mitchell/Fitzgerald motion and that therefore it was
16 unnecessary or indeed the motion, the Hand/Lydon motion didn't go ahead on that
17 basis.
18 A. It fell, yes.
19 Q. 288 But in fact I have to suggest to you that the record shows that the unanimous
12:20:48 20 motion of Mitchell/Fitzgerald was in relation to the village --
21 A. Correct.
22 Q. 289 -- but that was there was a second motion which would have affected the Pye
23 Lands and there was a vote on that motion at 630.
24 A. That's correct, yes.
12:21:02 25 Q. 290 Do you accept that?
26 A. Oh, yes.
27 Q. 291 Do you want to correct?
28 A. Yes, that is correct, yes.
29 Q. 292 Your --
12:21:07 30 A. Yeah.

- 12:21:07 1 Q. 293 So the actual motion which concerned Dundrum Pye Lands was actually voted upon,
2 it wasn't unanimously adopted by the Council, isn't that right?
3 A. This is the Councillor Fitzgerald motion?
4 Q. 294 Yes. Which related to the Pye Lands as opposed to the Dundrum Village lands.
- 12:21:23 5 A. Yes.
6 Q. 295 So there was a vote on lands which were the subject of the Lydon/Hand motion?
7 A. Correct.
8 Q. 296 Yes. And in fact, I think that that was successful by a margin of 30 to 23.
9 So there were 23 councillors who voted against that motion, isn't that right?
- 12:21:40 10 A. That's correct.
11 Q. 297 And we see their names at 631, isn't that right? And they included Councillors
12 Hand, Councillor Fox and Councillor Lydon, isn't that correct?
13 A. Against the motion.
14 Q. 298 Yes.
- 12:21:52 15 A. Yes, correct.
16 Q. 299 So voted against it, isn't that right?
17 A. Yes.
18 Q. 300 And I think on that, was the Beechill lands also before the Council on the same
19 day, the Beechill motion, the Councillor Hand/Lydon motion in relation to
12:22:07 20 Beechill?
21 A. It's quite possible, yeah. What date, 16th of October 1992?
22 Q. 301 That's correct.
23 A. Yes, it is quite possible. Yes.
24 Q. 302 Yes. If I could have 1509, please?
- 12:22:23 25 A. Yeah. Well it's on the agenda. Was it discussed that day?
26 Q. 303 Yes. It was and I think you've already given evidence to suggest that you were
27 there --
28 A. Yes.
29 Q. 304 -- for that motion, isn't that right?
12:22:39 30 A. Well if the Beechill lands were discussed on that morning, on that day, and

- 12:22:41 1 voted on, I was there.
- 2 Q. 305 Yes. And at 1510 I think there was discussion in relation to that, isn't that
- 3 right and that motion was adopted. Now if I could revert perhaps to 631 and
- 4 look at the councillors for a moment who voted against the Fitzgerald/Mitchell
- 12:22:58 5 proposals. Councillor Mitchell or Deputy Mitchell said that there was only one
- 6 Councillor who was a Fine Gael Councillor who voted against her proposal and
- 7 that was Councillor Hand, isn't that correct?
- 8 A. Sorry, yes, in her evidence. Yes.
- 9 Q. 306 I suggest to you that there was a substantial number of Fianna Fail councillors
- 12:23:19 10 who opposed the proposal, isn't that correct?
- 11 A. That's correct, yes.
- 12 Q. 307 And yet your evidence to the Tribunal was to the effect that the feedback that
- 13 you were getting from Councillors Hand and Lydon was that that they were not
- 14 getting the support of their brother councillors, is that right?
- 12:23:35 15 A. They were being criticised for persisting.
- 16 Q. 308 Particularly Councillor Lydon.
- 17 A. Correct, yes.
- 18 Q. 309 And yet 20 odd of his councillors voted with him in opposing the Mitchell or
- 19 Fitzgerald proposals, isn't that correct?
- 12:23:46 20 A. There's nothing inconsistent with that. In that if you look at the patterns of
- 21 voting in relation to what people might say and not say in relation to a
- 22 particular motion, there is nothing inconsistent in it.
- 23 Q. 310 But if the level of opposition or the level of pressure coming on Councillor
- 24 Lydon, as you suggest, was as great as you suggest. One, I suggest to you
- 12:24:05 25 would not find 20 odd councillors supporting him in his opposition of the
- 26 Mitchell/Fitzgerald motion?
- 27 A. Why not?
- 28 Q. 311 Because they would have supported the Mitchell/Fitzgerald proposals?
- 29 A. No, it's one of their own. If they're going to -- if they are dissatisfied or
- 12:24:25 30 unhappy or criticising Don Lydon for his persistence with this particular

- 12:24:29 1 thing. They are either going to do one of three things. Either vote against
2 it, which is slightly going against the grain from the political ideological
3 training. Secondly, they are going to vote with him, which is much more
4 collaborative and you know party supportive or else they are going to abstain,
12:24:53 5 they are going to disappear, they're not going to vote for it. But in the
6 main, the very fact that he would have been criticised for persisting with it
7 doesn't in any way logically or rationally follow that they would not support
8 him in a vote.
- 9 Q. 312 You see, I suggest to you Mr. Dunlop, that it would be unthinkable for two
12:25:12 10 councillors, having signed a motion and having proposed a motion not to support
11 a motion when it came on for debate?
- 12 A. Oh, absolutely.
- 13 Q. 313 And Councillors Lydon and Hand had already signed this motion and had it come
14 on in the normal course for decision and debate, that it would be unthinkable
12:25:28 15 for them not to have proposed it and seconded it and signed it, isn't that
16 correct?
- 17 A. Correct, correct.
- 18 Q. 314 And in fact, if we look at 630, Councillor Hand and Lydon both spoke on the
19 debate on the Mitchell/Fitzgerald motion, isn't that right?
- 12:25:42 20 A. Yes.
- 21 Q. 315 And I suggest to you that they were very much on line and were always on line
22 in relation to this matter?
- 23 A. They were. There was absolutely no question that they were on line, they were
24 on line notwithstanding their reservations about Mr. Kelly and his proposal or
12:26:02 25 notwithstanding the criticisms that they were getting in relation to their
26 support for it from their party colleagues. They were on line on the basis
27 that they signed a motion, which they couldn't easily resile from without
28 causing further controversy.
- 29 Q. 316 Yes.
- 12:26:15 30 A. And in the context of seeking their colleagues support in their own parties

- 12:26:21 1 unless people had a vehement objection to it, notwithstanding any reservation
2 that they might have had about it, they would support him.
- 3 Q. 317 Can I ask you, Mr. Dunlop, you were now left with 1,000 pounds, isn't that
4 right, in cash. Can you recall what you did with that money?
- 12:26:37 5 A. I can't. I probably spent it or I certainly, there is no indication of any
6 lodgement to my accounts in relation to any of these monies. So I probably
7 spent it.
- 8 Q. 318 Well there was a lodgement, I think, to one of the accounts of Frank Dunlop &
9 Associates, if I could have 1164, please? On the 27th of October 1992 of 1,000
12:26:58 10 pounds.
- 11 A. Yes, that's a long time after the 16th.
- 12 Q. 319 Isn't that right? And I think if we look at 1170, on the 27th of October 2004,
13 in correspondence with the Tribunal, that lodgement was a cash lodgement, do
14 you see that?
- 12:27:27 15 A. Yes.
- 16 Q. 320 That would appear to have been, whilst the vote was on the 16th of October
17 1992, that would appear to have been a cash lodgement after the 16th of October
18 1992 in the sum of 1,000 pounds. Could that 1,000 pounds have been part of the
19 payments you received from Mr. Kelly?
- 12:27:37 20 A. Well it could well be or it could be part of other monies that I had available
21 to me at the time and why make a cash lodgement, there must have been a reason
22 why I made a cash lodgement in the context of overdrawn account or something, I
23 don't know, but certainly I think the 11 day difference between the vote and
24 the lodgement would indicate to me, at least, that it wasn't the same amount of
12:28:05 25 money, that it was other monies.
- 26 Q. 321 Now, Mr. Dunlop, just to recap for a moment. There was no mention of any, of
27 the Pye Lands in your earlier evidence to the Tribunal in May of 2000. There
28 was no mention of impropriety in relation to the Pye Lands in your private
29 interviews in May 2000 with the Tribunal legal team. The first mention of the
12:28:31 30 Pye Lands was in October 2000, isn't that correct?

- 12:28:34 1 A. No, that's not quite correct Mr. Hand, or Mr. Quinn. I accept that there was
2 no suggestion of impropriety or money, but the Pye Lands were mentioned in the
3 private sessions of May 2000.
- 4 Q. 322 But not in the context of any impropriety on your part or the part of Mr. Kelly
12:28:52 5 or indeed the three councillors that you named?
- 6 A. Correct. Other than to say, as I pointed out to you while we were looking at
7 this in the transcripts on screen, that Mr. Hanratty, I don't know, wanted to
8 talk about something else because I had specifically said that I wanted to talk
9 about the Pye Lands.
- 12:29:07 10 Q. 323 Yes. But you felt at that that meeting, that's the meeting on the 11th, that
11 you were not comfortable or competent to deal with them at that stage.
- 12 A. Yes.
- 13 Q. 324 Why did you feel that you were neither comfortable or competent to deal with
14 them at that stage?
- 12:29:23 15 A. That I can't tell you other than what I said in the private session.
- 16 Q. 325 And when you did come to deal with them in your statement, I think, in October
17 --
- 18 A. Yeah.
- 19 Q. 326 -- 2000, you dealt with them in the context, and I think in your correspondence
12:29:37 20 in 2001. First of all in, 2000, if we look at page eight. You just make the
21 bald assertion that you received 5,000 and that you paid 3,000 to the three
22 named councillors, isn't that right?
- 23 A. Correct.
- 24 Q. 327 And then in September 2001 at 1031, your solicitors, presumably acting on your
12:29:56 25 instructions, advised the Tribunal that the payments to the councillors had
26 been made and the payment to you had been made in April '92.
- 27 A. Yes.
- 28 Q. 328 But I think from your evidence now it would appear that you are accepting that
29 it must have happened in September?
- 12:30:08 30 A. Yes. I think while I cannot be 1,000 percent certain that all of the contacts

12:30:15 1 with Mr. Kelly took place within an immediate period in relation to the vote
2 that took place on the 16th of October 1992, and I certainly don't recall a
3 lengthy period between Mr. Kelly contacting me in the first instance and the
4 vote.

12:30:37 5 Q. 329 And again, you now know that Mr. Kelly, Mr. Lydon and Mr. Fox all dispute your
6 version of events, isn't that right?

7 A. As is par for the course, yes.

8 Q. 330 Thank you very much Mr. Dunlop.

9 A. Thanks, Mr. Quinn.

12:30:54 10 Q. 331 If you answer any questions.

11

12 CHAIRMAN: Now, are there?

13

14 MR WOLFE: I have no questions, Mr. Chairman.

12:31:00 15

16 MR. COSGROVE: I appear on behalf of Mr. Kelly. I have some questions for Mr.
17 Dunlop.

18

19 CHAIRMAN: Certainly.

12:31:07 20

21 **THE WITNESS WAS QUESTIONED AS FOLLOWS BY MR. COSGROVE:**

22

23 MR. COSGROVE: Mr. Dunlop can you assist me --

24 A. Who are you?

12:31:11 25 Q. 332 I am Noel Cosgrove.

26 A. Yes.

27 Q. 333 And I am instructed by Patrick Donnelly & Co and I appear for Mr. Kelly. Can
28 you hear me okay?

29 A. I can, yeah, yeah, yeah. I just like to put a name on the body.

12:31:22 30 Q. 334 Can you assist me as to how many meetings you had in 1992 with Mr. Kelly?

12:31:26 1 A. I think I said to Mr. Quinn, if I met Mr. Kelly six times I think that would
2 probably be the maximum. I certainly, he certainly appears in my diary as per
3 an arranged meeting at least twice and after that the only times I met him
4 would be in the environs of Dublin County Council.

12:31:50 5 Q. 335 Yes. Your belief it was around six occasions in total?

6 A. I have no recollection of having, certainly not daily contact with him or daily
7 meetings with him, I didn't. Certainly he rung my office and there are records
8 of that. If Mr. Kelly was able to come in here and say I met him on 11 or 7
9 occasions and he had documents re evidence to prove that, I would accept that.
10 I mean, I have indicated to Mr. Quinn that the level of contact with Mr. Kelly
11 was not at the same level of intensity that it was with other people.

12 Q. 336 The six meetings that you mentioned, between what periods did you have these
13 meetings?

14 A. I believe that most of those meetings took place in or around September,
15 October, November or more specifically maybe October. I did originally think
16 that Mr. Kelly had made or he and I had made contact in April. I am of the
17 view now that that could not be the case.

18 Q. 337 Very good. So your belief now is that you had about six meetings between
19 September and October 1992.

12:33:07 20 A. Yes.

21 Q. 338 Can you assist as to how long those meetings lasted for on each occasion?

22 A. Well, I can't really, other than to say to you that in the context of my first
23 meeting with Mr. Kelly, we'll call it the introductory meeting, where Mr. Kelly
24 outlined his difficulties, I couldn't put a time frame or a time frame on it.

12:33:41 25 Q. 339 Well can I --

26 A. Certainly it was long enough for him to explain to me the problems that he had,
27 what he had done, what he hoped for. The difficulties he had encountered with
28 officials. His views of councillors. So that doesn't take place in ten
29 minutes. So, I mean, certainly --

12:34:02 30 Q. 340 I would suggest a lengthy meeting?

- 12:34:04 1 A. I would suggest that it was anything of the nature of half an hour.
- 2 Q. 341 And the following five meetings, what were they in relation to then?
- 3 A. Well that I am -- I'm afraid I can't tell you. They were in relation to the
- 4 development and what was or was not happening. One of the messages that
- 12:34:29 5 Mr. Kelly left as I think has been put into evidence by Mr. Quinn, related to
- 6 him either seeking my assistance or seeking my advice in relation to material
- 7 that he would circulate in the immediate area. Secondly, I've said to
- 8 Mr. Quinn that it would be wrong of me not to agree that I probably
- 9 participated in assisting Mr. Kelly in relation to the drafting or preparation
- 12:34:58 10 of a letter, either to one councillor or to a number of councillors and
- 11 thirdly, one meeting at least related to fees.
- 12 Q. 342 Yes. The meeting in relation to fees, when did that take place?
- 13 A. Well I said to Mr. Quinn that there was, my belief is that there was a
- 14 discussion at the very first meeting that I was introduced to Mr. Kelly, that
- 12:35:26 15 there would have been a discussion about fees. Whether it was finally agreed
- 16 at that stage or at a subsequent, at the next meeting, I cannot specifically
- 17 say to you.
- 18 Q. 343 You said in your evidence that you describe Mr. Kelly as a very forceful
- 19 individual, that he was hard done by.
- 12:35:45 20 A. No. What I said was -- yes, he was forceful about this issue. He was very
- 21 committed, obviously, to this issue. He had, as he explained to me, there was
- 22 a history attached to it. I read with some interest some of the things that
- 23 had been said in the brief, some of which I had never heard of before. But
- 24 Mr. Kelly never mentioned anything about that to me in relation to his
- 12:36:11 25 interface with officials. But he did indicate that he was having difficulties
- 26 and had had difficulties in relation to the proposal and felt that if people
- 27 would only listen to him that the thing would work out.
- 28 Q. 344 Yes.
- 29 A. What he was proposing was the right proposal for the area.
- 12:36:32 30 Q. 345 Yes. So you were saying that Mr. Kelly was quite forceful in his views.

12:36:37 1 A. Yes.

2 Q. 346 And he conveyed that to you.

3 A. Yes.

4 Q. 347 In relation to that, you also said in fairness to yourself, that you said that

12:36:48 5 you have no recollection at all of discussions you had with Mr. Kelly going

6 back to 1992.

7 A. Well other than discussions about --

8 Q. 348 Other than a general discussion of course about Mr. Kelly's difficulties.

9 A. Yes.

12:37:03 10 Q. 349 Is that correct?

11 A. Yeah.

12 Q. 350 You never had any discussions about -- that you would actually pay councillors

13 --

14 A. Oh, no.

12:37:14 15 Q. 351 -- to get them on side?

16 A. Absolutely not.

17 Q. 352 In the six meetings that you had with Mr. Kelly between September and October

18 1992, that was never discussed?

19 A. It was never raised by him, it was never raised by me and he never asked me any

12:37:28 20 specific question in relation to whether I was going to or did give money to

21 councillors.

22 Q. 353 Or it was never raised by any third party on his behalf?

23 A. I never met any third party on his behalf. The only person I dealt with was

24 Mr. Kelly.

12:37:43 25 Q. 354 And Mr. Kelly gave you no impression other than your being employed by a

26 lobbyist to lobby councillors?

27 A. I'm sorry?

28 Q. 355 You were being employed as a lobbyist by Mr. Kelly?

29 A. Yes, yes.

12:37:56 30 Q. 356 That was your understanding?

12:37:57 1 A. Correct.

2 Q. 357 And as part of that you said that you entered negotiations and agreed a fee of

3 5,000 pounds.

4 A. Yeah.

12:38:08 5 Q. 358 Is that correct?

6 A. That's correct.

7 Q. 359 Did you come up with that fee?

8 A. No, again, in answer to Mr. Quinn I said it would be -- I cannot recollect the

9 exact circumstances of how much I asked for but it was always a question of

12:38:25 10 either he, and I'm not saying this is Mr. Kelly now, but the developer would

11 suggest a fee or I would ask for a specific fee and there would be negotiation

12 which would eventuate in an agreed figure and I believe that's what occurred on

13 in occasion as well.

14 Q. 360 Yes. I take it that you wouldn't proceed with the lobbying unless you were

12:38:43 15 happy with the fee you were being given in the first instance?

16 A. Yes it would be a little bit odd.

17 Q. 361 The -- you mentioned earlier that you believed that you received the 5,000

18 pounds in cash.

19 A. Yeah.

12:39:00 20 Q. 362 Is that a belief or have you any evidence to that effect?

21 A. Well the only evidence that I can give you is that of my relationship with

22 Mr. Kelly. I have no -- there is no evidence. And I have no recollection of

23 ever invoicing Mr. Kelly in an amount agreed to him or to any company. I have

24 no recollection of receiving money from Mr. Kelly other than by cash. But if

12:39:31 25 Mr. Kelly was to say that he did give me the money but it was by cheque and

26 here is a copy of the cheque, I would have absolutely no option but to say yes,

27 that is correct. But in the circumstances in relation to what was taking

28 place, in relation to the surrounding circumstances and in the approach, I

29 believe it was a payment in cash. Now, for ease of reference to Mr. Cosgrave,

12:40:00 30 I should say, I cannot say to you whether he suggested it or I suggested that.

12:40:03 1 It could well have been me that suggested it.

2 Q. 363 Well Mr. Dunlop, was that your normal practice; to ask for cash?

3 A. Yes, it was either -- it varied. I can't remember which Module.

4 Q. 364 Was it your usual practice?

12:40:20 5 A. What Module are we in? This is about the tenth Module. I would say that in at
6 least five of those Modules the evidence that I have given is that it was
7 either agreed between the developer and myself that the payment would be in
8 cash, either at his suggestion or mine, given the individual circumstances.

9 Q. 365 So Mr. Dunlop --

12:40:41 10 A. I'm not saying it was my usual practice. What I'm saying is yes and at least
11 50 percent of the developments that I acted for developers, there was payment
12 in cash.

13 Q. 366 Can I suggest then that it was part of your regular practice to receive --

14 A. Yes.

12:41:00 15 Q. 367 -- cash and that you would request the cash from a developer?

16 A. Yes, I think that's fair.

17 Q. 368 And that would be part of your negotiation?

18 A. Yes, I think that's a fair statement, yes.

19 Q. 369 So you held the cards from that point of view, you dictated the fee which you
12:41:18 20 agreed upon and you dictated that it would be paid in cash?

21 A. Well I would quibble with the word "dictation."

22 Q. 370 As part of your negotiation.

23 A. I would negotiate. Obviously depending on the strength of character of the
24 individual developer he might say well I'm not going to do that, can't do that,
12:41:35 25 or I won't do that, send me an invoice.

26 Q. 371 Again, Mr. Dunlop, you were of the belief that the 5,000 pounds was paid in
27 April 1992. But I think you have withdrawn that now?

28 A. Yes, I did think and to be quite honest with you, Mr. Cosgrave. I don't know
29 why I felt it was in April 1992 and there is no evidence that I had any contact
12:42:04 30 whatsoever with your client in April 1992. Either diary, telephone, meeting or

12:42:11 1 otherwise.

2 Q. 372 So we can rule that out then?

3 A. I think so. Unless, as I said to Mr. Quinn, Mr. Kelly were to suggest that he

4 has diary reference or evidence to the effect that he met me in April 1992.

12:42:26 5 Q. 373 Yes. So we can rule that out as speculation on your behalf?

6 A. Yes, I think so.

7 Q. 374 And is it possible that you were paid by cheque in September 1992?

8 A. My belief is I was paid in cash, if Mr. Kelly or somebody on his behalf or his

9 company were to say, definitively, that it was a payment by cheque either in

12:42:51 10 that amount or another amount, certainly I would have no option but to say yes,

11 that is correct, but my belief is that it was paid in cash.

12 Q. 375 And just dealing with that. In relation to the cash payment which you believe

13 it was in cash.

14 A. Yeah.

12:43:10 15 Q. 376 At what period in September was that made?

16 A. I don't know when -- whether it was September or October or when the payment

17 was made, I cannot specifically tell you when the payment was made.

18 Q. 377 And at what point then did you, as part of your evidence, did you make payments

19 to Councillor Hand?

12:43:29 20 A. Well, I would -- after I obviously had reached the agreement with Mr. Kelly and

21 after I had received money from Mr. Kelly, I would have approached the

22 councillors.

23 Q. 378 Yes. And at what stage was that?

24 A. Well, I cannot specifically tell you. There is a time line of references in

12:43:48 25 relation to contact with both councillors, with all of the councillors

26 concerned. I think --

27 Q. 379 Well can you be specific about when you made the cash payments --

28 A. No.

29 Q. 380 -- to Councillor Lydon?

12:44:02 30 A. No, I can't.

- 12:44:03 1 Q. 381 Or an indication, can you give an indication?
- 2 A. Well certainly it was after I would have been paid by Mr. Kelly.
- 3 Q. 382 That doesn't help me. Can you give an indication?
- 4 A. Well I can't help you any more than that.
- 12:44:14 5 Q. 383 Was it September or October?
- 6 A. I cannot tell you. My contact with Mr. Kelly began, from a diary point of
7 view, in late September, early October. Late September, early October.
8 Sometime prior to the vote of the 16th of October.
- 9 Q. 384 In relation to the cash payment to you personally of 5,000 pounds, can I ask
12:44:38 10 you, did you return that as part of your accounts, your annual accounts?
- 11 A. No.
- 12 Q. 385 So the Revenue know nothing about the 5,000 pounds as far as you're concerned?
- 13 A. They do. Now.
- 14 Q. 386 Then?
- 12:44:50 15 A. Oh, then, no.
- 16 Q. 387 Right. And if you made a payment into your bank account in 1992, that would be
17 quite traceable from the Revenue point of view, wouldn't it?
- 18 A. Oh, yes it would. Yes.
- 19 Q. 388 And Mr. Quinn referred to a payment of 1,000 in cash?
- 12:45:08 20 A. Yes.
- 21 Q. 389 On the 27th of October 1992 and can I take it that you certainly don't know if
22 this has any relationship to the 5,000 pounds?
- 23 A. Yes, you can.
- 24 Q. 390 And if it had a relationship to the 5,000 pounds, would you have lodged it in
12:45:30 25 your account?
- 26 A. Probably not.
- 27 Q. 391 Now, you said in your earlier evidence, in your earlier Module to Mr. Hanratty,
28 that Councillor Hand was 100 percent in favour of the development --
- 29 A. Uh-huh.
- 12:45:52 30 Q. 392 -- isn't that correct?

- 12:45:52 1 A. That's correct.
- 2 Q. 393 And we know that that is the position and Councillor Lydon was also 100 percent
- 3 in favour --
- 4 A. Yeah.
- 12:46:01 5 Q. 394 -- of the development, isn't that correct?
- 6 A. Correct.
- 7 Q. 395 They were completely in favour of Mr. Kelly's position.
- 8 A. Yes, other than the reservation that is they expressed to me about Mr. Kelly
- 9 and what he was trying to do.
- 12:46:16 10 Q. 396 But there is no evidence to the contrary, written or otherwise, other than that
- 11 they were in 100 percent favour of Mr. Kelly?
- 12 A. Oh --
- 13 Q. 397 They had signed the motion.
- 14 A. Let's be in no doubt about this, Mr. Cosgrave. The only extant evidence in
- 12:46:33 15 relation to the support of Mr. Hand and Mr. Lydon is in their signatures of the
- 16 motion and in their vote in the Council against the Councillor Fitzgerald
- 17 motion.
- 18 Q. 398 From your point of view, did you ever, at any time, mention to Mr. Kelly that
- 19 you would have to payoff Councillors Lydon, did you ever mention that?
- 12:47:03 20 A. No.
- 21 Q. 399 Even though you describe Mr. Kelly as forceful in his way?
- 22 A. Yes.
- 23 Q. 400 Something you never brought up?
- 24 A. No.
- 12:47:12 25 Q. 401 So it's, to use your own word, it's pure speculation on your behalf that
- 26 Mr. Kelly knew what you were about?
- 27 A. Yeah, well Mr. Kelly --
- 28 Q. 402 If I just finish the question.
- 29 A. Yes, sorry.
- 12:47:26 30 Q. 403 That you were in the habit of receiving cash and bribing councillors, it's pure

12:47:32 1 speculation on your behalf that you believed Mr. Kelly knew that?
2 A. Well, what I said in my statement and I believe Mr. Kelly was aware from the
3 outset that support elicited by me would entail financial payments to
4 councillors though I do not recall any definitive remarks to which I can
12:48:02 5 attribute that belief. And that was my belief then and is my belief now in the
6 circumstances in which Mr. Kelly came to me in relation to his problem. I
7 fully repeat what I said to you five minutes ago, that neither Mr. Kelly nor I
8 ever discussed payments to councillors. Mr. Kelly did not ask that I should
9 pay councillors, he did not ask me if I had paid councillors and I never told
12:48:32 10 him that I would have to do so and I never told him that I had done so.

11 Q. 404 Yes. We know Mr. Dunlop, that you've already confirmed forcibly that you never
12 had such a conversation with Mr. Kelly and you never brought it up and
13 Mr. Kelly never brought it up. In the six meetings that you had between
14 September 1992 and October 1992, I am suggesting to you that it's pure
12:48:56 15 speculation on your behalf to suggest that Mr. Kelly had some form of implied
16 knowledge of your goings on at the time of receiving cash payments and paying
17 off councillors, that's pure speculation on your behalf, do you agree with me?

18 A. No, I wouldn't agree.

19 Q. 405 And we know on the 9th of May 2000, which has already been mentioned, there was
12:49:24 20 no mention by you of impropriety in relation to the Pye Lands. The first
21 mention was in October 2000. Can I suggest to you, can I ask you why was there
22 no mention on the 9th of May 2000?

23 A. Well I think Mr. Quinn asked me the very same question and my reply to him was
24 it didn't -- it obviously didn't impact on me in the context of other people
12:49:52 25 that I had dealt with and if that -- if you find that answer like difficult to
26 appreciate, I can't help you any more. I cannot say to you that I specifically
27 excluded him on the 9th of May or that I forgot about him on the 9th of May or
28 that I thought about it and said I wouldn't put it in on the 9th of May. I
29 cannot give you any answer along those lines. I didn't put him in on the 9th
12:50:20 30 of May.

- 12:50:21 1 Q. 406 What were you specifically asked on the 9th of May 2000 about the Pye Lands?
- 2 A. On the 9th of May?
- 3 Q. 407 Yes.
- 4 A. In the private session?
- 12:50:30 5 Q. 408 Yes.
- 6 A. I think I raised the issue. I think I said I want to talk about the Pye site.
- 7 And I indicated that, I can't remember the exact words that Mr. Quinn read from
- 8 the transcript. I said that I had some difficulty about it or I'd have to dig
- 9 deep or something like that were the phrase. But Mr. Hanratty moved on, he
- 12:50:49 10 said we we've heard about that, we know about that and he moved on to something
- 11 else. And then in relation, I mentioned Mr. Kelly and that he was the man I
- 12 dealt with in relation to the Pye site and that I indicated that I thought it
- 13 was controversial and that putting it mildly, that Mr. Kelly had been very
- 14 persistent. In fact, I think I said he was as mad as a hatter, but I think my
- 12:51:23 15 use of that phrase was probably in the context of trying to indicate to
- 16 Mr. Hanratty and the Tribunal officials in private on that occasion that
- 17 Mr. Kelly was, probably had a little bit of tunnel vision about the project.
- 18 Q. 409 Did you mention during that session about receiving a payment of 5,000?
- 19 A. No, not on the 9th of May.
- 12:51:59 20 Q. 410 Right. And no impropriety was mentioned on behalf of Councillor Hand?
- 21 A. Not any.
- 22 Q. 411 Mention of payments at that stage?
- 23 A. Not on the 9th of May, no.
- 24 Q. 412 But you knew about it?
- 12:52:12 25 A. Yes. Oh, there was absolutely no question it was deep in the recesses of my
- 26 mind. I knew about it yes.
- 27 Q. 413 You didn't need to go back and check a diary entry for your recollection?
- 28 A. No, no, no. I knew that I had dealt with these lands on behalf of Mr. Kelly.
- 29 Q. 414 Why wouldn't you have brought it up?
- 12:52:30 30 A. Well.

12:52:30 1 Q. 415 It's a very, very, very serious allegation?
2 A. About?
3 Q. 416 About two councillors.
4 A. Oh.
12:52:36 5 Q. 417 Why didn't you bring it up at that stage?
6 A. Well it's a serious allegation.
7 Q. 418 Of course it is.
8 A. I wouldn't discount that for one second. I cannot give you a definitive answer
9 about why I didn't bring it up, I have brought many other things up that I have
12:52:59 10 repeated here, but, no, I cannot give you a specific answer as to why I didn't
11 bring it up on that day. Notwithstanding the effect, the intention on my part
12 to bring up the Pye Lands, even though Mr. Hanratty wanted to deal with other
13 issues.
14 Q. 419 So the first occasion you mentioned it then was October 2000?
12:53:21 15 A. The October 2000 statement, yes. 9th of October 2000.
16 Q. 420 And you've also made a recent statement.
17 A. Sorry Mr. Cosgrave?
18 Q. 421 You've also made a recent statement to the Tribunal?
19 A. Yes.
12:53:36 20 Q. 422 Which is 2007. I don't have the precise date?
21 A. Last week.
22 Q. 423 You gave that statement before.
23 A. Last week sometime, yes.
24 Q. 424 If I could take you to that statement?
12:53:50 25 A. Yeah.
26 Q. 425 On the last paragraph, on the first page. "I agree to assist Mr. Kelly
27 specifically regarding the lobbying of certain councillors with a view to
28 achieving what he regarded as an economically viable zoning mix. Following
29 negotiations 5,000 pounds was agreed and a success fee was mooted but left in
12:54:12 30 abeyance. I believe that Mr. Kelly was aware from the outset that support

12:54:19 1 elicited by me would entail financial payments to councillors, though I do not
2 recall any definitive remarks to which I can attribute that belief." And just
3 to confirm that again, that is pure speculation on your behalf?

4 A. Well I don't accept the word "speculation" at all, Mr. Cosgrave, but I can see
12:54:41 5 where you're coming from. But it was my belief then and it is my belief now
6 that Mr. Kelly approached me in the circumstances in which he found himself,
7 either on his own initiative or on the advice of others that I was the person
8 to approach to stiffen the resolve or to elicit the ongoing committed support
9 of people that he had come to the conclusion might have been softening in their
12:55:12 10 support.

11 Q. 426 Yes, Mr. Dunlop. But I refer you to the wording you use yourself.

12 A. Yeah.

13 Q. 427 That is pure speculation.

14 A. No.

12:55:28 15 Q. 428 You had no conversation with Mr. Kelly to support what you believe, this is
16 your belief?

17 A. Correct. I was the one who was having the conversation with him, not you.

18 Q. 429 Yes. So if it's your belief, do you agree with me, it's speculation?

19 A. No. It is my belief in the circumstances in which we discussed the matter with
12:55:48 20 Mr. Kelly, in the circumstances that he found himself, unstated, as I have
21 freely admitted and repeat, unstated by him or me, but it is my belief that he
22 knew.

23 Q. 430 Did you ever have a direct conversation with any other individual who knew
24 Mr. Kelly and had a conversation suggesting that you were an individual who
12:56:19 25 received payments in cash and bribed councillors?

26 A. Well, there's a number of responses to that, Mr. Cosgrave. One is, I never had
27 a discussion with anybody in relation to the Pye Lands other than Mr. Kelly,
28 one. Two, I never had a discussion with any other person about Mr. Kelly other
29 than an elected member of Dublin County Council, namely, Councillors Fox, Hand,
12:56:47 30 Mitchell and Lydon. In which I have already indicated that a mutual expression

12:56:56 1 of views were expressed about one another. But, and I never had any discussion
2 with anybody associated with Mr. Kelly, known to Mr. Kelly, in relation to
3 payments to councillors or payments to elected representatives in relation to
4 votes in Dublin County Council.

12:57:16 5 Q. 431 Very good. I think in relation to your diary entry on the 28th of September
6 1992, does that make reference to Mr. Kelly suggesting that there would be a
7 distribution of leaflets to get local support?

8 A. Yes, that's in the telephone records I think, Mr. Cosgrave, it's not in the
9 diary reference.

12:57:45 10 Q. 432 28th of September 1992?

11 A. Is it yeah?

12 Q. 433 Yeah. Can you tell me what it makes reference to, in your belief, what does it
13 make reference to?

14 A. Yes, it is the telephone records, yes. Where are we? Yes. This is a message,
12:58:16 15 a call obviously from Aidan to my office, which is recorded by my secretary
16 says, "Aidan Kelly wants to distribute some around the area of the two
17 councillors and does Frank think -- what does Frank think of this".

18
19 Now, he wants to distribute some around the area of the two councillors. Well,
12:58:36 20 I mean, you could be Machiavellian and you could interpret that in lots of
21 ways. But I am interpreting it as I know it ought be interpreted and that is
22 Mr. Kelly either wanted or was thinking of distributing some documentation or
23 information around the area about the proposal that he had or, and let's not
24 get overly Machiavellian here now, he was asking my advice as to whether or not
12:59:06 25 he should distribute money around the area of the two councillors.

26 Q. 434 Really Mr. Dunlop --

27 A. Which is not acceptable.

28 Q. 435 Can I suggest. Yes, very good. It was a promotional exercise, we agree on
29 that.

12:59:18 30 A. Yes. Absolutely. He was seeking my advice as to whether or not he should do

- 12:59:22 1 it or he had already drafted something and he was seeking my advice on the
2 contents of what he had drafted. I have no recollection of ever seeing
3 anything that he ever distributed and I have no knowledge that he in fact ever
4 did distribute anything around the area.
- 12:59:37 5 Q. 436 Mr. Dunlop, in relation to the payment of 5,000 pounds. You ended up in a
6 situation where you said that you had paid 1,000 pounds to Mr. Lydon, 1,000 to
7 Mr. Fox and 2,000 to Mr. Hand, is that correct?
- 8 A. Yes.
- 9 Q. 437 Which left you with 1,000.
- 13:00:04 10 A. Correct.
- 11 Q. 438 That wasn't a great fee at the end of the day.
- 12 A. No, and it's not the first time it happened.
- 13 Q. 439 Yes. And you received no payment after that?
- 14 A. No.
- 13:00:09 15 Q. 440 No.
- 16 A. In fact, I don't believe, Mr. Cosgrave, I'm subject to correction on this, but
17 in ease of Mr. Kelly, I don't believe that I ever had a conversation Mr. Kelly
18 subsequent to the 16th of October. I know Mr. Kelly called my office sometime
19 later but I, as I said in my statement and I say to you now freely, I don't
13:00:30 20 recollect having any conversation with Mr. Kelly and I certainly was not in any
21 position to revive any conversation with Mr. Kelly in relation to anything
22 relating to a success fee. There was no success.
- 23 Q. 441 And can I suggest to you, Mr. Dunlop, that there is no logic in your conclusion
24 that two councillors should have been paid money, Messrs. Hand and Lydon, where
13:00:52 25 they were already 100 per cent on board with Mr. Kelly's proposals?
- 26 A. Yes. I don't mean to be offensive to you Mr. Cosgrave, I recognise fully the
27 job you have to do but you obviously know nothing about political
28 representations or political operations, what you say does not follow logically
29 or rationally.
- 13:01:13 30 Q. 442 Do you disagree with me?

13:01:15 1 A. I do.
2 Q. 443 Two people who are already 100 percent behind Mr. Kelly -- already signed the
3 motion, no indication to you that they would withdraw the motion, yet you felt
4 that they had to be paid?

13:01:36 5 A. No, no, no, no, no. I didn't feel, I knew that when I approached these
6 individuals that it -- that the likelihood was that I would have to pay and the
7 new ingredient in all of this, Mr. Cosgrave, is me, is Frank Dunlop. I had a
8 relationship with these two people. I had no evidence to suggest, to indicate
9 to me what the relationship between Mr. Kelly and these two people were. It
10 was never indicated to me either by Mr. Kelly or them that they had ever
11 received or asked for money from Mr. Kelly, but I am the new ingredient in
12 this, I have a relationship with these two people, an ongoing relationship in
13 relation to matters in Dublin County Council, which on approach invariably
14 resulted in payment.

13:02:01 15 Q. 444 Mr. Dunlop, you haven't one shred of evidence to show any inconsistency in
16 their 100 percent approach and support of Mr. Kelly, is that correct?

17 A. I do. I know what happened!

18
19 CHAIRMAN: Mr. Cosgrove, it's one o'clock now. So we'll adjourn until two
13:02:50 20 o'clock.

21

22 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

23

24

25

26

27

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29

30

13:03:24 1

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

2

3

CHAIRMAN: Good afternoon, Mr. Dunlop. Now, Mr. Cosgrove.

4

14:08:58 5

CONTINUATION OF QUESTIONING OF MR. FRANK DUNLOP

6

AS FOLLOWS BY MR. COSGROVE:

7

8

MR. COSGROVE: Thank you, Mr. Chairman. Mr. Dunlop, I just have a couple of

9

questions left. I think we affirmed before lunch, that you never had any

14:09:07 10

conversation with Mr. Kelly of your practice of bribing councillors?

11

A. Correct.

12

Q. 445 Isn't that correct? Equally so, in relation to the 5,000 pounds, did you ever

13

report back to Mr. Kelly how that was allocated?

14

A. No.

14:09:25 15

Q. 446 Or what you did with it?

16

A. No.

17

Q. 447 And you never had any conversation in that respect?

18

A. None.

19

Q. 448 Can I suggest to you, Mr. Dunlop, that you speculate that you believed that

14:09:43 20

Mr. Kelly was aware of your practice. If that was the case, couldn't Mr. Kelly

21

have saved himself substantial amount of money by paying the money directly to

22

the two councillors?

23

A. Yes, well you certainly can suggest that, that is your right on behalf of your

24

client, but I can't account for what was or wasn't in Mr. Kelly's mind in

14:10:12 25

relation to this or why you came to me, that's a matter for Mr. Kelly to answer

26

for himself.

27

Q. 449 You see, I'm suggesting to you Mr. Dunlop, that Mr. Kelly, it will be his

28

evidence that you wasn't aware of your practice at all of bribing councillors.

29

A. Fine. That will be Mr. Kelly's evidence.

14:10:29 30

Q. 450 And you have no evidence to the contrary?

- 14:10:32 1 A. I disagree.
- 2 Q. 451 Well would you like to expand on the evidence that you are going to bring
3 forward?
- 4 A. Before lunch I explained to you that in the context of the circumstances in
14:10:45 5 which Mr. Kelly came to me, either on his own initiative or at the
6 recommendation or suggestion of others, that I was the person who could assist
7 him in the difficulties that he had, given, given the long history that was
8 associated with the project and with the lands and in the context of my meeting
9 with Mr. Kelly, I then had the belief and I still have, that Mr. Kelly was
10 aware that some of the monies that he was giving me were to be used for
11 disbursement.
- 12 Q. 452 That's purely a belief, that's not evidence. I think you understand the
13 difference between evidence and belief?
- 14 A. I do.
- 14:11:24 15 Q. 453 And possibility?
- 16 A. I do.
- 17 Q. 454 Yes. And would you agree with me, that is not evidence, Mr. Dunlop?
- 18 A. I'm telling you what I believed. I was the man who met Mr. Kelly. I was the
19 man who dealt with him and I am the person giving evidence.
- 14:11:38 20 Q. 455 Okay, in the context of that statement, Mr. Dunlop, in your six meetings with
21 Mr. Kelly, why didn't you come forward and say look, I want 5,000 pounds, I'm
22 going to sort matters out for you. I'm going to payoff a few people, don't
23 worry about it, why didn't you have that conversation?
- 24 A. Well I never met Mr. Kelly before. I've had similar type of conversations not
14:12:03 25 as you outline but I've had similar type encounters with other developers and I
26 still did not have the type of conversation that you are suggesting with any of
27 them, other than in specific circumstances where they would have raised the
28 issue and, no, I didn't have that conversation and the reason I didn't have
29 that conversation was because I didn't think it appropriate.
- 14:12:28 30 Q. 456 Why didn't you think it appropriate. Well were being paid cash, according to

14:12:33 1 yourself?

2 A. Yes.

3 Q. 457 You were being paid 5,000 cash which you weren't going to return to the

4 Revenue?

14:12:38 5 A. Yes.

6 Q. 458 Which you were going to pocket some of it and bribe councillors?

7 A. Yes.

8 Q. 459 Why wouldn't you, there were six private meetings --

9 A. Yeah.

14:12:47 10 Q. 460 -- between you and Mr. Kelly. Why wouldn't you bring up that conversation?

11 A. Well I would take the view that it was Mr. Kelly's, not obligation, but

12 Mr. Kelly's privilege to ask me what I was doing with the money. If he had

13 asked me what I was doing with the money I might have considered telling him.

14 Q. 461 You see, the 5,000 pounds was paid to you as a lobbyist.

14:13:07 15 A. Yes.

16 Q. 462 To lobby councillors.

17 A. Yes.

18 Q. 463 Now, just to repeat the question. Why didn't you tell Mr. Kelly what you were

19 about?

14:13:17 20 A. Well, the answer to that question is, I don't mean to be rhetorical, but the

21 answer to that question is, what did Mr. Kelly think he was giving me the 5,000

22 pounds in cash for, to make a few phone calls or to have a few meetings with

23 Don Lydon and Tom Hand.

24 Q. 464 First of all, are suggesting that it was a payment in cash?

14:13:40 25 A. To the best of my belief the money was paid in cash.

26 Q. 465 Yes. So it's your belief again --

27 A. Yes.

28 Q. 466 -- in relation to cash.

29 A. I have no evidence other than to say that it was in cash and I repeat what I

14:13:53 30 said to you prior to lunch that if Mr. Kelly comes forward and says there is a

- 14:13:56 1 copy of the cheque which I gave Mr. Dunlop 5,000 pounds more or less I would
2 have no option but to accept it, but that is my belief.
- 3 Q. 467 Why didn't you report back to Mr. Kelly --
- 4 A. Well I did have -- sorry.
- 14:14:08 5 Q. 468 -- in relation to the allocation of the money and who was paid what. Would you
6 think that Mr. Kelly, wouldn't he have an interest --
- 7 A. I mean.
- 8 Q. 469 -- in knowing --
- 9 A. Yes.
- 14:14:20 10 Q. 470 -- how the 5,000 was going to be broken up?
- 11 A. Well he never expressed that interest to me.
- 12 Q. 471 Well as a chartered accountant wouldn't you think he'd have an interest?
- 13 A. He is a chartered accountant?
- 14 Q. 472 Yes, Mr. Kelly.
- 14:14:31 15 A. I didn't realise he was a chartered accountant.
- 16 Q. 473 Wouldn't you think he'd have an interest in paying out 5,000 pounds to you and
17 you were going to allocate it, wouldn't you think he'd have an interest?
- 18 A. I didn't realise that he was a chartered accountant. I think it was up to
19 Mr. Kelly, if he wanted to know. I'm going to give you 5,000 pounds, I want to
14:14:49 20 know what you're doing with it or I've given you 5,000 pounds and how you've
21 spent it. He never made an approach to me on that basis. There was never a
22 conversation between us in which he generated interest in how the money was
23 spent, his main focus of attention was in trying to ensure that what he wanted
24 for the Dundrum Pye site happened, that's all.
- 14:15:13 25 Q. 474 You see, I have to put to you, Mr. Redmond?
- 26 A. Sorry.
- 27 Q. 475 I have to put to you, sorry, Mr. Dunlop --
- 28 A. A bit of a Freudian slip there, Mr. Cosgrave, I wouldn't imagine that you could
29 engage in a Freudian slip like that.
- 14:15:33 30 Q. 476 I was referring to your counsel.

- 14:15:35 1 A. In the context of your legal ability.
- 2 Q. 477 All your evidence here this morning and this afternoon is purely speculative,
3 when you take into account the discussions you had with Mr. Kelly. I have to
4 put it to you that you haven't one shred of evidence to back up your
14:15:59 5 speculation that Mr. Kelly knew he was paying you 5,000 pounds for the purposes
6 of bribing councillors?
- 7 A. Yes. You can suggest that to me and I will repeat to you what I said. That I
8 believe -- from the outset.
- 9 Q. 478 Isn't that the reality?
- 14:16:06 10 A. No, the reality as I always saw it then and see it now. That was the reality
11 as far as I'm concerned.
- 12 Q. 479 Your belief?
- 13 A. My belief is that Mr. Kelly approached me on that basis.
- 14 Q. 480 All right. Thank you.
- 14:16:19 15 A. Thank you, Mr. Cosgrave.
16
- 17 CHAIRMAN: Mr. O'Dulachain.
18
- 19 **THE WITNESS WAS QUESTIONED BY MR. Ó DULACHAIN AS FOLLOWS:**
- 14:16:24 20
- 21 MR. Ó DULACHAIN: Cormac O'Dulachain with David Burke on behalf of the family
22 of the late Tom Hand. Mr. Dunlop, if I might ask you just a few questions in
23 this Module.
24
- 14:16:35 25 I want to put it to you first of all, that the very general nature of what you
26 have said in relation to Tom Hand could be said by you in any Module?
- 27 A. Well it probably will be.
- 28 Q. 481 Well it has been?
- 29 A. Yeah.
- 14:16:47 30 Q. 482 Without any specifics?

14:16:49 1 A. Yeah, because Tom Hand was a key operative in Dublin County Council.

2 Q. 483 And --

3 A. And was, to use a phrase I think that you yourself used some long distant time

4 ago when we first engaged, was that he was on my books.

14:17:07 5 Q. 484 And in relation to that, I think on the last occasion I think we engaged, we

6 identified out of 19 particular Modules, that in eight of them in which you are

7 involved, and which you make allegations of disbursing funds, none involve Tom

8 Hand?

9 A. That may well be the case. I'm sure you're coming from my transcript.

14:17:28 10 Q. 485 Can you indicate any other circumstance in which out of your total fee you paid

11 40 percent?

12 A. Oh, yes.

13 Q. 486 To one Councillor?

14 A. Well, no, I --

14:17:39 15 Q. 487 No isn't it?

16 A. No. Cormac, hold on.

17 Q. 488 No, no.

18 A. Just hold on a second.

19 Q. 489 There --

14:17:46 20 A. There was one other occasion in which I think Judge Keys asked me a question

21 along the very same lines in another Module, I just can't recollect what the

22 Module was, it had turned out that I had given the vast majority of the funds

23 that I had received to councillors.

24 Q. 490 Yeah. No, 40 percent to one Councillor.

14:18:06 25 A. Yeah.

26 Q. 491 That's your evidence. 2,000 out of five.

27 A. Uh-huh.

28 Q. 492 And if I take the chronology correctly, you have a meeting with Mr. Kelly.

29 A. Yes.

14:18:17 30 Q. 493 In which you discuss your retainer.

- 14:18:21 1 A. Yes.
- 2 Q. 494 And you are paid subsequently at another meeting in cash, so there is a week or
3 some days pass between the first and second meeting, is that correct?
- 4 A. I can't tell you whether it was a week or some days. But it was certainly not
14:18:39 5 at the first meeting.
- 6 Q. 495 And all of this takes place in apparently a very short period of time.
- 7 A. Yes.
- 8 Q. 496 You have now put it at late August or late September.
- 9 A. Yes.
- 14:18:48 10 Q. 497 So Mr. Kelly comes to you with a motion which is imminent. The matter is due
11 before the Council within, let's say, four weeks?
- 12 A. If -- if you take the first recorded meeting with Mr. Kelly or indication of a
13 meeting with Mr. Kelly, it was late September and the vote was on the 16th of
14 October.
- 14:19:15 15 Q. 498 So it might have been three weeks?
- 16 A. Sure.
- 17 Q. 499 And what were you going to do within three weeks?
- 18 A. What do you mean what was I going to do?
- 19 Q. 500 Well as a lobbyist what were you going to do within three weeks?
- 14:19:29 20 A. Well I was going to do what Mr. Kelly asked me to do and that was to try and
21 ensure the ongoing support of Councillors Hand and Lydon and stiffen their
22 backs.
- 23 Q. 501 The evidence you have just given a few minutes ago by inference is that
24 Mr. Kelly came to you with some subliminal knowledge that you were going to
14:19:49 25 bribe councillors.
- 26 A. Yes.
- 27 Q. 502 And that a significant tract of land in a core area was going to be rezoned and
28 this was all going to happen for 5,000 pounds. Did he indicate that, did you
29 not indicate that this would take 100,000?
- 14:20:11 30 A. Well I did indicate to Mr. Quinn that there were some discussions in relation

14:20:20 1 to his success fee but it was left in abeyance.

2 Q. 503 No, no, I'm not talking about success fee. You are going to try and bribe

3 councillors.

4 A. Yes.

14:20:27 5 Q. 504 And the fund you have available is 5,000 pounds.

6 A. Correct.

7 Q. 505 Are you going to tell us that Mr. Kelly believed that for 5,000 pounds he could

8 bribe sufficient councillors to get a motion to rezone a large tract of land

9 towards commercial development?

14:20:45 10 A. Yes. Well I can't account, you are going to have to ask Mr. Kelly what he

11 believed or what he didn't believe when he approached me. I'm just telling you

12 the circumstances in which Mr. Kelly approached me, the involvement in relation

13 to his particular project and the councillors involved. I cannot account for

14 Mr. Kelly's thoughts or his preview of what would or would not be needed in

14:21:11 15 relation to the cost and if you are suggesting by or you are implying by your

16 suggestion -- the way you are putting your question that Mr. Kelly did know

17 that I was going to bribe councillors and that he didn't believe that it could

18 be done for 5,000 pounds, is that what you're suggesting?

19 Q. 506 I'm suggesting that if 5,000 was mentioned, it seems very hard to comprehend

14:21:38 20 that bribery came into anyone's mind. If that's your fee; 5,000 pounds, for

21 zoning for commercial development, isn't that more consistent with being a

22 standard consultancy fee?

23 A. No, I've told Mr. Quinn and I told Mr. Cosgrave that there was negotiation in

24 relation to the fee and 5,000 pounds was agreed and there was a discussion

14:22:06 25 about a success fee.

26 Q. 507 But we know nothing about the success fee. We don't know whether --

27 A. Well there was no success.

28 Q. 508 -- did you mention a million for a success fee or?

29 A. What I can't tell you or recollect what the discussion in relation to amounts

14:22:19 30 and success fee were. There is no doubt it would be purile for you or anyone

14:22:27 1 else to suggest that there wasn't a discussion about a success fee in the
2 context of the type of land that was involved.

3 Q. 509 Well, if it's purile, surely you've a recollection --

4 A. No.

14:22:42 5 Q. 510 -- of what was mentioned by way of success fee?

6 A. No, I don't believe, in fact I don't, it's not that I don't believe I have, I
7 don't have a recollection of it. Maybe Mr. Kelly can assist you there too, but
8 I certainly don't have a recollection of the substance of the conversation in
9 relation to a success fee. Although I do believe that a success fee, a
14:23:02 10 discussion took place about a success fee.

11 Q. 511 Well the first mention of a success fee, if I'm correct, appears in your
12 statement of 2007?

13 A. Yes.

14 Q. 512 There is no mention earlier, anywhere, in your chain of dealings --

14:23:16 15 A. Yeah.

16 Q. 513 -- in relation to a success fee?

17 A. Yeah.

18 Q. 514 Now, if I might ask you then about the 5,000. You'll get 5,000. Which
19 councillor do you first bribe?

14:23:30 20 A. Well I approached Councillor Hand first in this particular --

21 Q. 515 Very good.

22 A. Particular --

23 Q. 516 How did you know that you'd have sufficient left to attract the attention of
24 any other councillor?

14:23:45 25 A. Well I didn't.

26 Q. 517 So you want us to believe that you gave away two fifths of your kitty?

27 A. Yes.

28 Q. 518 And that effectively you were doing in as a charitable exercise?

29 A. No, I wouldn't in any way try to suggest to a man of your intelligence that I
14:24:00 30 was doing this as a charitable exercise and it would fly in the face of all of

14:24:05 1 the evidence that I am giving or have given in relation to various Modules.
2 No. My relationship with your client or the estate of your client, my
3 relationship with Mr. Hand was as I outlined to Mr. Quinn and that is the
4 process was quite clear, invariably quite clear. You approached Tom Hand for
14:24:35 5 his signature or support, in this instance support, because I didn't obtain his
6 signature and it may well be, Mr. O'Dulachain, it may well be that had
7 Mr. Kelly not approached me, that we wouldn't be here today. It may well be
8 the fact that I had the relationship that I did have with Tom Hand and when I
9 appeared in the picture money came into play because Tom Hand knew that he
14:25:07 10 could negotiate with me, which he did.

11 Q. 519 Well are you saying that at the time you agreed to do this job for 5,000, that
12 you knew straight away you were down two?

13 A. I was down to what?

14 Q. 520 Well that when you agreed with Mr. Kelly that you would charge him 5,000 that
14:25:29 15 you were down two, you would have to --

16 A. Sorry down two. You mean 2,000, sorry, I thought you were going to put in
17 something else there. No, yes. Certainly, I knew that when I negotiated a fee
18 of 5,000 pounds with Mr. Kelly and I was going to approach Tom Hand and Don
19 Lydon, that there was going to be money involved and certainly that I would no
14:25:52 20 longer have a totality of 5,000. I might have had three, I might have had two,
21 I didn't know until such time as I discussed it with them.

22 Q. 521 If I might just put some examples from your own evidence.

23 A. Uh-huh.

24 Q. 522 In Baldoyle you say you received 10,000. You gave Mr. Hand 1,000.

14:26:09 25 A. Uh-huh.

26 Q. 523 I think in Portrane I think you say you got 12,500 and you gave Mr. Hand 1,000.

27 A. Portrane?

28 Q. 524 Is it, is it 80?

29 A. Sorry.

14:26:24 30

14:26:24 1 CHAIRMAN: That wasn't Portrane.
2
3 MR. O'DULACHAIN: That --
4 A. That Module hasn't been opened.
14:26:30 5 Q. 525 Well the figures are out there. They're in your statements. In Lissenhall you
6 say you got 10,000 and you gave Mr. Hand 1,000?
7 A. Yep.
8 Q. 526 And I think in Seatown, I don't know whether that Module has opened?
9 A. Not yet. Next.
14:26:44 10 Q. 527 Well similarly and yet we'll come to this and suddenly out of 5,000 you've
11 given him 40 percent?
12 A. Yep.
13 Q. 528 I have to put it to you that it simply isn't credible?
14 A. Well what you believe is credible or ought be credible sometimes doesn't occur
14:27:02 15 with what actually occurred with your client or the estate of your client and I
16 did point out to Mr. Quinn in this particular instance, that this is an area
17 bang in the middle, I shouldn't say bang in the middle, of Mr. Hand's own
18 constituency.
19 Q. 529 I think that's the General Election constituency.
14:27:22 20 A. It may well be, yes. But certainly, he lived in Dundrum or Farrenboley, part
21 of Dundrum and certainly Dundrum was part of his constituency.
22 Q. 530 If I might move on. You say your first agreement then was with Tom Hand?
23 A. Yes.
24 Q. 531 And again, we have the strange phrase the environs of Dublin City Council as
14:27:46 25 the place of payment.
26 A. No, no, no, no. Dublin County Council.
27 Q. 532 Dublin County Council.
28 A. Dublin City Council is City Hall, Dublin County Council is O'Connell Street.
29 Q. 533 Mr. Dunlop, we know that. In the environs?
14:27:57 30 A. Yeah.

14:27:59 1 Q. 534 And similarly in relation to Mr. Kelly, you say you received the 5,000, I
2 think, in the Royal Dublin Hotel?
3 A. Yes.
4 Q. 535 And you didn't check it. It was handed to you in some manner.
14:28:08 5 A. Yes.
6 Q. 536 And in what manner?
7 A. I can't recall. I think it was probably in an envelope.
8 Q. 537 If I might bring you back then to an issue that was touched upon briefly, which
9 is your initial statement in private session --
14:28:34 10 A. Uh-huh.
11 Q. 538 -- in 2000, when you make no reference to the Pye Lands.
12 A. I make no reference to what?
13 Q. 539 To the Pye Lands.
14 A. No, I do.
14:28:44 15 Q. 540 Make no allegation.
16 A. No but I do make reference to the Pye Lands but I don't make any allegations,
17 yes.
18 Q. 541 Any allegation. So first of all, we know that you are aware of the Pye Lands
19 --
14:28:54 20 A. Yes.
21 Q. 542 -- at those meetings.
22 A. Yeah.
23 Q. 543 And having thought about it, and having raised at the meetings and been
24 mentioned it doesn't come to your mind at that stage that there was anything
14:29:09 25 untoward in relation to the Pye Lands.
26 A. No, I've said it already to Mr. Quinn in relation to that, that I mentioned the
27 Pye Lands and I wanted to talk about the Pye Lands but Mr. Hanratty another
28 agenda that particular day, but the Pye Lands obviously didn't impact on my, on
29 me as much as other developments that I had been involved with and I have
14:29:31 30 already given evidence to the effect that I -- I think it was Mr. Cosgrave

14:29:36 1 there just a moment ago, asked me about the number of meetings that I had with
2 Mr. Kelly. I mean, this was quite an unusual development in the context of
3 interface with the developer. It was quite short.

4 Q. 544 Yes. And did you have your diaries available to you for that meeting?

14:29:53 5 A. For the meeting on the 9th of May?

6 Q. 545 Yes.

7 A. No, I don't think so. I don't think so. I'm not absolutely certain now.

8 Q. 546 You were prepared for that meeting?

9 A. No, I think we were just invited in. Just on the diaries, I just want to be
14:30:11 10 very careful here with you, I'm not 100 percent certain about the diaries. I
11 can't absolutely help you on that. But, I mean, if -- I don't think so but I
12 may well have done.

13 Q. 547 You had prepared for that meeting?

14 A. Yes, we went into the meeting, yes.

14:30:31 15 Q. 548 No, no, no before going into the meeting. What did you do the night before the
16 meeting?

17 A. I haven't a clue, probably went to bed.

18 Q. 549 You say you made no attempt to reflect on what might arise at the meeting?

19 A. Oh, there was a lot of reflection, Mr. O'Dulachain, this was subsequent to
14:30:56 20 appearance in public. And the Tribunal officials, particularly Mr. Hanratty
21 and Mr. Fitzgerald -- Mr. Gallagher were anxious to traverse the totality of
22 what had occurred in Dublin County Council during the course of the Development
23 Plan and without indulging in colloquialisms, everything went. It didn't
24 matter what, there was no agenda, particular agenda other than the totality of
14:31:54 25 the Development Plan at Dublin County Council.

26 Q. 550 The specific purpose of the meeting was for you to make disclosures.

27 A. To talk about developments in Dublin County Council, yes.

28 Q. 551 To make disclosures or allegations.

29 A. You have to ask Mr. Hanratty and Mr. Gallagher that, but I was invited in by
14:32:01 30 the counsel, by the Tribunal, to discuss you the Development Plan in Dublin

14:32:06 1 County Council on foot of the evidence that I had given here in the early days
2 in 2000.

3 Q. 552 In your earlier evidence you gave the impression that you believed this project
4 was doomed.

14:32:25 5 A. I don't think I used the word "doomed."

6 Q. 553 Well that you had no faith in the prospect of having the rezoning go through.
7 A. Well, what I said and you can tap into the record very easily there,
8 Mr. O'Dulachain. What I said was that, Mr. Kelly, having outlined what his
9 problem was and having approached Councillors Hand and Lydon and got their
10 reaction, albeit they were, they had a history with the site, with the lands.
11 Nonetheless, they were -- they indicated that they had some criticism from some
12 of their colleagues for the -- for their ongoing support of it. And that they
13 were somewhat frustrated with Mr. Kelly that he might not have agreed to a
14 compromise.

14:33:25 15 Q. 554 If you had no real belief that this would be achieved, then effectively if you
16 gave away the money you said you gave away, you were only going to receive a
17 very nominal sum in respect of whatever work you did.

18 A. Correct.

19 Q. 555 Can I put it to you, that that's not your style.

14:33:53 20 A. Well, without -- I don't want to pick up that ball and run with it about what
21 my style is or is not Mr. O'Dulachain. I'm just telling you in answer to your
22 specific question that that is what I did.

23 Q. 556 Now, can I just conclude. I think when you came back then at a subsequent
24 meeting, when you first mentioned the Pye Lands. I think they were, that was
14:34:20 25 starred as being a development in which you asserted that the developer knew.

26 A. Yes.

27 Q. 557 And in relation to Mr. Kelly, what do you say he knew as to how much of the
28 5,000 was going to be distributed?

29 A. Oh, in relation to what he knew about how much the 5,000 pounds was going to be
14:34:48 30 spent. I have nothing to say on that because as I answered Mr. Cosgrave's

- 14:34:52 1 question, I had no such discussion.
- 2 Q. 558 So why did you put the asterisk there in the first place?
- 3 A. Because this was one of the developments that I believed that Mr. Kelly
- 4 approached me and dealt with me in the knowledge that monies would be given to,
- 14:35:17 5 that was given to me, some of which would be given to councillors for their
- 6 support.
- 7 Q. 559 Now, and just. In relation to your most recent statement.
- 8 A. Yeah.
- 9 Q. 560 I think today you've been saying that you only approached a very limited number
- 14:35:32 10 of councillors.
- 11 A. Yeah.
- 12 Q. 561 You did not engage in a general lobby.
- 13 A. No.
- 14 Q. 562 And yet in the statement which you've filed recently. You say I spoke with a
- 14:35:40 15 number of councillors regarding the Pye site and Councillors Fox, Hand and
- 16 Lydon and Mitchell specifically.
- 17 A. Well --
- 18 Q. 563 I would have read that to have included a broader group of people than those
- 19 specifically mentioned.
- 14:35:56 20 A. No. I think if you -- if you, I don't think there's any solecism there, is
- 21 there? I spoke with a number of councillors regarding the Pye site and
- 22 Councillors Fox, Hand, Lydon and Mitchell specifically.
- 23 Q. 564 So there may have been others?
- 24 A. I have no recollection and I do not believe I spoke to any other councillors.
- 14:36:17 25 And I have already given evidence to Mr. Quinn when he asked me about
- 26 Councillor Fitzgerald, Eithne Fitzgerald. I never had any conversation with
- 27 Eithne Fitzgerald about the Pye Lands. In fact, I rarely had conversations
- 28 with Eithne Fitzgerald.
- 29 Q. 565 Thank you, Mr. Dunlop.
- 14:36:35 30

14:36:35 1 CHAIRMAN: Mr. Gordon, do you want to ask Mr. Dunlop anything?

2

3 MR. GORDON: I think I'm perhaps skipping the queue.

4

14:36:43 5 CHAIRMAN: Mr --

6

7 **THE WITNESS WAS QUESTIONED BY MR. HUMPHREYS AS FOLLOWS:**

8

9 MR HUMPHREYS: Good afternoon, Mr. Dunlop, I appear for Senator Lydon. Just
14:36:51 10 very briefly. I wonder if the Tribunal could put up the 9th of May 2000. I
11 indicated earlier on, that I'd require it.

12

13 MR. QUINN: 579.

14

14:37:01 15 MR. HUMPHREYS: I'm looking for question 82, please.

16

17 MR. QUINN: 157.

18

19 CHAIRMAN: It's 157.

14:37:20 20

21 MR. HUMPHREYS: I was actually looking for the transcript of the hearing of
22 the 9th of May 2000. I was looking for question 82.

23

24 CHAIRMAN: Well is it a long question?

14:37:32 25

26 MR. HUMPHREYS: It's not. They are short.

27

28 CHAIRMAN: Well if you want to read it out for the moment until we're, until
29 we can find it on the screen.

14:37:48 30

- 14:37:48 1 MR. HUMPHREYS: Very good. It's actually about the lists, Mr. Dunlop, it's the
2 9th of May 2000. If you can cast your mind back to that?
- 3 A. Yeah.
- 4 Q. 566 And you ask a question at 79, "are we talking about further to the list I gave
14:37:57 5 you last time." And then at question 80 is, "yes the list you gave us the last
6 time amounts to 112,000 as I understand it related to 1991." And then the
7 answer is that you gave, "you are now talking about 1992."
8 "Q: Yes."
9 "A: Fine." And then the question is asked, "if I could just ask you to make
14:38:16 10 out a list or have you already done so." And then you say well, "will you
11 accept this?" And the question then is "yes" and a document is handed into the
12 Tribunal's solicitor. Can you recall that?
- 13 A. Yes, I have a recollection. There was some documentation handed over, yes.
- 14 Q. 567 Did you come with a list prepared that day, the 9th of May 2000?
- 14:38:39 15 A. Yes, I probably did.
- 16 Q. 568 You probably did. Well you handed -- what it says is document handed to
17 Tribunal's solicitor?
- 18 A. Yes.
- 19 Q. 569 So the answer to that is yes, yeah?
- 14:38:49 20 A. What document or what list is being referred to there I just cannot absolutely
21 confirm now, but if the transcript shows that a document was handed over. It
22 was either handed over by me or my solicitors.
- 23 Q. 570 Okay. Did you prepare -- well just about that list that you produced on the
24 9th of May 2000. Did you prepare that yourself alone?
- 14:39:11 25 A. Oh, yes. Anything I prepared in relation to lists were prepared by me.
- 26 Q. 571 Alone and it didn't arise out of any private session or anything like that, did
27 it?
- 28 A. Private session with the Tribunal?
- 29 Q. 572 Yes.
- 14:39:24 30 A. No. Whatever evidence I gave in the Tribunal I gave in the Tribunal. Whatever

14:39:30 1 list or document I handed over certainly wasn't prepared with the assistance of
2 the Tribunal. I prepared a list and handed it over.

3 Q. 573 Right. And it says, "I have to say to you Mr. Hanratty --" just went on to say
4 -- "this is my best attempt at coordinating disbursements in 1992 some which
14:39:47 5 would have come from that account and some which would have come from Frank
6 Dunlop & Associates. I've explained them as we proceed."

7 A. What question are you on now?

8 Q. 574 I'm on question 83.

9 A. 83.

14:39:58 10 Q. 575 Sorry. I see it's in front of us now.
11
12 CHAIRMAN: What's?
13
14 MR. HUMPHREYS: Is that your recollection? That you prepared a list?

14:40:18 15 A. If that's the transcript of the private session well that is my recollection.
16
17 JUDGE FAHERTY: That's a public hearing.
18
19 MR. HUMPHREYS: And I'm asking you about the list, because it's not clear where
14:40:25 20 the list came from, it just says "document handed to Tribunal."
21
22 CHAIRMAN: That's the public hearing.
23
24 MR. HUMPHREYS: I understand that. I'm just asking how the list was prepared
14:40:33 25 or how he had it ready for the Tribunal to hand up in response to a question.
26 The question is at 82, "if I could just ask you to make out a list or have you
27 already done so?"

28 A. Yes.

29 Q. 576 And then you say "will you accept this?"

14:40:48 30 A. Yes.

14:40:48 1 Q. 577 And that's a list that you handed in that you prepared previously, is that
2 correct?

3 A. That would appear to be the case, yes.

4 Q. 578 Thank you. If you could just move on to question 95, which is just a little
14:41:00 5 bit further down. And just, yeah, that's great, if we could just stop it
6 there. And the question that just precedes that just to be of assistance to
7 you although I'm not dealing with that, "yes now the sum of money to which you
8 make reference there relating that company is 25,000".
9 "A: Yes." And then you say and you indicate that it was paid in cash?
14:41:25 10 "A: Yes."

11 Q. 579 And if you just read out question 96 for me, please.

12 A. Sorry, before we proceed. What is this 25,000 pounds that you're referring?
13 Where does this 25,000 pounds come into play?

14 Q. 580 Well it's in respect of a different matter. I was just giving you the lead in
14:41:44 15 to it in respect of question 96 which is where my question comes from.

16 A. Yes, but I need to know what you are specifically referring to in relation to
17 the 25,000 pounds. Just what are we talking about here.

18 Q. 581 No, no, no, you're fine. Well if you want to, I don't require it to be read
19 out. If you want to just read there from question 86 onwards yourself until
14:42:08 20 you come to question 96.

21 A. Okay.
22 (Witness reads statement.)

23 A. Yeah. Carry on.

24 Q. 582 Are we up could question 96? If you just read the question and the answer out,
14:42:32 25 please. The question is "how did you apply that money?"

26 A. "How did you apply the money," is the question.

27 Q. 583 Yes?

28 A. And the answer is, "well it was part of, as I have said to you, part of this
29 war chest I have built for the purposes of as I have already admitted for other
14:42:56 30 purposes as well as personal purposes."

- 14:42:56 1 Q. 584 Right. Just in relation to this personal war chest, what personal purposes had
2 you in mind for that?
- 3 A. Not very much.
- 4 Q. 585 Well please tell me.
- 14:43:03 5 A. I've already been asked the question today in relation to the 1,000 pounds. I
6 probably spent it. I can't tell you on what and certainly, some of the money
7 out of the war chest I cannot say to you that I did not spend some of it for
8 personal purposes.
- 9 Q. 586 I see. I'm come back to it and just if you just move onto the next question
14:43:24 10 there. Question 97. You say, "I would say to you that the road map and in
11 relation to a large part of this, the Development Plan of the Dublin City
12 Council published in 1990."
- 13 A. County Council.
- 14 Q. 587 And that's what you mean when you are referring to the road map, is that
14:43:41 15 correct?
- 16 A. Yes.
- 17 Q. 588 Okay. Very good. Thank you. Thank you very much. Now, just in relation
18 to -- in relation to the present matter, my client, Senator Lydon, has already
19 said that he was pro-development and that he was known to be pro-development,
14:44:07 20 isn't that correct?
- 21 A. That's correct, yeah.
- 22 Q. 589 And his evidence will be that he was consistently in favour of this development
23 and the reasons he gives and the reasons he's always given is because of the
24 economic benefits that derive from development. Just, are you familiar with
14:44:24 25 the Pye Lands as such as they were back in 1992?
- 26 A. No.
- 27 Q. 590 Well, you never looked at them?
- 28 A. Did you mean, did I ever visit the lands?
- 29 Q. 591 Yes.
- 14:44:34 30 A. No.

- 14:44:35 1 Q. 592 Are you aware that all that was there was a run down Crazy Prices Centre and a
2 run down Bowling Alley?
- 3 A. Yes. What I knew about then of what I knew about the Pye Lands was what
4 Mr. Kelly told me and what your client and Councillor Hand and one or two
14:44:50 5 others told me about the Pye Lands. I never visited the lands. I understood
6 it was an old radio factory or that it was part of it and that there was a
7 Crazy Prices store on it.
- 8 Q. 593 And it is now where the Dundrum Shopping Centre is?
- 9 A. Correct.
- 14:45:08 10 Q. 594 Properly developed. And I have to correct you to say that it is right bang in
11 the centre of the constituency of Senator Lydon, just for the record.
- 12 A. Yeah.
- 13 Q. 595 And he was pro that development and always was pro that development. That
14 would be understandable if there was a run down buildings in the area, isn't
14:45:26 15 that correct?
- 16 A. Well it wouldn't necessarily follow because there were run down buildings in
17 the area that a councillor would be supportive of development. Firstly, yes,
18 it is in -- I wasn't absolutely certain when I was answering Mr. Quinn in
19 relation to your client's constituency. But, yes, I accept that it is right
14:45:46 20 bang in the middle of it. Certainly there was a run down factory. There was a
21 run down entity on the lands. I think it was the old Pye factory, that's why
22 it was called the Pye site. But I wouldn't accept for a minute that just
23 because there was a a run down building on a site that a councillor would be
24 pro-development or pro putting something on it.
- 14:46:07 25 Q. 596 So it's your evidence to the Tribunal that it doesn't necessarily follow that
26 if there is a run down buildings and centre in the centre of a constituency,
27 that a councillor wouldn't be anxious to have the property developed?
- 28 A. Tour the city, tour the city and look at the number of run down buildings there
29 are. How many councillors are in favour of re developing. It doesn't follow.
14:46:27 30 It's not logical.

- 14:46:29 1 Q. 597 I don't want to get carried into a side track, I'm putting it to you if he's
2 the local TD or the local councillor for the area and there is a run down
3 place, that it's more likely than not that a councillor would be in favour of
4 development in the area?
- 14:46:40 5 A. It is more likely than not that he would like to see something other than that
6 on it.
- 7 Q. 598 And he consistently voted in favour of the development of the area?
- 8 A. He consistently indicated to Mr. Kelly that he was in support of the
9 redevelopment of the site, yes.
- 14:46:55 10 Q. 599 Well it's a bit more than that. In 1991, 1992 and ultimately in 1993 he
11 actually voted in favour of the area, isn't that correct?
- 12 A. Well I don't know anything about what he did or didn't do other than from an
13 historic point of view in relation to 1991.
- 14 Q. 600 That's a bit disingenuous now seeing that you were taking money from Mr. Kelly
15 to say that you don't know what he did?
- 14:47:13 16 A. Mr. Kelly told me that he had had discussions with Mr. Lydon and Mr. Hand and
17 that they had been supportive, but that he was concerned about their ongoing
18 support.
- 19 Q. 601 Well, that's your evidence, but he came to you obviously to assist in the area,
14:47:40 20 isn't that correct, for whatever reason you were some kind of king maker or
21 person who could get things done in the area, isn't that correct?
- 22 A. That's where you've put your finger on it. You are the about the first person
23 this morning and this afternoon to put your finger on it, why come to me if he
24 had such solid support from your client and Mr. Hand, two local councillors,
14:47:49 25 why would he need me?
- 26 Q. 602 Well clearly you held yourself out --
- 27 A. No, no, sorry. Do not -- do not disingenuously intrude language like that. I
28 didn't hold myself out to Mr. Kelly about anything. Mr. Kelly came to me.
- 29 Q. 603 Mr. Dunlop, your evidence to the Tribunal is that you took 5,000 pounds off him
14:48:07 30 to assist him in the development of the area?

- 14:48:10 1 A. Mr. Kelly came to me, let's not get into a sidetrack like you were accusing me
2 of a moment ago. The language that you used was that I held myself out, I
3 didn't hold myself out to Mr. Kelly for anything, Mr. Kelly approached me.
4 Either on his own initiative or on the advice of somebody else.
- 14:48:26 5 Q. 604 You didn't disabuse him, and say "Sorry I know nothing about this. I don't know
6 how to get developments through." You took 5,000 pounds off him and you
7 indicated that you'd have to take certain steps. That was your evidence today,
8 wasn't it?
- 9 A. We're not arguing about whether I disabused him of what could or could not be
10 done, I'm just correcting you when you say that I held myself out. He
11 approached me with his problem. Now, accept that and move on.
- 12 Q. 605 Well, it's not quite as simple as that because that's the spin you are seeking
13 to put on it, I'm putting to you that you took 5,000 pounds off the man for the
14 purposes of what you say was to assist him in obtaining planning permission for
15 the area. That's the evidence of what you're giving?
- 14:49:01 15 A. No, the evidence that I'm giving is that Mr. Kelly had a problem, which is
16 absolutely patently obvious from everything that he's said. That he had two
17 councillors who were local councillors, very valuable local councillors. Some
18 developers don't even have local councillors supporting them, they have to go
19 outside their own area to get it. He had two valuable councillors allegedly
14:49:23 20 supporting him and who had signed the motion, but he still had problems.
21 That's why he came to me, he didn't come to me because I was going to fast
22 track the development of the Pye site for him or start it from a baseline of
23 nothing. He had already done a lot of work. He had a problem, he recognised
24 that he had a problem so he came to me.
- 14:49:47 25 Q. 606 And that's your evidence.
- 26 A. Well Mr. Kelly will be asked why he came to me. He can answer to himself.
- 27 Q. 607 You I'm dealing with you now. Lets concentrate on you now. You took 5,000
28 pounds off Mr. Kelly.
29
- 14:49:59 30 A. Yes.

- 14:49:59 1 Q. 608 Presumably you held yourself out as being capable of doing something, isn't
2 that correct?
- 3 A. When Mr. Kelly came to me and outlined his problem and told me that he was
4 concerned that the people that he was depending on might not be as committed as
14:50:15 5 they had indicated they would or as he thought they should be and that he
6 needed my assistance to ensure their support on an ongoing basis. That's all.
7 It's nothing more magical than that.
- 8 Q. 609 There was a payment of 5,000 pounds, on your own evidence, on foot of that, so
9 clearly you held yourself out as going to do something?
- 14:50:40 10 A. Yes. You have this ability to put out this line that on my own evidence that I
11 received 5,000 pounds. I am the person who said I got 5,000 pounds. Mr. Kelly
12 is disputing that, in saying that it might have been less or it could have been
13 more. He doesn't even know how much he gave me. The fact of the matter is
14 that he approached me for my assistance with this particular problem. We had a
14:51:03 15 discussion. I agreed to act for him. There was a discussion about fees.
16 We've gone through that this morning and it eventuated in a payment of 5,000
17 pounds. That's what happened.
- 18 Q. 610 But in order for him to give the money and for you to take it you must have
19 represented something to him?
- 14:51:19 20 A. No, again, you go to -- it's like when you are playing monopoly, you go to jail
21 before you go anywhere else. You are missing the point, the first jump. The
22 first jump was that Mr. Kelly came to me because he had a problem and he
23 thought that I could do something for him. Now, I don't know who told him I
24 could do something for him, whether he woke up one morning with a bulb over his
14:51:44 25 head and as Mr. Cosgrove said he is a very competent chartered accountant, he
26 suddenly said "I need Frank Dunlop." I don't know. He came to me with a
27 problem. I didn't hold myself out to him. We had a discussion. I could
28 easily have said to him, no I don't think I want to act for you. No, I don't
29 think your problem is soluble. No, I won't talk to Don Lydon or Tom Hand. I
14:52:07 30 could have said that to him.

14:52:08 1 Q. 611 You won't sort out the problem, is that what you could have said to him?
2 A. I don't want to act for you. I said no, I won't act for you. I won't talk to
3 Tom Hand or Don Lydon. I could have said that, but he is the one coming me
4 with the problem. I'm not going around looking for business from Mr. Kelly.
14:52:25 5 And I am saying Aidan I know you have a problem listen I can help you.
6 Q. 612 You've said that. You've repeatedly said that but the question that I'm asking
7 you is that you clearly must have held yourself out as being capable of doing
8 something because you took the money off him?
9 A. He had a discussion with me. He outlined his problem historically and as it
14:52:44 10 applied at that particular time. On foot of that discussion I agreed to act
11 for him and we had a discussion about a fee and we agreed 5,000 pounds. Now, I
12 cannot put it any clearer than that and I can repeat it ad nauseam.
13
14 CHAIRMAN: Mr. Dunlop, I think Mr. Humphreys really wants to find out is what
14:53:03 15 you would have said to him or indicated to him when he did approach you?
16 A. Is that what he's asking me?
17
18 CHAIRMAN: Well I assume that's what you mean by did he hold himself out.
19
14:53:15 20 MR. HUMPHREYS: Go ahead, Mr. Chairman. I was approaching it from a different
21 angle.
22
23 CHAIRMAN: When he comes to you, and he does a deal with you and you go along
24 with that deal, in the course of that exchange you must have held yourself out
14:53:33 25 to be in a position to do something for him otherwise he wouldn't have given
26 you the money?
27 A. Yeah. Maybe we're quibbling semantically here, Chairman, which I don't intend
28 or mean to do. When the discussion eventuated with Mr. Kelly about what his
29 problem was and he asked me would I act for him and I agreed. "Yes, I'll act
14:53:56 30 for you, I'll see what I can do."

14:53:59 1
2 CHAIRMAN: Yes. But you must have given him the impression that you might be
3 in a position to do something.
4 A. I certainly would have hoped I gave him the impression that I would be of
14:54:07 5 assistance to him and that I certainly would talk to Hand and Lydon.
6
7 CHAIRMAN: All right.
8
9 MR. HUMPHREYS: Mr. Dunlop, at this stage Mr. Kelly had already approached
14:54:19 10 Senator Lydon, isn't that correct? And unlike let's say previous Modules, you
11 didn't prepare the motion in respect of this, sure you didn't?
12 A. No.
13 Q. 613 So that being the case, you are now saying that you received 5,000 pounds,
14 isn't that correct? For the purposes of carrying out a task, the end result of
14:54:45 15 which was to secure planning permission for Mr. Kelly in respect of his Pye
16 lands, isn't that correct?
17 A. Without indulging in sort of extra curricular semantics here. What I was asked
18 to do was to try and give extra ginger to the support that your client and
19 Councillor Hand had indicated to Mr. Kelly that they were prepared to give and
14:55:07 20 had already given by way of a motion. And by the way, I don't know what date
21 that motion was signed or prepared because there's no date on it and it's just
22 a matter I meant to refer to when I was talking to Mr. Quinn, but that's
23 neither here nor there.
24 Q. 614 Well it is. Just on that --
14:55:23 25 A. Yeah.
26 Q. 615 -- I think you've actually changed your mind in the evidence. In that you are
27 no longer saying that you made the payments to the councillors in April 1992.
28 A. Uh-huh.
29 Q. 616 But it's now sometime nearer October 1992, if I understand you correctly from
14:55:38 30 what you said in the box this morning?

- 14:55:40 1 A. Yes, initially what I said was that I believed that Mr. Kelly had approached me
2 in April of 1992. I don't believe now that that is the case. I believe that
3 that contact from Mr. Kelly came much later and that any ongoing contact that
4 there had, almost on a weekly basis with your client and with Mr. Hand related
14:56:05 5 to other matters, but to go back to your original question. What I'm saying
6 Mr. Kelly came to me with his problem in relation to the lands and there was a
7 problem. There is no doubt about that. Mr. Kelly is right. He felt why, I
8 don't know. Arising out of what conversations he had with your client and
9 Mr. Hand, I don't know, but he felt that your client and Mr. Hand were either
14:56:38 10 losing faith with the project or weren't as committed as Mr. Kelly thought they
11 ought be and that and that he required my assistance. That's all.
- 12 Q. 617 I see. In any event, he gave you 5,000 -- or you say you received 5,000 in
13 cash whatever about what Mr. Kelly says, is that correct?
- 14 A. Yes.
- 14:57:02 15 Q. 618 So you receive 5,000 in cash and your evidence to the Tribunal is that you gave
16 2,000 to Councillor Hand, 1,000 to Councillor Fox and 1,000 to Councillor
17 Lydon, is that correct?
- 18 A. Yeah.
- 19 Q. 619 Okay. Now, you've got 5,000 pounds for this. Let's say when Councillor Hand
14:57:15 20 looked for 2,000?
- 21 A. No, I didn't say that. I said aid negotiation with Councillor Hand. I didn't
22 say that Councillor Hand looked for 2,000. I said that I had a negotiation
23 with him which is a predisposition to say that he looked for more.
- 24 Q. 620 So is that your evidence, he looked for more?
- 14:57:31 25 A. I'm saying that I had negotiation with Tom Hand and I agreed to pay him 2,000.
- 26 Q. 621 Okay, okay, it ends up at a figure of 2,000 pounds. Would I be correct in
27 saying that?
- 28 A. Yes.
- 29 Q. 622 All right, so it ends up with a figure of 2,000, did you not say, "hold on a
14:57:44 30 second lads look it's 2,000 for you, 1,000 for him, 1,000. I'm only getting

14:57:49 1 5,000. I'm Frank Dunlop of Frank Dunlop & Associates, I've to run an office,
2 keep buildings, pay staff, what's in it for me?"

3 A. Are you asking me did I have that conversation with your client?

4 Q. 623 Yes.

14:58:00 5 A. No.

6 Q. 624 But surely you were thinking it?

7 A. Oh, I might well have been thinking something along those lines, yes, but I
8 never had such a conversation with your client and I have already given
9 evidence previously and to Mr. Quinn today, I have never given a councillor an
14:58:14 10 indication as to the amount of money that I am getting.

11 Q. 625 Mr. Dunlop, it's the real world. Presumably you are making a living and you
12 are giving away 4,000 pounds. Are you seriously saying that you are quite
13 willing to give away 4,000 out of 5,000 in order to secure something?

14 A. I have to say to you with the greatest of respect, it is I'm the one who is
14:58:34 15 living in the real world in relation to dealing with councillors, you are the
16 one living in the parallel universe as to what would or would not happen on a
17 given occasion. This is what happened with councillors. Named councillors and
18 it applied to the circumstances particular to a given occasion. That's what
19 happened on this occasion.

14:58:54 20 Q. 626 Mr. Dunlop, if I can -- I want to get another reference up to a remark that you
21 made. If you'll just bear with me for a minute. I think it's page 1899 of the
22 Pye Lands brief, is it possible to get that up on the screen, Mr. Quinn?

23

24 Now, if we could just go down there to the centre of the page. You see
14:59:55 25 Mr. Hanratty. I'll read it out. "Just to go back to Don Lydon for a minute.
26 You're right in saying that he was on the list. He wasn't on the list of
27 people who had received payments, he was on a list that asked for payments.
28 Mr. Dunlop: Sorry that is why I wrote his name on this list last night. I
29 visited Lydon in, it would probably be some place I have to go to, St. John of
15:00:10 30 Gods. I visited him on a number of occasions and on a number of occasions I

15:00:14 1 gave him money.

2 Mr. Hanratty: Do you have any idea what amounts?

3 Mr. Dunlop: Oh, yes.

4 Mr. Hanratty: In what amounts?

15:00:21 5 Mr. Dunlop: 2,000, 2,500. Never be anything else."

6 Do you recall saying that?

7 A. Yep.

8 Q. 627 And your evidence to the Tribunal here today is that you only gave him 1,000 in

9 respect of this?

15:00:32 10 A. Correct.

11 Q. 628 Because it couldn't have been 2,500. Because if it was 2,500 you've have

12 incurred a net loss, isn't that correct?

13 A. Absolutely.

14 Q. 629 You see, this is the problem with the allegations that you are making. You

15:00:45 15 see, you are making an allegation back in 2000 that you received these funds.

16 You put them into a big fund and then you disburse them and I have to put it to

17 you that taking 5,000 and then disbursing, as you say, 4,000, really doesn't

18 make sense in the business world and how people do things.

19 A. Yes.

15:01:08 20 Q. 630 I mean, for all of the work that you are doing, for the overheads that you'd

21 have running your office and so on. It just doesn't make sense to disburse 80

22 percent of what you get, isn't that correct?

23 A. That is according to your perception of things. That is not how things happen

24 on the ground.

15:01:27 25 Q. 631 But, you see, you are coming here and your evidence is that and the evidence of

26 Senator Lydon will be, was that Mr. Kelly had already come to him, he'd already

27 signed the motions, he'd supported it in '91, he'd supported it in '92 despite

28 the fact that this was put to you by Mr. Quinn earlier on and you said that's

29 not consistent. You said that Mr. Lydon was in difficulty because of his

15:01:55 30 support for the motion. Nonetheless --

- 15:01:57 1 A. Mr. Lydon was in what?
- 2 Q. 632 Was in difficulties with his own party is what you implied because of his
- 3 support for the motion.
- 4 A. No, what I said was he was being criticised by members of his own party for his
- 15:02:15 5 ongoing support for Mr. Kelly.
- 6 Q. 633 The record shows over 20 members of the Fianna Fail supported him in the motion
- 7 in 1992, isn't that correct?
- 8 A. That's correct.
- 9 Q. 634 And he voted for it in 1993, isn't that correct?
- 15:02:17 10 A. Yes he did.
- 11 Q. 635 Long after presumably you were finished with all of this business?
- 12 A. I had nothing more to do with it --
- 13 Q. 636 And your evidence is that you get 5,000 from somebody who comes to you for some
- 14 unspecified purpose that you disburse four, this is what you allege here to the
- 15:02:34 15 Tribunal. I mean, this all gives you absolute power doesn't it, Mr. Dunlop.
- 16 And you decide, you say without any consistent shred of evidence as to who gets
- 17 what and ten years later or 13 or 15 years later or whatever it is, in respect
- 18 of the 5,000 cash that you said you received, there is no way of proving it one
- 19 way or the other, isn't that correct?
- 15:02:59 20 A. Well if that's the way you want to put it, that's the way you want to put it.
- 21 I am just telling in view of questions that I'm asked or was asked and I'm
- 22 telling you that this is what occurred on other occasions.
- 23 Q. 637 Mr. Dunlop --
- 24 A. There is not a person in this room, other than yourself, or in this country,
- 15:03:18 25 other than yourself, who does not believe that money changed hands in Dublin
- 26 County Council for votes in the course of the Development Plan and one of the
- 27 people involved in it was your client.
- 28 Q. 638 And just in respect of those allegations, which are easy to make in respect of
- 29 cash payments some 15 years later. The reality of it is that this isn't the
- 15:03:42 30 first time where, if you like, your disbursements exceeds your income in

15:03:46 1 respect of one of your projects. Which begs the question as what was
2 motivating you in getting involved in these issues if there was no personal,
3 professional, financial payment or reward for you for so doing?
4 A. Well there was in this instance, albeit it was small, it was 1,000 pounds.

15:04:05 5 Q. 639 And that's your evidence to the Tribunal?
6 A. That's the way it turned out.
7 Q. 640 Thank you very much, Mr. Dunlop?
8 A. Chairman, Chairman.
9

15:04:14 10 CHAIRMAN: Yes. Certainly.
11
12
13 CHAIRMAN: What I am a bit concerned. We are a bit concerned about the other
14 witnesses who are probably suffering from pneumonia.

15:04:26 15
16 MS. DILLON: I am anticipating your concern. Ms. Fitzgerald who was the last
17 witness listed for today for two o'clock is prepared to come back tomorrow at
18 two o'clock. So we've dropped her from the list. We have three witnesses
19 left. The first of whom is Mr. Murray whom you know attended late on Friday
15:04:44 20 afternoon and Mr. Quinn and I are reasonably optimistic that once Mr. Dunlop is
21 concluded we should be able to deal with those three witnesses today in a
22 reasonable space of time. Ms. Fitzgerald will take slightly longer but she is
23 now coming back tomorrow at two o'clock.
24

15:04:59 25 CHAIRMAN: All right.
26
27 MS. DILLON: May it please you.
28
29 CHAIRMAN: Thank you. Now, I think Mr. Gordon, when Mr. Dunlop comes back.
15:05:09 30 Are you ready to cross-examine?

15:05:11 1

2 MR. GORDON: If it's of any assistance I'll be very brief.

3

4 CHAIRMAN: All right.

15:06:35 5

6 **THE WITNESS WAS QUESTIONED BY MR. GORDON AS FOLLOWS:**

7

8 MR. GORDON: Good afternoon, Mr. Dunlop. I won't keep you very long. As you

9 know, I appear for Mr. Fox and I just want to ask you some questions about the

15:06:45 10

evidence you have given here.

11

12 I wasn't here this morning myself Mr. Dunlop. But I understand that you are

13 alleging that you paid to my client, Mr. Fox, a sum of 1,000 pounds in the

14 context of this Module?

15:06:55 15

A. Yes.

16 Q. 641 And I understand that when you were examined about the various lists and the

17 various pieces of information that you've given to the Tribunal, that the

18 monies or indeed the name of Mr. Kelly didn't feature in this 1991 to 1993

19 inclusive list, is that the position?

15:07:14 20

A. Correct, yes.

21 Q. 642 And I understand that prior to you making a statement in October 2000 you made

22 no mention whatsoever of Mr. Fox in the context --

23 A. Correct.

24 Q. 643 Sorry, that's incorrect is it?

15:07:26 25

A. No, no, in relation to Mr. Fox in relation to this development.

26 Q. 644 Yes?

27 A. That is correct.

28 Q. 645 That is correct. So I'm correct in relation to that?

29 A. Yep.

15:07:34 30

Q. 646 And you will accept that you had a prior opportunity to mention Mr. Fox in

- 15:07:39 1 relation to this matter at private interview?
- 2 A. Yes, I did. Yes.
- 3 Q. 647 Just to pick up, just very briefly from the questions that Mr. Humphreys asked
4 you, about the money that you received from Aidan Kelly.
- 15:07:57 5
- 6 When you got the money, Mr. Fox, did you think about what you were going to do,
7 or Mr. Dunlop, did you think about what you were going to do with the money?
- 8 A. I don't know whether I thought anything what I was going to do with the money.
9 I knew that once I had received the money that -- and when I was going to
10 approach councillors that and the particularly the individual councillors that
11 I did approach that money would be coming in question, yes.
- 12 Q. 648 Is that to say that when you got the money from Mr. Kelly. You thought about
13 the money. You made a plan in relation to it and you set out to execute the
14 plan?
- 15:08:34 15 A. No, I undertook with Mr. Kelly that I would discuss with Councillor Lydon and
16 Hand, Councillors Lydon and Hand and others not including your client, by the
17 way. I have given evidence this morning to the effect that your client, to the
18 best of my recollection, your client was never mentioned by Mr. Kelly to me or
19 by me to Mr. Kelly. But that I undertook to go to, in particular, to
20 Councillors Lydon and Hand in view of the circumstances that were outlined to
21 me by Mr. Kelly and that I would see what I could do.
- 22 Q. 649 You see, Mr. Humphreys has suggested that your evidence this afternoon in
23 relation to the amount that you received and the amount that you ultimately
24 claim to have disbursed, makes no sense.
- 15:09:28 25 A. Yeah.
- 26 Q. 650 You appreciate, Mr. Dunlop, the point he's making there.
- 27 A. Yes.
- 28 Q. 651 And what I'm asking you to do is to cast your mind back to the point at which
29 you claim you got this money from Mr. Kelly and tell us did you think about
15:09:41 30 what it was you were going to do with it?

- 15:09:43 1 A. Well I definitely had some thoughts about it. I cannot specifically tell you
2 what the thoughts were. If you have 5,000 pounds in your pocket you have some
3 thoughts about what you're going to do with the money, certainly. It would be
4 irrational to suggest otherwise. Bearing in mind what I had been asked to do
15:10:03 5 by Mr. Kelly prior to receiving of the money was to see -- and having agreed to
6 act for him, to see what I could do to maintain the support that he was
7 getting, particularly from Councillors Hand and Lydon.
- 8 Q. 652 You see, if you had some thoughts about this and on your mind perhaps you may
9 have had Mr. Lydon and Mr. Hand, the obvious question then is when did Mr. Fox
15:10:33 10 feature in your thoughts?
- 11 A. Well Mr. Fox featured in my thoughts on a regular basis because he was a
12 regular contact and I think Mr. Fox had a particular mantra like senator,
13 Mr. Humphreys has said, that Mr. Lydon had, that he was pro-development.
14 Certainly he was pro-development, there was no question about that, but it came
15:10:55 15 at a price. And I had a relationship with Mr. Fox and Mr. Fox had undertaken
16 on a number of occasions to do certain things for me and had on a number of
17 occasions stated specifically, without ever giving me any belief that he had
18 either done so or evidence that he had done so, that he could bring others on
19 board. So, I went to Mr. Fox in the context of this particular one, in the
15:11:29 20 circumstances that I outlined this morning.
- 21 Q. 653 When did you go to Mr. Fox?
- 22 A. I went to Mr. Fox sometime after Mr. Kelly approached me. I certainly didn't
23 go to him first because of the nature of the development with Mr. Kelly and the
24 fact that Mr. Hand and Mr. Lydon were signatories or were stated supporters in
15:11:54 25 relation to it. So I cannot tell you exactly when I went, but I certainly
26 didn't go to him first.
- 27 Q. 654 All right. Well when you went or claimed to have gone to Mr. Fox, did you give
28 him on that occasion the money?
- 29 A. No, I did not give him the money, I discussed the matter with him.
- 15:12:14 30 Q. 655 Did you have the money at that point in time?

- 15:12:16 1 A. That I cannot tell you. The likelihood is that I did, but I cannot say
2 specifically to you that I did have it. And in that context, for ease of
3 Mr. Fox, I would just say that I believed the money was given to me by
4 Mr. Kelly shortly after the first meeting that I had with Mr. Kelly in which
15:12:36 5 the fee was agreed. Now, I cannot say to you exactly when the money was given
6 to me but it was it was given to me shortly after the first meeting. So I
7 cannot say to you whether I had the money at that time or not, but Tony Fox was
8 a regular supporter of mine, was a regular contact.
- 9 Q. 656 Well apart from the hyperbole, Mr. Dunlop --
- 15:13:06 10 A. Where's the hyperbole?
- 11 Q. 657 -- did you tell Mr. Fox?
- 12 A. Hyperbole.
- 13 Q. 658 Did you tell, Mr. Fox, Mr. Dunlop, how much money you had?
- 14 A. Hyperbole. That's a new one. Did I tell Mr. Fox how much money I had, no I
15:13:25 15 didn't.
- 16 Q. 659 Did you tell anybody?
- 17 A. Sorry?
- 18 Q. 660 Did you tell anybody?
- 19 A. Other than myself and Mr. Kelly I don't think anybody was aware of the amount
15:13:30 20 of money that I had.
- 21 Q. 661 And you must have understood that this was a private arrangement between
22 yourself and Mr. Kelly taking into account the nature of your business?
- 23 A. Sorry, I don't understand what your question is.
- 24 Q. 662 Well this was a surreptitious arrangement that you must have had with
15:13:50 25 Mr. Kelly, on your evidence. This was a corrupt arrangement that you had. Do
26 you understand that Mr. Dunlop?
- 27 A. Yes, Mr. Kelly paid me in cash.
- 28 Q. 663 So you were hardly in the business of telling anybody else about it, were you?
- 29 A. Correct.
- 15:14:03 30 Q. 664 And you wouldn't have told Mr. Fox about it?

- 15:14:05 1 A. I don't think that I ever told Mr. Fox about the amount of money that I ever
2 got from anybody else.
- 3 Q. 665 Mr. Fox, Mr. Hand or Mr. Lydon for that matter wouldn't have known how much
4 money you had in your pocket in relation to this Module, is that correct?
- 15:14:16 5 A. That is correct.
- 6 Q. 666 But your instructions were to deal with, if I can use that expression, Mr. Hand
7 and Mr. Lydon?
- 8 A. Sorry Mr. Gordon could you talk to the microphone a little closer. I am
9 finding it difficult to hear you. I don't want to be offensive.
- 15:14:32 10 Q. 667 Your instructions were to deal with Mr. Lydon and Mr. Hand as I understand it?
- 11 A. Correct, yes.
- 12 Q. 668 And what you say then is that you yourself went to see Mr. Fox?
- 13 A. Yes.
- 14 Q. 669 Did you feel that when you went to see Mr. Fox that you needed, bearing in mind
15:14:47 15 what we know about the motion now, his support?
- 16 A. Bearing in mind what was said to me by Mr. Kelly and by Mr. Hand and Mr. Lydon.
17 Certainly by Mr. Hand, on -- I would -- I cannot specifically say to you that I
18 had been talking to Senator Lydon before I spoke to your client. The
19 likelihood is that I would have gone to both of the signatories first and given
15:15:11 20 the comments that they made to me in the relation to the difficulties that they
21 were experiencing internally in their own party about their continued support
22 for this development, which is more accurately located I suspect, I suspected
23 then and do so now, in the context that Mr. Kelly was not prepared to
24 compromise in that he wanted all or nothing and it's the same message that I
15:15:36 25 got from senator or from Councillor Olivia Mitchell. And I went to your client
26 on the basis that I might need his support.
- 27 Q. 670 And the question I asked you was did you feel at the time that you needed his
28 support, bearing in mind what we know about the motions at that time?
- 29 A. Yeah.
- 15:16:00 30 Q. 671 You did?

- 15:16:00 1 A. I did, yeah.
- 2 Q. 672 And what support did you suggest or did you think you might have obtained from
3 him?
- 4 A. Well his support, his commitment to support it.
- 15:16:09 5 Q. 673 Did you not think Mr. Fox would have voted in favour or voted pro Mr. Dunlop,
6 let me put it in those terms in any event, bearing in mind what you've said?
- 7 A. Oh, he may well have done, yes. I wouldn't discount that for a moment.
- 8 Q. 674 So there was no need to pay Mr. Fox whatsoever the sum of 1,000 pounds at the
9 time. In fact no need to approach him at all?
- 15:16:32 10 A. Let me take the second part first, whether or not to approach him at all. No,
11 in the context that I have outlined and the difficulties that both Hand and
12 Lydon expressed to me in relation to their internal party difficulties for
13 supporting Mr. Kelly. So there was some reason to approach your client. And
14 secondly, whether or not he would have supported it. He may well have done.
- 15:17:05 15 The fact of the matter is when I approached him a discussion ensued about
16 money, as it always did, in the case of your client.
- 17 Q. 675 As I understand your evidence, if I'm doing the maths correctly here. You
18 received five and you paid out four.
- 19 A. Sorry?
- 15:17:23 20 Q. 676 You received 5,000 pounds and paid out four.
- 21 A. That's correct.
- 22 Q. 677 What did you do with the other 1,000?
- 23 A. We had this discussion this morning and I probably spent it.
- 24 Q. 678 I have no further questions Mr. Dunlop. In relation to the evidence that you
15:17:37 25 have given about my client, but I must put it to you, as I have done so in the
26 past, that you fabricated this. My client will deny, as he will do tomorrow, I
27 understand that he is coming in here, that he will deny that you gave him 1,000
28 pounds in relation to this Module or any other Module either in the past or in
29 the future. Do you understand that?
- 15:17:56 30 A. Well that's par for the course.

15:17:58 1 Q. 679 Thank you.
2
3 CHAIRMAN: All right. Thank you, Mr. Gordon. Now, Mr. Redmond, do you want
4 to?
15:18:11 5
6 MR. REDMOND: No questions, Chairman.
7
8 JUDGE FAHERTY: Just one matter Mr. Dunlop.
9 A. Sorry, Judge.
15:18:13 10
11 JUDGE FAHERTY: You've said already that both the late Mr. Hand and Senator
12 Lydon indicated that they were experiencing difficulties within their
13 respective parties, is that correct?
14 A. Well I think what I said, Judge, was they were experiencing criticism. They
15 were criticised by members of their own party.
16
17 JUDGE FAHERTY: Yes.
18 A. For their support and the context of that, I think I outlined to Mr. Quinn, was
19 I suspect, I have no evidence, that Mr. Kelly had approached other councillors
15:18:43 20 in their own, in both Mr. Hand's and Mr. Lydon's parties and their reaction may
21 not have been as positive as Mr. Kelly might have imagined and that they
22 transmitted that to the -- to both Councillor Hand and Councillor Lydon.
23
24 JUDGE FAHERTY: Just in that context. I want to ask you. You've said why you
15:19:06 25 approached Councillor Fox.
26 A. Yeah.
27
28 JUDGE FAHERTY: But given that you say that the late Mr. Hand would have
29 appraised you of the criticisms he was getting from his party --
15:19:19 30 A. Yes.

15:19:20 1
2 JUDGE FAHERTY: -- you don't appear to have approached any other member of the
3 Fine Gael party, within the Council.
4 A. Olivia Mitchell. Olivia Mitchell is the only other councillor in Fine Gael
15:19:32 5 that I have any recollection of any discussion about and she expressed surprise
6 in the first instance that I was acting for Mr. Kelly and expressed herself
7 fairly cogently about Mr. Kelly and thirdly, about the prospects for his
8 project.
9
15:19:48 10 JUDGE FAHERTY: I see. And just the other question I have, Mr. Dunlop. In
11 other Modules where you have told the Tribunal that it was your belief that
12 while nothing specific was said in the course of negotiations or discussions
13 with developers, that you believed that they knew that you might have to pay
14 councillors and in some cases you have given examples of forms of words.
15:20:19 15 A. Yes.
16
17 JUDGE FAHERTY: And indeed almost body language to support your contention.
18 A. Yes.
19
15:20:27 20 JUDGE FAHERTY: But in this case as I understand it in your responses to
21 Mr. Quinn and indeed do other counsel, you can't recall any other form of words
22 that pass between you and Mr. Kelly --
23 A. Yeah.
24
15:20:40 25 JUDGE FAHERTY: -- is that the case?
26 A. I do not recall any definitive remarks or words by Mr. Kelly to the effect that
27 he knew that I was -- to effect what he required, that I was going to have to
28 pay councillors and that he recognised this as the norm.
29
15:20:59 30 JUDGE FAHERTY: I see. And just in relation to yours and Mr. Kelly's

15:21:05 1 agreement. How did it terminate essentially Mr. Dunlop?

2 A. Yes. I genuinely believe that somebody else would ask me that question. It

3 terminated as a result of the events of the 16th of October. I don't recollect

4 speaking to Mr. Kelly at all, even on the 16th of October I have to say, I do

15:21:30 5 know that Mr. Kelly called my office sometime later in, some week or two later,

6 and I don't have any recollection of ever speaking to him --

7

8 JUDGE FAHERTY: Uh-huh.

9 A. -- again after the 16th of October.

15:21:42 10

11 JUDGE FAHERTY: Uh-huh.

12 A. It just dissipated.

13

14 JUDGE FAHERTY: Well you had been retained by him obviously.

15:21:48 15 A. Yes.

16

17 JUDGE FAHERTY: Did you not think yourself to contact him?

18 A. No.

19

15:21:51 20 JUDGE FAHERTY: And did -- while the vote, obviously Mr. Lydon's and

21 Mr. Hand's vote fell or their motion fell because of the success of Councillor

22 Fitzgerald's and Councillor Mitchell's motion on that day, isn't that correct?

23 A. Yes. There is an element of confusion there. If I might suggest, Judge. The

24 unanimous motion knocked out the possibility of a town centre or civic centre,

15:22:18 25 if my recollection is correct.

26

27 JUDGE FAHERTY: That was in relation to the Dundrum Village Centre, yes.

28 A. Yes. And then Councillor Fitzgerald's motion related to the Pye Lands

29 specifically.

15:22:28 30

15:22:28 1 JUDGE FAHERTY: That's correct.

2 A. And the motion, the motion fell.

3

4 JUDGE FAHERTY: Yes. That was a consequence, I can see that, that just leads

15:22:39 5 me to my next question --

6 A. Yes.

7

8 JUDGE FAHERTY: -- the consequence of that was that the lands were now going

9 out on the second public display. It wasn't the end of the road --

15:22:49 10 A. No.

11

12 JUDGE FAHERTY: -- as events would prove Mr. Dunlop --

13 A. That's correct.

14

15:22:53 15 JUDGE FAHERTY: -- for Mr. Kelly and for the lands and for their development.

16 I just wanted to really ask you, why did you think that your brief had

17 terminated given that it was still there, the possibility was still there

18 albeit somewhat down the road --

19 A. Yes.

15:23:10 20

21 JUDGE FAHERTY: -- after the second display?

22 A. Yes, I accept the point you're making, Judge. I really to my own

23 dissatisfaction, I really can't give a cogent answer to that, other than to say

24 to you that the level of meetings that I had with Mr. Kelly were not of the

15:23:30 25 same order as I would have had with other developers in similar circumstances.

26 I cannot honestly say to you that Mr. Kelly had a conversation with me to say

27 your services are no longer required or I am disengaging you or you're fired.

28 I don't believe any such conversation ever took place with us, between us. I

29 subsequently became aware, of course, from the brief that Mr. Lynn was hired to

15:24:05 30 help Mr. Kelly, but that's what happened. I can't -- I'm just trying to think

15:24:15 1 of the appropriate words in relation to explained circumstances. It's not that
2 we waved at one another from across a room in Dublin County Council and said
3 goodbye now we won't be seeing one another any more. Both of us recognised as
4 you quite rightly say it wasn't the end of the road. There was no further
15:24:35 5 contact. Yes, Mr. Kelly did call my office. I have no recollection of ever
6 speaking to him again about the Pye Lands.

7

8 JUDGE FAHERTY: Thank you.

9 A. Thank you, Judge.

15:24:43 10

11 CHAIRMAN: Thank you very much Mr. Dunlop.

12 A. Thank you, Chairman.

13

14 **THE WITNESS THEN WITHDREW.**

15:24:48 15

16 MS. DILLON: Mr. Willie Murray, please.

17

18 **MR. WILLIAM MURRAY, HAVING BEEN SWORN, WAS QUESTIONED BY MS. DILLON**19 **AS FOLLOWS:**

15:24:53 20

21 CHAIRMAN: Good afternoon Mr. Murray.

22 A. Good afternoon, Chairman.

23

24 MS. DILLON: Good afternoon --

15:25:30 25

A. Chairman, can I just apologise for last Thursday.

26

27 CHAIRMAN: That's all right. All right, thank you.

28

29 MS. DILLON: Thank you Mr. Murray. I am going to try and lead you through as
15:25:39 30 much of this evidence as I can, Mr. Murray, if that's agreeable to you.

- 15:25:44 1
2 I think that in in 19 -- up to 19 -- up to the time that the Council split you
3 were a Deputy County Planning Officer with Dublin County Council.
- 4 A. That's correct.
- 15:25:53 5 Q. 680 And you would have been the Deputy County Planning Officer for the review of
6 1983 plan.
- 7 A. Correct.
- 8 Q. 681 And you would have had some input or contribution into Planning Officer's
9 reports in relation to various parcels of land that was given to Council
10 members and which was referred to or recorded in the minutes of the meetings.
- 11 A. That's correct.
- 12 Q. 682 Now, subsequently in January of 1994 you became the Planning Officer for Dun
13 Laoghaire-Rathdown County Council.
- 14 A. That's correct.
- 15:26:18 15 Q. 683 And the lands that presently form the Dundrum Town Centre lands, fall within
16 the jurisdiction of Dun Laoghaire/Rathdown Council.
- 17 A. Yes.
- 18 Q. 684 And the lands where, what is now known as the Dundrum Town Centre where they
19 presently stand were originally what was known as the Pye Lands in Dundrum.
- 15:26:36 20 A. Yes.
- 21 Q. 685 And I think that in, from the time that there had originally been a laundry,
22 subsequently there was a factory, but by the time 1989, 1990 came a substantial
23 portion of that site was derelict, is that right?
- 24 A. Sort of semi derelict, some of it and others would sort of temporary uses in
15:26:58 25 it.
- 26 Q. 686 And that there were a fair amount of short-term planning applications made for
27 change of use and for use of a portion of the premises for various purposes,
28 isn't that right?
- 29 A. That's right.
- 15:27:08 30 Q. 687 Now, in 1983 the zoning that attached to that land, if I could have page 1423,

- 15:27:16 1 please? Was E, A and C1, isn't that right?
- 2 A. Yes.
- 3 Q. 688 If you look at the lands that are outlined in red on that map.
- 4 A. Yes.
- 15:27:27 5 Q. 689 They were the old Pye Lands. But they are now where the Dundrum Town Centre
6 lands stand, isn't that right?
- 7 A. Yes. I'm not sure if the C1 bit was ever Pye Lands. That's where the Super --
8 Crazy Prices.
- 9 Q. 690 That's were the Crazy Prices supermarket was but the lands north of that, which
15:27:42 10 are E and A, which are divided by a road reservation they are the Pye Lands
11 outlined in red, isn't that correct?
- 12 A. Pretty well yes.
- 13 Q. 691 To the north of that again there are lands outlined in blue. They were the
14 lands which had a C designation in the 1983 plan, isn't that correct?
- 15:27:59 15 A. That's right.
- 16 Q. 692 They were the Dundrum Village Centre lands, isn't that right?
- 17 A. That's right.
- 18 Q. 693 And the original plan, if I can summarise it, was that those lands, which were
19 the Dundrum Village Centre lands. They were to provide the town centre, isn't
15:28:12 20 that right?
- 21 A. In the 1983 plan, yes.
- 22 Q. 694 In the 1983 plan.
- 23 A. Yes.
- 24 Q. 695 And when the matter came to be reviewed certain changes happened to both the
15:28:23 25 northern lands and the southern lands in the review of the 1983 plan, isn't
26 that right?
- 27 A. Yes.
- 28 Q. 696 But before that happened, you had met Mr. Kelly, isn't that right?
- 29 A. It appears so, yes.
- 15:28:33 30 Q. 697 Now, you have a number of diary entries, Mr. Murray, isn't that right. In

- 15:28:48 1 which you are recorded as meeting various people in connection with the Pye
2 Lands, isn't that right?
- 3 A. Yes.
- 4 Q. 698 But I think it's your position and you have stated in your statement to the
15:28:48 5 Tribunal that you accept the meetings happened, that you met those people but
6 in view of the passage of time you have no real recollection about what
7 transpired, isn't that correct?
- 8 A. That's correct.
- 9 Q. 699 Now, in particular I'd like to draw to your attention a meeting that took place
15:29:01 10 in 1988, and I know it's going back some time, at page 940. And this is an
11 extract from your diary Mr. Murray and you will see there on the 2nd of May,
12 which is the first page entry, there is an entry "2:30 Pye Chairman's office."
13 Now, can I ask you, would the Chairman to whom you are referring there have
14 been the Chairman of Dublin County Council?
- 15:29:28 15 A. Oh, yes.
- 16 Q. 700 And at that time in 1988 the Chairman was Mr. Paddy Hickey, isn't that right?
- 17 A. I believe so.
- 18 Q. 701 Right. And is it likely then that that is a meeting that would have been
19 instigated by the Chairman or by Mr. Paddy Hickey in connection with the Pye
15:29:43 20 Lands?
- 21 A. The invitation for me to attend would have probably have come from his office,
22 yes, yes. Would have.
- 23 Q. 702 So it would follow from that, would it not, Mr. Murray, that Mr. Hickey had
24 some interest in the Pye Lands, certainly as far back as 1988?
- 15:30:02 25 A. Yes.
- 26 Q. 703 And I think subsequently in August of the same year in 1988 at 1012, this is an
27 extract from Mr. George Redmond's diary and Mr. Redmond has an entry for "Pye
28 Ireland P Hickey," do you see that entry?
- 29 A. Yes.
- 15:30:19 30 Q. 704 And I think it's clear from documents at 100 -- sorry, that is also an entry,

- 15:30:32 1 is it likely, I meant to ask you, Mr. Murray, that you would have attended that
2 meeting?
- 3 A. I've no idea. If it's in my diary, I probably did.
- 4 Q. 705 No, it's not in your diary.
- 15:30:46 5 A. It's unlikely then.
- 6 Q. 706 What interaction or what business would Mr. Redmond have had in 1988 with the
7 Pye Lands or Mr. Mr. Hickey?
- 8 A. Mr. Hickey was the Chairman of the Council.
- 9 Q. 707 Uh-huh.
- 15:31:00 10 A. And Mr. Redmond was the County Manager. The County Manager would have been
11 responsible for, amongst other things, the provision of roads and the Pye Lands
12 were intimately tied up with the provision of the Dundrum Bypass and the
13 Wyckham Bypass. So he would have had a legitimate interest in what might
14 happen to the Pye Lands.
- 15:31:20 15 Q. 708 And at page 1013, which is another extract from Mr. Redmond's diary. 1013. Of
16 the 25th of August 1988. There is a reference to "Pye meeting in Mr. Vaughan's
17 office," do you see that entry?
- 18 A. Yes.
- 19 Q. 709 And it's clear from correspondence at 1067. That you were at that meeting even
15:31:44 20 though it's not recorded in your own diary.
- 21 A. Right.
- 22 Q. 710 Right. So and that meeting appears to have been, Mr. Murray, you will see from
23 the documents which you were circulated for the purpose of informing the
24 planning officials and the various departments of Dublin County Council of the
15:32:00 25 proposed plans for the Pye Centre, isn't that right?
- 26 A. Yes. And the fact that it came through Mr. Vaughan, the Deputy Chief
27 Engineer's office.
- 28 Q. 711 Yes.
- 29 A. Would imply that the instigation for this was in relation to achieving the
15:32:13 30 delivery of the roads and the fact that the roads were part and parcel of a

15:32:17 1 larger plan would have been the reason why the likes of planning were invited.

2 Q. 712 But does it not seem to have come first through Mr. Hickey, Mr. Murray?

3 A. I --

4 Q. 713 I mean in, 1988 in the meetings that led up to the meeting at which Mr. Kelly

15:32:33 5 produced his plan to the officials of Dublin County Council. The initial

6 contact appears to have been a meeting in, through the Chairman's office, with

7 you, then Mr. Redmond and after Mr. Redmond, Mr. Vaughan and the Roads

8 Department, isn't that right?

9 A. Well that's a sequence --

15:32:49 10 Q. 714 Yes.

11 A. -- but not necessarily a direct line in between each other. You know, direct

12 contact can be made to Mr. Vaughan or to me or to anybody when Mr. Hickey and I

13 would have had very very few dealings together.

14 Q. 715 And it would appear that Mr. Kelly had himself at page 1010. In February of

15:33:09 15 1988 he had met or at least there is an entry for him in Mr. Redmond's diary,

16 isn't that right?

17 A. So it appears, yes.

18 Q. 716 There is no corresponding entry in your diary for a meeting at which you were

19 involved on the 18th of February 1988, isn't that right? Because you have

15:33:30 20 provided your 1988 diary to the Tribunal and there is no recorded entry for

21 that, isn't that right?

22 A. Okay.

23 Q. 717 Now, it would appear, Mr. Murray, that the difficulty that the Planning Officer

24 and the roads people were immediately aware of in relation to the proposed

15:33:42 25 planning application in 1988 was the retail element of the plan, isn't that

26 right?

27 A. Yes.

28 Q. 718 And that in correspondence the Council indicated to Mr. Kelly that they had no

29 difficulty with the residential element of the plan and that they felt a

15:33:56 30 compromise could be made in relation to the leisure element of it, but that the

- 15:33:59 1 retail element proposed by Mr. Kelly amounted to a material contravention,
2 isn't that right?
- 3 A. Yes, I think Mr. Hyde wrote a letter out to that effect.
- 4 Q. 719 Yes. At 1070 and I think it's clear from that letter, from Dublin County
15:34:13 5 Council that Mr. Kelly is being told at the very beginning that the problem or
6 the difficulty with his proposed plan was the retail element, isn't that right?
- 7 A. That's right.
- 8 Q. 720 Now, it would also appear to be the position that at this stage the Council
9 became aware of the fact that there had been new owners with the Pye Lands
15:34:29 10 which had led to the meeting, isn't that right?
- 11 A. I'm not sure about that.
- 12 Q. 721 Well if you look at 994, which is a minutes of the Development Coordinating
13 Committee held on the 10th of November 1988. You will see you are recorded as
14 being the sixth person present. Do you see that?
- 15:34:50 15 A. Uh-huh.
- 16 Q. 722 And you will see that at page 996 of that. There is a record, at page 12, item
17 12, "access to Pye Lands in Dundrum. Noted that Pye have recently sold the
18 lands and that the new owners have sought meeting with roads and planning,"
19 isn't that right?
- 15:35:08 20 A. Well I wouldn't have made a distinction between Aidan Kelly of Pye or Aidan
21 Kelly of anything else. It was just him.
- 22 Q. 723 But you would have attended the meeting at which there had been discussion with
23 Mr. Kelly and his proposed plans, isn't that right?
- 24 A. Yes, yes, yes.
- 15:35:23 25 Q. 724 Now, at that meeting that had taken place, which led to the letter being sent
26 saying that there was a difficulty with the retail. At that meeting were
27 several people from the Council, including yourself, and on the Pye side, if I
28 can call it that, at 1069, Mr. Kelly was present, Mr. Laden was present. Do
29 you see that? At 1069. Do you see that?
- 15:35:53 30 A. Am I looking at the right page?

- 15:35:55 1 Q. 725 I think you should be looking at a page 1069 which has at the bottom Aidan
2 Kelly's name and Mr. Kelly's name. Signatures.
- 3 A. Yes, indeed.
- 4 Q. 726 If you go back to the first page of that letter. At 1067 and the first
15:36:12 5 paragraph states, "we refer to our meeting at your offices yesterday afternoon
6 also attended by Mr. Ring, Mr. Rabbitte, together with Mr. Murray and
7 Mr. Goodbody, Planning Department and the writers, who are Mr. Kelly and Mr.
8 Laden, together with Mr. Kieran O'Malley," isn't that right?
- 9 A. Yes.
- 15:36:29 10 Q. 727 Now it follows from that, Mr. Murray, that you were at a meeting on the 25th of
11 August 1988 with Mr. Laden and Mr. Kelly, who were then the new owners of the
12 Pye Lands, isn't that right?
- 13 A. Well it would appear to, yeah.
- 14 Q. 728 And the purpose of that meeting was for the new owners of the Pye Lands to make
15:36:50 15 their pitch or make their case to Dublin County Council for the new development
16 or proposal that they had in connection with the Pye Lands, isn't that right?
- 17 A. It would appear so.
- 18 Q. 729 And following which in effect the Council said while they'd no difficulty with
19 some of it. They did have a difficulty with the retail element, isn't that
15:37:06 20 right?
- 21 A. That's right.
- 22 Q. 730 Right. And I think subsequently in November of 1988 at 2499, on the 11th of
23 November, your diary records a meeting with Mr. Kelly and Mr. Kieran O'Malley.
24 Do you see that?
- 15:37:26 25 A. Could we blow that bit up, please?
- 26 Q. 731 Just the top of the 11th, please. And you see at nine o'clock, it says, "K
27 O'Malley."
- 28 A. Um.
- 29 Q. 732 And beneath that A Kelly and there is a word circled beside that.
- 15:37:41 30 A. It seems to say "R town" which would be Ronanstown. I wonder is it the same A

- 15:37:46 1 Kelly.
- 2 Q. 733 I don't know. I was about to ask you that?
- 3 A. I couldn't tell you. K O'Malley is nine o'clock. Ten is A Kelly and
- 4 Ronanstown.
- 15:37:57 5 Q. 734 So it's your view that that's not connected in any way.
- 6 A. Well there is no reason to suspect it might be just looking at it but it could
- 7 be.
- 8 Q. 735 Now, I think that in 1991 a motion was brought before Dublin County Council by
- 9 Councillors Hickey and Mitchell which resulted in the Pye Lands then being
- 10 zoned C, isn't that right?
- 11 A. Yes.
- 12 Q. 736 And in the first public display, the Pye Lands were zoned C, at 1429. Now, on
- 13 this map, Mr. Murray, can I ask you, the northern lands are zoned C2.
- 14 A. Yes.
- 15:38:34 15 Q. 737 And the southern lands are zoned C.
- 16 A. Yes.
- 17 Q. 738 And in terms of permitted retail, is the difference between zoning lands C and
- 18 C2 that you are not allowed have major shops on lands C2 but you are permitted
- 19 to have major shopping on lands that are zoned C?
- 15:38:52 20 A. That's certainly one of the major differences, yes.
- 21 Q. 739 Yes. So that in terms of retail, in terms of putting shops on premises, you
- 22 are not allowed to put major shopping on lands that are zoned C2, isn't that
- 23 correct?
- 24 A. That's correct.
- 15:39:05 25 Q. 740 And on lands that are zoned C, which it was proposed that the Pye Lands would
- 26 be at this stage, major shopping would have been permitted, isn't that right?
- 27 A. That's right.
- 28 Q. 741 Under that zoning?
- 29 A. It's in the matrix.
- 15:39:17 30 Q. 742 Sorry?

- 15:39:18 1 A. You can see it in the matrix.
- 2 Q. 743 Yes. In fact, if we return to look at the matrix, at page 730. And if you
- 3 look four up from the bottom on that document where it says, shops, major sales
- 4 outlet and you see the two little slashes under C and E you will see that the
- 15:39:36 5 only areas in which major sales outlet or major shopping is permitted is the
- 6 lands zoned C and E, isn't that right?
- 7 A. That's right.
- 8 Q. 744 Major town centre such as say --
- 9 A. Tallaght.
- 15:39:49 10 Q. 745 -- it was proposed for Quarryvale ultimately.
- 11 A. Tallaght or Blanchardstown.
- 12 Q. 746 And then a C zoning, isn't that right?
- 13 A. That's right.
- 14 Q. 747 So in terms of the type of shopping that you can put on a piece of land. It is
- 15:40:00 15 of greater advantage to a developer that his lands are zoned C than they're
- 16 zoned C2?
- 17 A. That's correct.
- 18 Q. 748 Because you will you will be able to put the multiples, the major shops on to
- 19 it, isn't that right?
- 15:40:12 20 A. Yes.
- 21 Q. 749 And you will also get a much greater floor space for retail.
- 22 A. You should do, yes.
- 23 Q. 750 That follows automatically doesn't it?
- 24 A. Well if --
- 15:40:19 25 Q. 751 Because of this zoning.
- 26 A. Yes, generally speaking, yes.
- 27 Q. 752 So that in fact the greatest amount of shopping you can have is on a D zoning,
- 28 which is the major town centre say, for example, Tallaght. Following by C,
- 29 isn't that right?
- 15:40:32 30 A. That is right.

- 15:40:33 1 Q. 753 And then diminishing down through C2 and C1, isn't that right?
- 2 A. Well you're talking about quantity, I'm talking -- what this talks about really
- 3 is the size of the units.
- 4 Q. 754 Yes.
- 15:40:45 5 A. I mean, C2. That C2 in Dundrum was a significant amount of shopping as it
- 6 stood, but you couldn't, under that zoning, put in any new major sales outlets
- 7 whereas you could in C, that's definite.
- 8 Q. 755 Isn't that right? I mean, if the C zoning had stayed unchanged in the Pye
- 9 centre lands in Dundrum they would have been able to build, at that stage, the
- 10 equivalent of the Quarryvale with some modifications or Tallaght Town Centre
- 11 with some modifications, but you could never have done that on a C2 zoning,
- 12 isn't that right?
- 13 A. Well you wouldn't have got to that scale because of the size of it but in
- 14 principle, yes.
- 15:41:24 15 Q. 756 Isn't that the essential difference between the two?
- 16 A. Yes.
- 17 Q. 757 So that the whole question of allowing major sales outlet or retail on a piece
- 18 of land that's zoned C2 is important, isn't that right?
- 19 A. Yes.
- 15:41:34 20 Q. 758 So that if one was to bring a motion that says keep the lands C2, but permit
- 21 major sales outlets, that effect in reality in terms of retail gives them a C
- 22 zoning, isn't that right?
- 23 A. Well it gives them a C zoning --
- 24 Q. 759 For retail.
- 15:41:52 25 A. In relation specifically just to the retail, yes.
- 26 Q. 760 Just confining it now to the moment for the retail. If you have C2 zoning,
- 27 which does not permit in principle major sales retail outlet, isn't that right?
- 28 Under the definition.
- 29 A. C2.
- 15:42:07 30 Q. 761 C2.

15:42:07 1 A. Yes.

2 Q. 762 But you amend for one particular location the permitted retail to include major
3 sales?

4 A. Yes.

15:42:15 5 Q. 763 In effect what you are doing, insofar as retail is concerned, only retail, is
6 you are converting your C2 zoning to a C for the purposes of shopping only,
7 isn't that right?

8 A. Well it's nearly right, not quite right.

9 Q. 764 If I'm wrong correct me, please?

15:42:33 10 A. It's not right in the sense that you still have to meet the objectives of the
11 C2 zoning which are relating to the quality of the architecture and the
12 preservation of the amenities and so on.

13 Q. 765 Yes.

14 A. If you can do that and get your shopping in, well then yes you're right.

15:42:48 15 Q. 766 But what it means is that major sales outlet would be permitted in principle,
16 isn't that right?

17 A. In principle, yes.

18 Q. 767 So that would be subject to the Planning Department agreeing to what you were
19 proposing, isn't that right?

15:43:00 20 A. Yes.

21 Q. 768 Whereas if you didn't have that --

22 A. They couldn't even begin to agree.

23 Q. 769 -- you couldn't even make a planning application.

24 A. Well you could make one but would you get refused.

15:43:10 25 Q. 770 Absolutely. So in effect when we come to look at what happened in 1993 with
26 the decision that was made by the members of Dublin County Council on the 16th
27 of October 1993. That in effect is what was decided for the northern lands,
28 isn't that right?

29 A. C2.

15:43:28 30

15:43:28 1 JUDGE FAHERTY: 1992.
2
3 MS. DILLON: 1992 I beg your pardon. For October 1992, isn't that right?
4 A. This was putting in the written objective?
15:43:39 5 Q. 771 To allow --
6 A. To allow for major sales.
7 Q. 772 -- for Major sales outlet.
8 A. If that's when that happened, yes.
9 Q. 773 That happened on the 16th of October 1992.
15:43:49 10 A. Yeah.
11 Q. 774 It's the first motion that was brought, I think, by Councillor Mitchell and if
12 you look at the extract from that at page 1514. "And it was proposed by
13 Councillor Mitchell and seconded by Councillor Fitzgerald that Dublin County
14 Council hereby resolves to adopt the draft C2 zoning for Dundrum village but
15 with the inclusion of the use class shops, major sales outlet as while the
16 objective to protect and enhance the spacial, physical and social character of
17 the village is considered desirable, to exclude major shopping facilities is
18 premature and would be detrimental to the village as the shopping focus of the
19 area." Isn't that right?
15:44:31 20 A. That's right.
21 Q. 775 Now, the effect of that in simple layman terms was to leave the C2 zoning on
22 the northern Dundrum lands but to permit major retail to be considered by the
23 planning officers, isn't that right?
24 A. That's right.
15:44:43 25 Q. 776 And if that motion had not been brought in in a way and it had remained a C2
26 zoning only, major retail or major shopping outlet could not have been
27 considered by the Planning Department, isn't that right?
28 A. That's correct, yeah.
29 Q. 777 Now, the second motion that was brought on that occasion by councillors
15:45:00 30 Mitchell and Fitzgerald is on the next page at 1515. And this motion concerned

15:45:08 1 the Pye Lands and this proposed that the Pye Lands would revert to the 1983
2 Development Plan subject to a change to the Written Statement that it would be
3 Council policy to encourage and promote the development of the area for tourism
4 related recreational and/or light industrial uses, isn't that right?

15:45:30 5 A. Yes.

6 Q. 778 Now, two things are happening on that motion, I suggest to you, Mr. Murray, one
7 is that there is a change being proposed to the map, in that the map is now
8 going to revert from the C zoning back to A, E and C1, isn't that right?

9 A. That's right.

15:45:44 10 Q. 779 And the second thing that's being proposed by the councillors is a change to
11 the Written Statement?

12 A. That's right.

13 Q. 780 And what ultimately happened is that the change to the map which took place was
14 reversed, isn't that right?

15:45:56 15 A. That's correct.

16 Q. 781 But there was never a reversal to the Written Statement?

17 A. In fact it was confirmed.

18 Q. 782 It was confirmed and this motion having been passed, if one wished to change
19 what was in the Written Statement, that itself would have required a motion,
15:46:09 20 isn't that right?

21 A. That's right.

22 Q. 783 And no such motion ever took place?

23 A. No.

24 Q. 784 So that in effect what happened was even though ultimately the C zoning
15:46:18 25 returned onto the Pye Lands, they were limited by what they could build on and
26 by virtue of the change in the Written Statement, is that a fair statement?

27 A. Yes, that's correct.

28 Q. 785 And I think in June of 1993, at a meeting, I think you were probably present at
29 all of the meetings, at 1523, the change to the Written Statement was accepted,
15:46:45 30 isn't that right, in relation to the Pye Lands? You see there, "lands at

- 15:46:51 1 Dundrum Pye lands" that would be Council --
- 2 A. Yes, that brings the paragraph into the Written Statement.
- 3 Q. 786 And it subsequently went on public display at 1526, and as part of that public
- 4 display the Written Statement also went on public display at 875, isn't that
- 15:47:18 5 right?
- 6 A. That's right.
- 7 Q. 787 And while subsequently a motion was brought in 1993 which was heard by the
- 8 Council on the 2nd of November 1993 that motion only addressed the map insofar
- 9 as the Pye Lands were concerned, isn't that right?
- 15:47:40 10 A. That's correct, that's correct.
- 11 Q. 788 And it reversed the zoning back to a C zoning as it had been on the 1991 draft,
- 12 isn't that right?
- 13 A. Back to C zoning, that's correct.
- 14 Q. 789 But no application was made to the Council to reverse the Written Statement.
- 15:47:46 15 A. That's correct.
- 16 Q. 790 And ultimately what happened was that the Dundrum northern lands were confirmed
- 17 as zone C2 but major shopping was permitted, isn't that right?
- 18 A. That's correct.
- 19 Q. 791 And the southern lands, which were zoned C, which on its face would have
- 15:48:03 20 permitted major shopping was confined to tourism and leisure related matters
- 21 that would compliment the existing village centre, isn't that right?
- 22 A. Well it didn't say confined, it said to promote those uses and commercial uses,
- 23 complimentary to, which would be complimentary to the existing village core.
- 24 It doesn't actually say confined to those things, encourage and promote those
- 15:48:28 25 things.
- 26 Q. 792 Yes. In effect at page 932, when you take the two together, Mr. Murray, when
- 27 you take the fact that the northern lands, which are zoned C2, permit major
- 28 shopping and the southern lands which are zoned C but which have this
- 29 limitation or portion of the Written Statement attaching to them together. Had
- 15:48:51 30 an application been made for the Pye Lands for major retail, would it have been

- 15:48:56 1 permitted?
- 2 A. Well an application was made.
- 3 Q. 793 I'll come to that.
- 4 A. Well, I can't really answer what would have happened if something had happened.
- 15:49:07 5 Q. 794 Right. But looking back --
- 6 A. Something did happen then things happened as a result of that.
- 7 Q. 795 Yes but looking at that paragraph 329 of the Written Statement, in the light of
- 8 your years experience as Planning Officer, this is a statement that it's
- 9 Council policy that the Pye Lands, to encourage and promote the development of
- 15:49:24 10 the area for tourism related recreational or light industrial uses. Do either
- 11 of those three uses include major retail?
- 12 A. The C zone includes major retail.
- 13 Q. 796 Yes.
- 14 A. This is the tempering of the zoning.
- 15:49:39 15 Q. 797 Yes.
- 16 A. Which means that the Council's policy is to encourage and promote tourism,
- 17 recreation, light industrial. It doesn't say it cannot have or won't allow
- 18 retail but whatever it does allow under the C zone, including those uses, must
- 19 be complimentary to the commercial function and that's the key thing, must be
- 15:50:00 20 complimentary to the commercial function of the existing village core. In
- 21 other words if retail is proposed, which is of excessive size, which would have
- 22 an adverse effect on the existing core village, well then it would be contrary
- 23 to this paragraph, but whereas retail as such isn't contrary to that paragraph.
- 24 Q. 798 And I think that in December of 1994, I think in October 1994, a planning
- 15:50:26 25 application was made and a meeting took place in December 1994 in connection
- 26 with the proposed planning application on the Pye Lands, isn't that right?
- 27 A. Yes.
- 28 Q. 799 In Dun Laoghaire-Rathdown County Council. And one of the objections or the
- 29 main objection that arose at the meeting of the 19th of December 1994 was that
- 15:50:45 30 the retail element of the proposed development of the Pye Lands offended the

15:50:50 1 Written Statement, is that right?

2 A. Yes.

3 Q. 800 Yes. And that is because the amount of retail that was sought to put on the

4 Pye Lands was in excess or greater than what was already on Dundrum Main

15:51:03 5 Street, isn't that right?

6 A. It was partly that and partly its location.

7 Q. 801 Yeah. But the main and I think you spoke at that meeting, isn't that right?

8 At page 2105, there is a summary of the points raised at the meeting and then

9 you see at 2107, following various submissions made by the councillors you

15:51:26 10 represented the Manager, isn't that right?

11 A. Yes.

12 Q. 802 And you said that there appear to be two primary concerns, one was the material

13 contravention issue and that was a material contravention of the Written

14 Statement, isn't that right?

15:51:39 15 A. Yes.

16 Q. 803 Because the Manager had said at page 2105, at the second paragraph, "the main

17 issue was the retail element stating that the existing Crazy Prices comprised

18 4,458 square metres of the shopping centre which was the proposed planning

19 application with total 12,085 square metres. He stated the existing Dundrum

15:52:04 20 Shopping Centre comprised 9,250 square metres and new centre was 33 percent

21 larger than the existing Dundrum Shopping Centre. He referred to paragraph 329

22 of the Dublin County Council 1993 Development Plan and read it in full to the

23 meeting. And stated that there was concern expressed for the C zoning at the

24 1993 review and because of this concern paragraph 329 was inserted in the

15:52:28 25 Written Statement."

26

27 So that insofar as the Manager addresses the meeting here. He is tying

28 paragraph 329 to the retail concerns that have been expressed by the Council at

29 the meeting in which the decision was made to rezone the lands in this way,

15:52:42 30 isn't that right?

15:52:43 1 A. Before I answer that. Can I just see what I said on the page after?

2 Q. 804 Yes, of course you may, at 2108. You then, I was just coming this, because you

3 then go on to state that, "the Pye Lands was unique site and many attractive

4 features and then you read paragraph 329 to the meeting. And you stated that

15:53:03 5 the Planning Department considered the scale of retail element in the proposal

6 brought it outside the parameters 3329 and it was materially different from the

7 intention of the statement. It was in this way and this way only that the

8 proposal materially contravened the Development Plan."

9 A. Yes.

15:53:21 10 Q. 805 So it is the retail element of the proposed plan on the Pye lands and its size

11 that contravenes paragraph 329, isn't that right?

12 A. That's what we appear to be saying there, yes.

13 Q. 806 Yes. And taking that in connection with what the Manager had said, it seems to

14 have been everybody's understanding in December 1994 that the reason for

15:53:40 15 putting paragraph 329 into the Written Statement was because of a concern about

16 retail, isn't that right?

17 A. It was because of a concern about the existing village and the existing centre.

18 Q. 807 Yes.

19 A. And the anxiety that nothing would be done that would prejudice it.

15:53:54 20 Q. 808 The existing centre.

21 A. Yes.

22 Q. 809 Do you know Mr. Murray or can you remember how that problem was resolved?

23 A. Which problem?

24 Q. 810 The problem about the paragraph 329 and the planning application that was being

15:54:06 25 made?

26 A. Well, there were meetings I think then and when I was reading the brief --

27 Q. 811 Yes?

28 A. -- the word that the development be "flipped" was used. And that rang a bell

29 for me and one of the big problems although it's not stated there, Chairman,

15:54:27 30 was that the retail element of this new proposal was located at the remote

15:54:31 1 extreme from the existing town centre so that it would have been separated from
2 it by a considerable distance. And because of its size it would then become or
3 may very well have become a counter magnet and a modern counter magnet to the
4 existing centre which would have had obviously drawn the customers and resulted
15:54:54 5 in the existing centre falling into decline. And even though it may not be
6 mentioned in those notes, it wasn't just the size of the retail element, but
7 also its location which was a problem and the suggestion was made in the course
8 of I suppose consideration of that application or that proposal that the
9 development be flipped. In other words, that the retail portion of the element
15:55:19 10 be located much more closely integrated with the existing centre. In which way
11 it wouldn't compete with it but it would extend it. It would all become part
12 of larger centre and integrate together and function as a unit. That was the
13 thinking behind the idea of flipping the development.

14 Q. 812 And the purpose of that was to move the retail element of the Pye Lands to the
15:55:42 15 north of the Pye Lands site so it would adjoin the southern portion of the
16 Dundrum Town Centre or Village Centre?

17 A. That's correct.

18 Q. 813 And therefore be considered by the Planning Department to be complimentary to
19 the existing village centre.

15:55:53 20 A. And thus meet the requirement of the paragraph.

21 Q. 814 Of paragraph 329 of the 1993 Written Statement. But I think ultimately a
22 change took place in the, in 1997, 1998, isn't that right? And the town centre
23 zoning was moved onto the Pye Lands at that stage.

24 A. Well what happened I suppose was that Dun Laoghaire/Rathdown became its own
15:56:14 25 authority and Dundrum became like the second town of Dun Laoghaire/Rathdown.
26 And Dun Laoghaire/Rathdown had to think about its own character and its own
27 urban hierarchy rather than being part of the larger Dublin County Council, it
28 was now on its own and gave Dundrum the status of town centre.

29 Q. 815 And I think the Council became aware, in early 1996, that a receiver had been
15:56:39 30 appointed over the Pye Lands, isn't that correct?

- 15:56:41 1 A. That's correct, yes.
- 2 Q. 816 That was a matter of common knowledge at the time. Can I ask you, prior to
3 that happening, were you ever aware of Mr. Richard Lynn having an involvement
4 in the Pye Lands?
- 15:56:51 5 A. I've no real recollection of him being involved. I know he was very much
6 involved in other particular lands.
- 7 Q. 817 And he was involved I think in particular with Cherrywood and the Monarch
8 Properties developments?
- 9 A. Very much so, yeah.
- 15:57:04 10 Q. 818 Were you aware of any involvement of Fintan Gunne or Pat Lafferty in connection
11 with the Pye lands?
- 12 A. Yes, Pat Lafferty at one stage was involved. I think that was at the beginning
13 of when Castlethorn were starting to get involved in the acquisition of the
14 lands.
- 15:57:19 15 Q. 819 And would that have been after the receiver was appointed in 1996?
- 16 A. Well I wouldn't have known precisely when the receiver was appointed but in or
17 around that time. I think I may have a reference in one of my diaries.
- 18 Q. 820 Yes at 2564, in March of 1996 you have an entry for Fintan Gunne and Pat
19 Lafferty and a meeting the following day on the 14th of March.
- 15:57:40 20 A. Oh, yes.
- 21 Q. 821 All right. And I think the following day, at 2565, you have an entry for Pat
22 Lafferty.
- 23 A. That's probably the phone call probably came on the earlier entry and this is
24 probably the meeting then.
- 15:57:56 25 Q. 822 Yes. And I think in 1998 at 2566. You appear to have a meeting on the 9th of
26 April with Mr. Lafferty and Mr. Reilly. Would that be Mr --
- 27 A. It's Joe Reilly, yes of Castlethorn.
- 28 Q. 823 Who ultimately I think did develop, isn't that right?
- 29 A. That's right.
- 15:58:16 30 Q. 824 What is now the present Dundrum centre.

- 15:58:19 1 A. Dundrum Town Centre, that's correct.
- 2 Q. 825 Now, I think and if you just give me a moment. While you had a number of
- 3 meetings with Mr. Kelly. You also have an entry. One entry in your diary that
- 4 I want to draw your attention to, which I think is an entry which connects.
- 15:58:41 5 Just one moment, yes, at 949. It's a 1995 entry, Mr. Murray and it's just this
- 6 entry about the Pye Lands. "Ten o'clock Pye Lands Dundrum." And then beneath
- 7 that "also Cherrywood." Do you see that entry?
- 8 A. Yes.
- 9 Q. 826 Now, can -- that suggests first of all and on a plain reading of it that you
- 15:59:25 10 are connecting at the time that you make this entry the Pye Lands and
- 11 Cherrywood, isn't that right?
- 12 A. Well it could have meant that both of these areas were being discussed with
- 13 somebody internally at the same meeting.
- 14 Q. 827 Yes.
- 15:59:39 15 A. Maybe roads guys or maybe some other planners, I don't know. It doesn't say
- 16 who I'm meeting.
- 17 Q. 828 Yes. Well you also have an entry at 4 o'clock for the Pye Lands on their own
- 18 on the same day. Do you see that?
- 19 A. Yeah.
- 15:59:52 20 Q. 829 Now, is it possible that you were meeting Mr. Lynn at that stage in 1995 about
- 21 both the Pye Lands and about Cherrywood?
- 22 A. I suppose it is possible but I couldn't say if it's a fact or not.
- 23 Q. 830 Were you aware that in June or July of 1995 Mr. Richard Lynn had apparently
- 24 been retained by Mr. Kelly in connection with promoting the zoning and
- 16:00:19 25 redevelopment of the Pye Lands?
- 26 A. I don't now know if I was aware or not.
- 27 Q. 831 Did you ever have a meeting with Mr. Kelly at which he disclosed to you that
- 28 Mr. Lynn had been retained by him and that Mr. Lynn was at that stage a person
- 29 whom he described as his zoning consultant?
- 16:00:42 30 A. I don't believe I ever heard that word zoning consultant. Most of my meetings

- 16:00:46 1 with Mr. Kelly I've really no memory of them. They were, they just weren't
2 memorable. I certainly don't remember him and Mr. Lynn coming in. I'm sorry.
- 3 Q. 832 If Mr. Lynn was at that stage retained both by Mr. Kelly in connection with the
4 Pye Lands and Monarch Properties in connection with Cherrywood, that would
16:01:09 5 explain the entry if you were meeting Mr. Lynn on the 22nd, isn't that right?
- 6 A. Well, it doesn't explain the two entries. It could be a link between the two
7 at the nine o'clock -- at the ten o'clock meeting.
- 8 Q. 833 And were you aware of Mr. Lafferty, Mr. Patrick Lafferty having any involvement
9 in the Pye Lands?
- 16:01:36 10 A. Well, yes, I was later on. I don't know was it then.
- 11 Q. 834 And when did you --
- 12 A. He showed me a diary entry of a couple of years later when he came in to see me
13 about it with Mr. O'Reilly and certainly around then I was aware.
- 14 Q. 835 Were you aware in 1995 that he was involved?
- 16:01:54 15 A. I couldn't tell you.
- 16 Q. 836 If I could show you at 2160. This is a letter of the 26th of June 1995 and
17 this is a letter between Mr. Tom Lennane, who worked with Mr. Kelly, to Mr. Joe
18 Laden, who was involved with Donnelly Group Limited. And it's referring to a
19 meeting in connection with the Pye Lands that he says took place. The first
16:02:35 20 paragraph says, "the County Manager reaffirmed his support for the project on
21 Friday the 23rd. And then further information detailing clarification is
22 required by the County Council and to this end the principal officer made
23 contact on Friday following the Thursday agreement to meet with the architects
24 to agree as above. The principal officer also could be confirmed support for
16:02:47 25 the project." Do you see that entry?
- 26 A. Yes.
- 27 Q. 837 That entry is made in a letter dated the 22nd of June 1995 and it's referring,
28 22nd of June 1995, and it's referring two meetings one on the previous Friday
29 and one on the previous Thursday. Do you see that?
- 16:03:03 30 A. Yes.

- 16:03:04 1 Q. 838 And if we go back to your diary of the previous Friday, at 949. We see there's
2 no entry, isn't that right? There's one for "Seamus Neville, Cherrywood." But
3 on Thursday the 22nd you have two entries for the "Pye Lands", isn't that
4 right?
- 16:03:31 5 A. Yes.
- 6 Q. 839 And that would suggest that it's likely you were at the meetings that are being
7 referred to by Mr. Linnane in his letter of the 26th, isn't that right?
- 8 A. It's possible.
- 9 Q. 840 Yes. And then he goes on to say in his letter at 2160. "Meetings took place
16:03:47 10 over the at weekend with various County Council members of differing parties
11 support for the project with the County Manager's backing is widespread and
12 sufficient." And on the following page at 2161. "Mr. Lynn has requested
13 telephoned you on Friday evening," that's addressed to Mr. Laden. And then in
14 the last paragraph, "the County Manager on the basis of the Thursday meeting."
16:04:09 15 That's the meeting at which you accept you were probably present. "Telephoned
16 a member, presumably of the Council this morning and re confirmed his support
17 for the project. The County Manager also confirmed his offer to meet with the
18 bank to confirm his support for the project." Do you see in a reference to the
19 meeting?
- 16:04:27 20 A. Yes, yes.
- 21 Q. 841 First of all, can I ask you whether you recollect whether the Manager indicated
22 the support for the project that's outlined in that letter?
- 23 A. I don't have a recollection of that.
- 24 Q. 842 Can you recollect the Manager offering or being asked to attend with
16:04:40 25 Mr. Kelly's bankers in order to provide whatever comfort Mr. Kelly felt the
26 Manager could provide?
- 27 A. No, I can't.
- 28 Q. 843 Do you have any recollection at all, Mr. Murray, of the events surrounding
29 these entries in your diary and the correspondence surrounding it?
- 16:04:55 30 A. I don't, on those particular occasions, no.

- 16:04:58 1 Q. 844 At this time there was a dispute between Mr. Kelly, on the one part, and
2 Mr. Laden, of the other part, over the Pye Lands and security on the Pye Lands.
3 And Mr. Laden was anxious that the objective note be deleted and it appears
4 that Mr. Kelly wanted to bring a planning application.
- 16:05:17 5 A. Yes.
- 6 Q. 845 And that that was an issue in dispute between them. Does that assist you in
7 recollecting whether or not the assurances were given by the Manager that are
8 recounted by Mr. Linnane?
- 9 A. If I was at a meeting where the Manager gave those assurances I don't remember
16:05:35 10 it.
- 11 Q. 846 Isn't it likely or is it likely can I ask you, I suppose you can't really
12 answer this, do you ever remember circumstances in which a Manager was asked to
13 attend at the bank for the purpose of provide assurance in connection with
14 proposed development?
- 16:05:51 15 A. I couldn't really answer that.
- 16 Q. 847 Well either you remember such a meeting, Mr. Murray, where such assurances were
17 given you or you don't?
- 18 A. I wasn't the County Manager.
- 19 Q. 848 Yes. But you were present at the meeting at which this assurance is supposed
16:06:03 20 to have been given, isn't that right, by the County Manager?
- 21 A. I would have seen nothing amiss in a Manager agreeing to give the opinion, that
22 he has expressed, to a bank in support of a project.
- 23 Q. 849 Yes.
- 24 A. It's his opinion, he is entitled to give it and --
- 16:06:22 25 Q. 850 And would it be fair to say that insofar as the planning Department of Dun
26 Laoghaire-Rathdown County Council was concerned and the Manager in particular,
27 they were anxious to see some development on the Pye Lands site?
- 28 A. Yes.
- 29 Q. 851 And that they were anxious to facilitate, insofar as they could, either
16:06:39 30 Mr. Kelly in his development or whoever else came after Mr. Kelly or the lands

16:06:43 1 were sold to?

2 A. Yes, a satisfactory development.

3 Q. 852 Thank you very much Mr. Murray. If you would answer any questions.

4

16:06:50 5 CHAIRMAN: Mr. Wolfe?

6

7 MR. WOLFE: No questions, Mr. Chairman.

8

9 CHAIRMAN: Thank you very much.

16:06:57 10

11 **THE WITNESS THEN WITHDREW.**

12

13 MR. QUINN: Mr. Trevor Matthews, please.

14

16:07:06 15 **MR. TREVOR MATTHEWS, HAVING BEEN SWORN, WAS QUESTIONED BY MR. QUINN**

16 **AS FOLLOWS:**

17

18 MR. QUINN: Good afternoon Mr. Matthews.

19 A. Good afternoon.

16:07:32 20 Q. 853 You have already given evidence to the Tribunal in another Module and I think

21 you have told the Tribunal that you became a member of Dublin County Council on

22 the 9th of March 1992, is that correct?

23 A. That's correct.

24 Q. 854 And you were requested for a statement in relation to this Module on the 28th

16:07:47 25 of February 2006 and that statement you supplied on the 6th of March and it's

26 at page 477 of the brief, isn't that correct?

27 A. Yes, that's it.

28 Q. 855 Now, Mr. Matthews, you weren't a member of the Council, of course, in 1991 when

29 the vote took place on the Draft Development Plan.

16:08:08 30 A. No.

- 16:08:09 1 Q. 856 But you are a member of the Council I think in October 1992, isn't that
2 correct?
- 3 A. That's correct.
- 4 Q. 857 And if we look at the notes of the meeting for the 16th of October 1992, at
16:08:20 5 page 624. You are noted as being in attendance, isn't that correct? And we
6 see at page 630, the extract from the meeting in relation to this matter. And
7 in particular we see there a motion proposed by Councillor Mitchell and
8 seconded by Councillor Fitzgerald which relates to the Pye Lands, isn't that
9 correct?
- 16:08:42 10 A. That's correct.
- 11 Q. 858 And the Pye Lands were within your ward, is that correct?
- 12 A. Yeah, the Pye Lands. Well actually it's the -- the Dundrum ward at that stage
13 came down the Ballinteen avenue and the Pye Lands were on the right. So
14 technically they were in the Stillorgan ward so if you like they are the
16:09:02 15 Dundrum area, but technically it's the Stillorgan ward.
- 16 Q. 859 Yes. And on the first motion by Councillors Fitzgerald and Mitchell, which
17 related to the Dundrum village was passed unanimously, isn't that correct?
- 18 A. Well.
- 19 Q. 860 We see that being dealt with at 629.
- 16:09:27 20 A. Sorry.
- 21 Q. 861 629 you see the councillors Mitchell and Fitzgerald in relation to Dundrum
22 village?
- 23 A. Down at the bottom?
- 24 Q. 862 Yes. Following discussion it was passed unanimously.
- 16:09:38 25 A. Yes.
- 26 Q. 863 There had been a second motion by Councillor Fitzgerald and that was withdrawn?
- 27 A. Yes.
- 28 Q. 864 And then we have the motion by Councillors Fitzgerald and Mitchell.
- 29 A. Yes.
- 16:09:45 30 Q. 865 That I have referred to.

16:09:47 1 A. Yes.

2 Q. 866 And I think you spoke on the discussion, as did Councillor Lydon, isn't that
3 correct? Do you see there, just before the vote is recorded. "Following
4 discussions to which Councillors Mitchell, Fitzgerald, Lydon, Hand, Greene,
16:10:03 5 Gordon, Matthews."

6 A. Am I on the wrong page here?

7 Q. 867 630.

8

9 CHAIRMAN: No that's --

16:10:13 10 A. Sorry. Yes. I see that, yes.

11

12 MR. QUINN: Yes. That records you as having spoken on the motion.

13 A. Yes.

14 Q. 868 And you spoke on the motion, isn't that right?

16:10:23 15 A. Yes.

16 Q. 869 Now, would you tell the Tribunal how you came to speak on that motion and what
17 you, what the tenure of what you were suggesting at that stage was?

18 A. Well basically I mean I was in favour of the development of the Pye site from
19 the very beginning because it was a derelict site that was lying there and that
16:10:43 20 needed to be developed.

21 Q. 870 I think Councillor Matthews that it was the case that no matter which way the
22 vote went in relation to the site there was going to be development on the
23 site. This wasn't a situation of a site being converted from a B agricultural
24 zoning to either an A or an E, industrial or residential zoning. It was always
16:11:02 25 going to be developed, isn't that right?

26 A. Yes.

27 Q. 871 It's just a question of what type of development was going to take place?

28 A. I was always in favour. So I would have made a contribution to say that I was
29 in favour of the development of the land.

16:11:13 30 Q. 872 Yes.

- 16:11:14 1 A. I mean.
- 2 Q. 873 Had anybody sought your support in relation to the matter?
- 3 A. No, I was in -- I was always in favour of development and I have been
- 4 consistently in favour of that.
- 16:11:25 5 Q. 874 Did you ever discuss --
- 6 A. What date?
- 7 Q. 875 This is October '92?
- 8 A. '92. So I was very new at that stage. It probably would have been one of my
- 9 first contributions to the Council.
- 16:11:35 10 Q. 876 Had anybody sought your support in relation to the development?
- 11 A. Not that I can recall.
- 12 Q. 877 Nobody had discussed it with you either developer or fellow councillor?
- 13 A. That not that I can recall. The only person that ever discussed anything about
- 14 the Pye site with me, from say a developer point of view with was Mr. Aidan
- 16:11:52 15 Kelly.
- 16 Q. 878 Had Mr. Kelly discussed it with you prior to this vote on the 16th of October
- 17 1992.
- 18 A. I couldn't say that, I just don't know.
- 19 Q. 879 Did you ever speak to Mr. Laden in relation to the matter?
- 16:12:01 20 A. No.
- 21 Q. 880 I think Councillor Mitchell, in giving evidence, said that Mr. Laden was
- 22 closely identified with the Fianna Fail party?
- 23 A. Well I don't know Mr. Laden so I can't answer that.
- 24 Q. 881 You don't know Mr. Laden?
- 16:12:26 25 A. No.
- 26 Q. 882 But you think that maybe Mr. Kelly approached you in relation to the matter?
- 27 A. Well I did speak to Mr. Kelly. I mean, but he is the only contact that I had
- 28 with regard to the Pye Lands.
- 29 Q. 883 Well if we look at the proposal there, Mr. Matthews. Namely, that the 1983
- 16:12:30 30 zoning would relate to the lands, would apply to the lands. I think the 1983

- 16:12:35 1 zoning provided for engineering, residential and C1, which related to -- sorry,
2 industrial I should say, which is the E zoning, residential and C1 where the
3 Crazy Prices site was. All of those proposals would have led to development,
4 isn't that right, either industrial or residential development on the site?
- 16:13:00 5 A. It would but I don't know whether it would have been appropriate for that
6 development.
- 7 Q. 884 In what sense?
- 8 A. Well, I don't know it would be appropriate to have it all industrial or
9 whatever you were saying, but I think you needed to have the retail and the
16:13:14 10 proper mix on it.
- 11 Q. 885 Would it be fair to say that the divergence of opinion that arose in relation
12 to the site, that is in October '92, related to whether or not it would be
13 developed for residential or industrial development as opposed to town centre
14 development?
- 16:13:29 15 A. Well I was in favour of it being a town centre development.
- 16 Q. 886 I see.
- 17 A. I thought.
- 18 Q. 887 Yes.
- 19 A. I mean, I have been consistently in favour of that.
- 16:13:40 20 Q. 888 Yes.
- 21 A. And I mean that was my own view on the matter.
- 22 Q. 889 But the Manager's view, I think, was that to vote in favour of town centre in
23 this area would be to extend the village southward, isn't that right?
- 24 A. Yes.
- 16:13:53 25 Q. 890 Yes.
- 26 A. And I thought the Manager was wrong in this regard.
- 27 Q. 891 I see. We see the Manager's proposals at 629 and you thought that the Manager
28 was wrong in his proposal?
- 29 A. I did.
- 16:14:04 30 Q. 892 You have no recollection of anybody, other than possibly Mr. Kelly, speaking to

- 16:14:07 1 you in relation to the matter?
- 2 A. Mr. Kelly is the only one who spoke to me with regard to the Pye Lands as far
- 3 as the owners or developers, whatever you want to call them, are concerned.
- 4 Q. 893 Yes. In the past we have heard evidence of proposals being discussed and
- 16:14:21 5 Fianna Fail meetings in advance of being debated at Council meetings, do you
- 6 recall any meetings in Conways, for example, in advance of the upcoming Council
- 7 meetings?
- 8 A. I think I told the Tribunal.
- 9 Q. 894 Were proposals were discussed?
- 16:14:35 10 A. I think I told the Tribunal before that I didn't attend those meetings, I was
- 11 coming from work and I just hadn't time to attend them. So I don't know. I
- 12 attended I think one or two of them and quite frankly I thought they were a
- 13 waste of time.
- 14 Q. 895 Yes. Do you know, for example, did you know, for example, that Councillor Hand
- 16:14:53 15 and your colleague Councillor Lydon had a proposal in relation to the lands?
- 16 A. Well I -- this is the one that I read in the brief.
- 17 Q. 896 Yes.
- 18 A. You're not talking about the motion later on.
- 19 Q. 897 No. I'm now in 1992 and I'm talking about the motion of signed, undated, but
- 16:15:11 20 signed by Councillor Hand and Councillor Lydon which was not dealt with on that
- 21 date.
- 22 A. Yeah well I saw it in the brief but I'd forgotten about it.
- 23 Q. 898 Well presumably you would have known that they had had a motion?
- 24 A. Well at the time I would have known that they had a motion.
- 16:15:29 25 Q. 899 Yes. And when you discussed the motion of Councillors Fitzgerald and Mitchell,
- 26 you knew that there was also a motion if it were reached from Councillor Hand
- 27 and Councillor Lydon, isn't that right?
- 28 A. Yes.
- 29 Q. 900 Now, in looking at the document on screen and looking at the vote in relation
- 16:15:46 30 to the Mitchell/Fitzgerald motion. And looking at those that vote in the

16:15:52 1 favour of it and I don't want you to mention any names. Can you tell the
2 Tribunal if there were any Fianna Fail supporters for that motion?
3 A. This is page 842, is it?
4 Q. 901 No. 630.
16:16:04 5 A. On the left 630.
6 Q. 902 Yes. And we're looking now at.
7
8 CHAIRMAN: That's the same page.
9
16:16:10 10 MR. QUINN: That's the same page. Sorry.
11 A. No, I don't think there's any Fianna Fail there.
12 Q. 903 There is no Fianna Fail support for the Mitchell/Fitzgerald motion, isn't that
13 right?
14 A. No, there doesn't seem to be.
16:16:26 15 Q. 904 Now, you say that none of your Fianna Fail colleagues discussed it with you?
16 A. That motion.
17 Q. 905 Yes.
18 A. Not that I can recall, no.
19 Q. 906 But you spoke in advance of that motion. And I think we see at 631 that you
16:16:40 20 voted against it, isn't that right?
21 A. Yeah, I would have spoken against that, yeah.
22 Q. 907 Did you hear Mr. Dunlop's evidence this morning and this afternoon?
23 A. I was here, yes.
24 Q. 908 Yes, did you hear Mr. Dunlop say that it was -- he had been told by Councillor
16:17:06 25 Lydon, Senator Lydon that his Fianna Fail colleagues were putting pressure on
26 him in relation to his proposals?
27 A. I heard that but I have no knowledge of any pressure. I mean, I was amazed to
28 hear that.
29 Q. 909 Yes. Did you know of any Fianna Fail wavering in relation to --
16:17:15 30 A. Any Fianna Fail what?

- 16:17:17 1 Q. 910 Wavering in relation to Mr. Lydon's proposals for this site in the lead up to
2 this vote in October '92?
- 3 A. No, no.
- 4 Q. 911 Do you recall any discussion with Councillor Fox, for example, in relation to
16:17:28 5 the matter?
- 6 A. No.
- 7 Q. 912 You do know that Mr. Dunlop has said in the past that Councillor Fox had told
8 him that you were going to support a particular proposal?
- 9 A. Yeah, but as I said in reply to the Tribunal before, I mean, Mr. Fox would know
16:17:45 10 what I was going to do. I wouldn't have had to have a discussion. He would
11 know what my views were on this sort of development.
- 12 Q. 913 Would he have known what your views were on the development in question here,
13 namely, the Pye Lands.
- 14 A. Well he wouldn't. I mean, he would know my -- he would probably be able to
16:18:05 15 have a good guess as to which way I was going to vote, put it that way.
- 16 Q. 914 Now, was there any opposition locally to the proposals here or was there any
17 support for the Manager's position?
- 18 A. Well there was some. I mean, some of the traders in the town were nervous
19 about it. Some of the residents were nervous about it because of the traffic
16:18:25 20 and what it would, the traffic or the increase of traffic in Dundrum. So there
21 was that opposition to it. But on the other hand, if you take the longer view,
22 Dundrum needed to be developed. The town was more or less, it was declining
23 and something had to be done and it made sense to me to develop the Pye site,
24 with the Dundrum site and develop the thing. The retail business and all of
16:18:57 25 that was going outside the county. And the -- there was no business coming
26 into Dundrum. So the whole thing needed to be developed.
- 27 Q. 915 Well the first, just on that point, Mr. Matthews. First of all, once the
28 unanimous vote had taken place in relation to the village centre lands. There
29 was going to be development in the village centre for a town centre, isn't that
16:19:26 30 right, which would include shopping, retail shopping. C2 zoning?

- 16:19:31 1 A. In the actual village itself?
- 2 Q. 916 Yes. That was the unanimous vote on or support for the Mitchell/Fitzgerald
- 3 motion on that date, the very first motion. If we could have 629, please?
- 4 A. 631 is up here now.
- 16:19:48 5 Q. 917 No. 629. The bottom of 629?
- 6 A. Yes.
- 7 Q. 918 Do you see the proposal by Councillor Mitchell and seconded by Councillor
- 8 Fitzgerald?
- 9 A. Yes.
- 16:19:57 10 Q. 919 That related to the Dundrum village C2 zoning together with retail shopping,
- 11 isn't that right? Major sales outlets?
- 12 A. Yes.
- 13 Q. 920 So there was no doubt but that there was going to be development there, isn't
- 14 that right?
- 16:20:12 15 A. I'm a bit confused now, is that in the existing Dundrum Town Centre?
- 16 Q. 921 No. What's referred as Dundrum village. Which is outside --
- 17 A. That's existing old village we're talking about.
- 18 Q. 922 Maybe it might be more appropriate if I put up 1549. This is a map and I am
- 19 now dealing with the area shaded --
- 16:20:35 20 A. It is the purple bit.
- 21 Q. 923 No, not not the purple bit.
- 22 A. No, I'm going the wrong way. Where the four is.
- 23 Q. 924 Yes.
- 24 A. Yes.
- 16:20:43 25 Q. 925 There is no doubt but that the Mitchell/Fitzgerald motion, which was
- 26 unanimously adopted --
- 27 A. Would be to upgrade that bit.
- 28 Q. 926 Yes. There was going to be development there, it was going to have C2 zoning
- 29 with, which would provide for major sales.
- 16:20:56 30 A. Yes, I understand. That's to upgrade that bit, which made sense at that stage.

16:21:01 1 Q. 927 And everybody was in favour of that, isn't that right?
2 A. Yes.
3 Q. 928 So the only area in dispute is the Pye Lands.
4 A. Yes.
16:21:08 5 Q. 929 And the issue in dispute in relation to the Pye Lands was the type of
6 development that would take place there.
7 A. Yes.
8 Q. 930 Isn't that right?
9 A. Yes.
16:21:15 10 Q. 931 And I think that Councillors Mitchell and Fitzgerald were suggesting that it
11 would revert to its 1983 zoning.
12 A. Yes.
13 Q. 932 Whereas I think Councillor Hand and Councillor Lydon were suggesting that it
14 would retain its C zoning.
16:21:30 15 A. Exactly.
16 Q. 933 Isn't that right?
17 A. Yeah.
18 Q. 934 So that was really the issue, isn't that right?
19 A. Yes.
16:21:35 20 Q. 935 I mean, I know there was an amendment to the Written Statement in relation to
21 the Mitchell/Fitzgerald motion.
22 A. Yeah.
23 Q. 936 But that was really the debate --
24 A. It was and I was in favour of the C motion zoning.
16:21:46 25 Q. 937 And you say that you spoke to Mr. Kelly about it, you can't recall speaking to
26 anybody else in relation to it and you've no recollection of anybody other than
27 Mr. Kelly seeking support for it.
28 A. Well the conversation I had Mr. Kelly, I'm not sure whether it's this time or
29 whether it's on a bit further was, I met him on the, in Dundrum village and he
16:22:05 30 said to me that he had a plan, an integrated plan for Dundrum and I asked him

16:22:11 1 could I see the plan and he said well it's not ready yet and I said well I'd
2 still like to see it if I may just to see what's evolving from it. And he
3 brought me up to or I went was up to his offices in Dundrum in Pye and I looked
4 at the plans and I thought they were very good. And he, I don't know whether
16:22:30 5 he showed them to me when they were completed or not. But then I got this
6 booklet, "the gateway to the mountains" booklet and I think it must have come
7 from him and not from the Dundrum Chamber of Commerce because it says under the
8 forward, where he wrote in the thing, it says "with the compliments of Aidan
9 Kelly." So I presume that the booklet came from him. And I thought that was a
16:22:59 10 very good plan. But I can't -- I don't know whether we're talking about 1992
11 or I don't know whether we're talking about 1993. So that's where I have a
12 difficulty saying when I first had a discussion with Aidan Kelly about it
13 because I'm just not sure.
14

16:23:15 15 Now what we're talking about here in 1992, I would have been, very, very new.
16 And I wouldn't have known the procedures. I wouldn't have known about draft
17 plans going on public display and coming back and all of that sort of thing.
18 So that might be why I'm a little bit at a loss there, but I was quite clear in
19 what I want the to see and how I wanted to see Dundrum developed.

16:23:39 20 Q. 938 We'll come to 1993 in a moment. Just sticking with 1992 here.

21 A. I'm just saying that if I'm a bit fuzzy here that's the reason because I can't
22 tie the different dates together.

23 Q. 939 Are you saying that Mr. Lydon, for example, who had seconded that motion or who
24 had co-signed that motion, the Lydon/Hand motion, had never sought your support
16:23:58 25 for the motion, never discussed it with you, never came near you.

26 A. I can't recall him coming near me about that motion.

27 Q. 940 Or any of your Fianna Fail colleagues asking you or talking to you.

28 A. No, I don't. I mean, literally what I did was I voted on things on their
29 merits and decided myself. I can't recall them coming to me about it.

16:24:18 30 Q. 941 Not alone did you vote as we see from 630, but you spoke and contributed to the

- 16:24:23 1 debate.
- 2 A. I did because I believed, I mean, you must look at it this way, from 1970 to
- 3 1980 I was working in Dundrum, I was working for a company called National Tyre
- 4 Centres. So I knew the village and I was working, I was involved in the
- 16:24:37 5 village and that's how I was interested. I knew the Pye site. I knew what
- 6 needed to be done in Dundrum. I spent ten years of my working life in the
- 7 village. So it's from that angle if you like that I wanted to see Dundrum
- 8 being developed and I knew that it was dying, that it was struggling, that
- 9 there were problems there. So that's where I'm coming from. I'm not coming
- 16:24:58 10 from a developer, I'm not coming from any other reason at all. It's just to
- 11 develop Dundrum.
- 12 Q. 942 Did you know, for example, that Mr. Dunlop had been retained by Mr. Kelly?
- 13 A. I didn't know that at all until I saw it in the brief.
- 14 Q. 943 Did you know, for example, that Mr. Lynn appears to have had an involvement on
- 16:25:15 15 behalf of Mr. Kelly?
- 16 A. I didn't, but sometime in the mid or late 1996 or '97 I remember I met Mr. Lynn
- 17 somewhere casually and I remember him saying something about Pye and I said I
- 18 never knew you were involved in the Pye situation and he said I was only very
- 19 much on the edge of it and that's the only conversation that which had Mr. Lynn
- 16:25:40 20 about Pye.
- 21 Q. 944 But you certainly didn't know that he was involved in 1992?
- 22 A. No.
- 23 Q. 945 Now, if we move to 1993 then.
- 24 A. Yes.
- 16:25:47 25 Q. 946 And if we could have document No. 1533, please? This is a motion seeking to
- 26 reverse the successful vote.
- 27 A. Yes.
- 28 Q. 947 Isn't that right?
- 29 A. That's right.
- 16:25:58 30 Q. 948 And it's, it appears to have been co-signed by you, isn't that correct?

- 16:26:01 1 A. Yes. As I said in my submission, I appeared to be the last to sign it.
- 2 Q. 949 Well can you tell the Tribunal the circumstances under which you came to sign
3 that motion?
- 4 A. Well I was trying to figure that out. Because I couldn't recall it at the
16:26:14 5 time, but I seem to recall that it was Tom Hand that showed me the motion in --
6 it was actually in the Council chamber if I'm recalling this right and I think
7 he may have just showed me the motion and said do you want to sign it or I may
8 have said that I wanted to sign it, but I said also that I wanted to propose it
9 if possible. As I said, I was anxious to propose the thing to get it moving,
16:26:45 10 to get Dundrum moving.
- 11 Q. 950 But Dundrum was going to move in any event in relation to the village. We're
12 only dealing with the Pye Lands?
- 13 A. I'm not talking moving in the physical sense. I'm talking about moving in the
14 business sense. In other words to get the prosperity of it going. There was
16:27:04 15 huge unemployment at that time. We needed the jobs and we needed to get the
16 place moving.
- 17 Q. 951 You think in October 1993, in relation to the vote, the motion on screen. That
18 it was at Councillor Hand's request that you signed that?
- 19 A. I think so. That's now having thought about it because when I replied in my
16:27:23 20 first reply --
- 21 Q. 952 Yes.
- 22 A. -- to the Tribunal I said that I wasn't sure or what way did I put it?
- 23 Q. 953 Well if we could have 477, please.
- 24 A. I said, "I do not remember signing the motion, it would appear that I was the
16:27:41 25 last to sign it. But as one of the local Dundrum public representatives I
26 probably asked if I could add my name to it or perhaps I asked if I -- or
27 perhaps I was asked if I would sign it. Either way I have no difficulties
28 signing the motion."
- 29 Q. 954 So your recollection is that the motion, signed by Councillor Hand and possibly
16:27:59 30 others, was in the possession of Councillor Hand when you signed it?

- 16:28:03 1 A. That's what I think is the situation.
- 2 Q. 955 Yes.
- 3 A. I can't say it absolutely, but I was just trying to think about how it evolved
- 4 and that's what I think.
- 16:28:13 5 Q. 956 Yes. And when you signed it you would have known that your colleagues
- 6 Councillors Lydon and Fox had signed it?
- 7 A. I would obviously because it looked as though I was the last to sign it.
- 8 Q. 957 And you, again at 651, you contributed to the debate in relation to that.
- 9 A. I did, I proposed actually --
- 16:28:29 10 Q. 958 I'm going to come to that actually, we see your proposal at 652. You proposed
- 11 it and Councillor Fox seconded it.
- 12 A. Yes.
- 13 Q. 959 Did you have any discussion with Councillor Fox in relation to the debate and
- 14 vote at that stage?
- 16:28:44 15 A. Before the vote?
- 16 Q. 960 Yes.
- 17 A. Well I suppose, I mean, if I was going to speak on it I must have prepared
- 18 something to speak on it. And I don't know whether I discussed. I doubt if I
- 19 discussed what I was going to say but --
- 16:29:01 20 Q. 961 Would it have been agreed between you that one of the signatories to the motion
- 21 would propose it?
- 22 A. That's what I said as I was trying to recall that and that's what I said to
- 23 you, that when Tom Hand brought the thing and I signed it, I said that I wanted
- 24 to propose it.
- 16:29:17 25 Q. 962 Yes.
- 26 A. And as far as I can recall, he said there was no problem in that.
- 27 Q. 963 So do you think it was Councillor Hand therefore that organised with the other
- 28 signatories on that motion that you would be the person who would propose it?
- 29 A. I can't say that. I mean, there was no difficulty. When I got up and went up
- 16:29:35 30 to, it was a podium at the time, went up to the podium to propose it no one

- 16:29:40 1 told me, you're not doing that.
- 2 Q. 964 I can easily understand why there wouldn't have been any difficulty. By the
- 3 same token, it's something that would have been agreed in advance.
- 4 A. Well I don't know whether they agreed it in advance or not.
- 16:29:52 5 Q. 965 There were five signatures to the motion.
- 6 A. Yeah.
- 7 Q. 966 And just from the point of view of order, that there would be some agreement in
- 8 advance who would propose and who would second it?
- 9 A. I don't know, there was no difficulty with me proposing it.
- 16:30:05 10 Q. 967 I'm not saying there was a difficulty, I'm merely talking about agreement and
- 11 discussion, you don't appear to have discussed the motion with any of the other
- 12 signatories?
- 13 A. I can't recall any agreement like that.
- 14 Q. 968 You can't?
- 16:30:16 15 A. No, I can't recall. I mean, I went up to the podium like and that seemed to be
- 16 accepted.
- 17 Q. 969 And again, you have no recollection of Mr. Lynn being involved at that stage?
- 18 A. No.
- 19 Q. 970 Now, we do know that the Written Statement came up for confirmation on the 12th
- 16:30:30 20 of November. Again, you were in attendance on that occasion, isn't that right?
- 21 At 654 we see that you are recorded as being in attendance.
- 22 A. That's correct.
- 23 Q. 971 And at 655, we see that the amendment to the Written Statement was declared
- 24 confirmed, isn't that right? Is there any reason why you didn't sign or
- 16:30:51 25 co-sign or bring a motion to reverse the amendment?
- 26 A. Sorry, where are we now?
- 27 Q. 972 Do you see "Section 3.2, amended by the inclusion of a new paragraph." Do you
- 28 see that?
- 29
- 16:31:11 30 JUDGE FAHERTY: It might be -- if you put it in context for Mr. Matthews,

16:31:11 1 Mr. Quinn, what happened in October '92.
2
3 MR. QUINN: Yes. In October '92 there had been the amendment to the map as a
4 result of the successful Fitzgerald/Mitchell motion and in June 1993 there had
16:31:21 5 been an amendment to the Written Statement.
6 A. This Section 3.2 amendment.
7 Q. 973 That's correct. And then by November '93 you had reversed the amendment to the
8 map and this is the consideration now for confirmation of the amendment to the
9 Written Statement.
16:31:35 10 A. This is coming from the Manager?
11 Q. 974 Yes.
12 A. Where he wants to do --
13 Q. 975 He wants effectively a confirmation --
14 A. C2.
16:31:43 15 Q. 976 Yes.
16 A. Sorry.
17 Q. 977 Now, is there any reason why you didn't bring a motion to reverse that
18 amendment to the Written Statement. After all it seemed to be qualifying what
19 you were proposing and what you were in favour of in relation to the Pye Lands?
16:32:02 20 A. I'm afraid that I'm not following you now for the minute.
21
22 JUDGE FAHERTY: Mr. Matthews, what happened, as I understand it, in October
23 1992, Ms. Fitzgerald and Ms. Mitchell had a motion. And that put the -- that
24 changed the zoning, the draft zoning on the Pye Lands back to what it was in
16:32:23 25 1983, is that correct, Mr. Quinn?
26
27 MR. QUINN: That correct.
28
29 JUDGE FAHERTY: Yes. And that was A, industrial residential and C1 zoning.
16:32:30 30 A. Which is what I didn't want.

16:32:32 1
2 JUDGE FAHERTY: What you didn't want.
3 A. Yeah.
4
16:32:34 5 JUDGE FAHERTY: But also not only did they change the map that went out with
6 those, but they also changed the objectives in the Written Statement. They
7 said in respect of those lands that the emphasis would be on tourism and light
8 industry.
9 A. Yes.
16:32:47 10
11 JUDGE FAHERTY: So that went out. All right? And in 1993, as I understand
12 what happened, you brought a motion together with Councillors Fox, Lydon and
13 Councillor Hand.
14 A. Yes.
16:33:00 15
16 JUDGE FAHERTY: And Councillor Lohan, to delete the changes that had been
17 made. You wanted to bring it back to what it had been in 1991.
18 A. C zoning. Yes.
19
16:33:09 20 JUDGE FAHERTY: C zoning. And that was a successful vote. They were zoned C
21 ultimately.
22 A. Yes.
23
16:33:21 24 JUDGE FAHERTY: What Mr. Quinn is putting to you as I understand it. At the
25 same time as you sought to do that, logically you, I mean collectively I mean
26 all of you, sought to amend the Written Statement because the Written
27 Statement, if it stood, would limit the type of retail development that could
28 occur on the lands. So while on the map you had achieved town centre C zoning,
29 the Written Statement meant that any development would be limited because the
16:33:46 30 emphasis would be on light industry and tourism.

16:33:49 1 A. Yes.
2
3 JUDGE FAHERTY: Is that, that's as I understand it Mr. Quinn.
4

16:33:53 5 MR. QUINN: Yes.
6
7 JUDGE FAHERTY: What Mr. Quinn is saying if the emphasis with you particularly
8 was retail and jobs for Dundrum, why was no effort made to amend the Written
9 Statement?

16:34:04 10 A. I think the answer to that probably is because I didn't know the relevance of
11 it probably because I was new and I probably didn't know the procedures. And
12 even probably about the Written Statement. I probably just didn't realise the
13 significance of it. I think that's probably the answer really.
14

16:34:29 15 MR. QUINN: But the difficulty with the Written Statement did come to light, I
16 think, in 1994. Isn't that right?

17 A. In 1994, yeah.

18 Q. 978 And I think at, there was a meeting in December 1994 where there was
19 consideration of, by the councillors of a planning application lodged by the
20 developers, isn't that right?

16:34:47 21 A. I saw that in the brief, yes.

22 Q. 979 And 2176 you made a contribution to that debate, isn't that correct?

23 A. That's correct.

24 Q. 980 And you advised that meeting, "that the retail element was not too large and
16:35:01 25 would help the village by drawing people into Dundrum and all traders would
26 benefit," is that right?

27 A. Yes, yes.

28 Q. 981 And you stated that, "the retail element was not felt to be a problem in
29 Dundrum and that the local traders were changing their original opposition to
16:35:14 30 the development," is that correct?

16:35:16 1 A. That's correct, yes. There was seen to be a change at that time.

2 Q. 982 Yes. Yes.

3 A. Yes, that's correct.

4 Q. 983 And I think in time then, in June 1995, you came to sign a motion recommending

16:35:31 5 the deletion of the Written Statement, which was prohibiting or limiting that

6 development, isn't that right?

7 A. That's correct.

8 Q. 984 Can you tell the Tribunal the circumstances under which you came to sign that

9 motion?

16:35:43 10 A. Yeah.

11 Q. 985 Yes.

12 A. Well, I'm not sure with regard to that motion whether that was something that I

13 did myself or not. If I did it myself, well certainly I got advice on the

14 wording and I probably would have got advice from someone in the Planning

16:36:01 15 Department. There is no doubt that I typed that motion because that typing is

16 in the layout that I would type it. So --

17 Q. 986 2152, please.

18 A. So there's no question about that. I mean, it is, that's the layout that I

19 typed. Obviously I typed the motion. Now, I don't know whether Aidan Kelly

16:36:25 20 had approached me to put forward this motion or not. He will be able to tell

21 you that. I just didn't recall whether he came to me or not but again if he

22 did, I had no difficulty putting forward the motion, if it meant that the Pye

23 site would get its C zoning, am I right in C zoning. Yeah. If it would get

24 its C zoning and get on with getting the site developed. So if Mr. Kelly says

16:37:03 25 that he came to me and asked me to put down the motion. I have no difficulty

26 accepting that that was the case, but I can't say that that was the case. But

27 I did write the motion and I did type up the motion.

28 Q. 987 No. That's fair enough, Mr. Matthews, but at whose request or suggestion?

29 A. That's what I'm saying. I don't know whether it was at my own or at

16:37:26 30 Mr. Kelly's.

- 16:37:27 1 Q. 988 You will have seen in the brief the involvement of Mr. Lynn at this time, that
2 is June 1995 and you will see references to him --
- 3 A. Yeah.
- 4 Q. 989 -- as being the zoning expert and you will see the payments sought by him.
- 16:37:41 5 A. I don't recall Mr. Lynn being involved in this.
- 6 Q. 990 So you have no recollection of Mr. Lynn discussing that motion with you on
7 behalf of Cabriole Developments?
- 8 A. No.
- 9 Q. 991 And you have no recollection and you can't recall whether Mr. Kelly discussed
16:37:55 10 it with you?
- 11 A. No. If Mr. Kelly came in and said he did request it. I would have to say that
12 that was the case.
- 13 Q. 992 Now, can you recall discussing it with Councillor Fox?
- 14 A. Well I must have asked Councillor Fox about it because obviously he'd agreed to
16:38:11 15 sign it because if you look at the way it's typed. I mean, I typed that up and
16 put his name down.
- 17 Q. 993 By the time you typed it you knew that Councillor Fox was going to sign it, so
18 you must have discussed it or somebody must have told you that Councillor Fox
19 was going to support it?
- 16:38:23 20 A. Well I must have asked him if he was going to support it.
- 21 Q. 994 Why would you have asked Councillor Fox?
- 22 A. Well he is the councillor in the area and I mean it's the Dundrum area.
- 23 Q. 995 In the past you had, I think, the motions had been signed by Councillor Lydon,
24 isn't that right?
- 16:38:43 25 A. Sorry, which motion?
- 26 Q. 996 Well the two motions we dealt with earlier, that is to say the motion in 1992
27 and again the motion in 1993. Both contained Senator Lydon's signature.
- 28 A. They did.
- 29 Q. 997 Why did you not approach Senator Lydon for his signature at this stage, that is
16:39:01 30 '95?

16:39:02 1 A. I mean why would I?
2 Q. 998 Because you are Councillor Fox's support?
3 A. There is no necessity. I mean Dundrum is Dundrum. I mean -- I mean there's no
4 necessity to as you said.

16:39:19 5 Q. 999 Thank you very much, Mr. Matthews?
6 A. Okay.
7
8 MR. WOLFE: I have no questions, Chairman.
9

16:39:28 10 CHAIRMAN: Thank you very much, Mr. Matthews
11 A. Okay. Thank you.
12

13 **THE WITNESS THEN WITHDREW.**
14

16:39:34 15 MS. DILLON: Mr. Lohan, please.
16

17 **MR. LARRY LOHAN, HAVING BEEN SWORN, WAS QUESTIONED BY MS. DILLON**
18 **AS FOLLOWS:**
19

16:40:09 20 CHAIRMAN: Good afternoon Mr. Lohan.
21

22 MS. DILLON: Good afternoon, Mr. Lohan.
23 A. Good afternoon.
24 Q. 1000 I think you were first elected to Dublin County Council in 1991 and by the time
16:40:21 25 you were elected, the Pye Lands had been zoned C.
26 A. That's correct.
27 Q. 1001 For retail or for a town centre development and the northern lands were C2,
28 isn't that right?
29 A. That's correct.
16:40:31 30 Q. 1002 So that when you arrived on the situation as a new Councillor in June of 1991,

- 16:40:36 1 that's the position with which you are faced, isn't that right?
- 2 A. That's correct, yeah.
- 3 Q. 1003 Now I think when you were first elected, Mr. Lohan, you were then a member of
- 4 the Progressive Democrats, isn't that right?
- 16:40:46 5 A. That's absolutely right.
- 6 Q. 1004 And I think that later in 1992 certain motions were brought before Dublin
- 7 County Council mainly at the instigation of Olivia Mitchell and Councillor
- 8 Eithne Fitzgerald that changed the zoning on the Pye Lands and the other town
- 9 centre lands, isn't that the position?
- 16:41:05 10 A. That is correct, yeah.
- 11 Q. 1005 Now, I think the record shows, at page 1477, that you were present on the 16th
- 12 of October 1992 and you will see you are recorded there as being present, isn't
- 13 that right?
- 14 A. That's correct, yeah.
- 16:41:18 15 Q. 1006 Now, I just want to draw your attention then to the actual vote that took place
- 16 on the Pye Lands, at 1514. The first motion which related to the northern
- 17 lands, which was to include major shops on the C2 zoning of the northern lands,
- 18 was passed unanimously and then on the next vote, which was the vote that the
- 19 Pye Lands would revert to their 1983 zoning, at 1515. You are not recorded as
- 16:41:46 20 voting on that motion at all Mr. Lohan.
- 21 A. I wasn't in the meeting at that stage because I was teaching in O'Connell
- 22 schools and because it's very approximate to the Council offices I was able to
- 23 go back up.
- 24 Q. 1007 Now again you are recorded as being present in June of 1993, at 1517. When the
- 16:42:05 25 amendment was made to the Written Statement, isn't that right?
- 26 A. Correct.
- 27 Q. 1008 Yeah. And the decision was made to amend the Written Statement, at page 1523.
- 28 "That it would be Council policy to encourage and promote the development of
- 29 the area for tourism related recreation or light industrial uses," but there's
- 16:42:24 30 no actual vote recorded because the decision was unanimous, isn't that the

- 16:42:28 1 position?
- 2 A. That's correct, yes.
- 3 Q. 1009 Now, I think the lands while they went on public display. At that stage as a
- 4 result of the decision that had taken place, the lands had now changed the Pye
- 16:42:39 5 Lands from a C zoning back to their 1983 zoning, isn't that right?
- 6 A. That's correct, yes.
- 7 Q. 1010 And therefore the Pye Lands were zoned E, A and --
- 8 A. C1.
- 9 Q. 1011 -- and they were zoned C1, isn't that right?
- 16:42:51 10 A. That's correct, yeah.
- 11 Q. 1012 Now you I think zoned a motion seeking to change that zoning, isn't that
- 12 correct?
- 13 A. That's correct.
- 14 Q. 1013 And that is the motion at 1533.
- 16:43:03 15 A. Yes, that's one.
- 16 Q. 1014 Now, you will see your name there is the second name beneath Councillor Tom
- 17 Hand, can you outline to the Tribunal the circumstances in which you came to
- 18 sign that motion Mr. Lohan?
- 19 A. I can indeed. Councillor Hand asked me if I would sign the motion because at
- 16:43:20 20 the time we had a coalition between Fianna Fail, Fine Gael and the Progressive
- 21 Democrats in Dun Laoghaire and subsequently in Dun Laoghaire/Rathdown up to
- 22 1999 as a result of that agreement I was elected Cathaoirleach in 1993. He
- 23 asked me to sign the motion and to have cross party solidarity and I was
- 24 agreeable to do that.
- 16:43:42 25 Q. 1015 Just slow that down for one second Mr. Lohan, you were Cathaoirleach of what in
- 26 1993?
- 27 A. The borough of Dun Laoghaire.
- 28 Q. 1016 And there was a cross party agreement between Fianna Fail, Fine Gael and the
- 29 PDs?
- 16:43:54 30 A. That's correct.

- 16:43:54 1 Q. 1017 Was that agreement confined to the councillors of Dun Laoghaire-Rathdown County
2 Council?
- 3 A. Initially, but at the commencement of the new Council, the agreement was to
4 take in Dun Laoghaire/Rathdown. It was for the duration of the then elected
16:44:09 5 Council.
- 6 Q. 1018 Yes. But in Dublin County Council, with its 78 members, are you telling the
7 Tribunal that in mid to late 1993, before the Council's divided up that there
8 was some sort of a cross party agreement?
- 9 A. No, not between Fianna Fail and PDs.
- 16:44:26 10 Q. 1019 So when you come to sign this motion, are you telling the Tribunal that you
11 come to sign this motion on foot of a cross party agreement that existed
12 between the Dun Laoghaire-Rathdown County councillors on Dublin County Council?
- 13 A. That's correct, yes.
- 14 Q. 1020 So if we look again at the motion at 1533. It's on screen, I beg your pardon.
16:44:47 15 Councillor Hand was representing Fine Gael, is that correct?
- 16 A. Correct.
- 17 Q. 1021 You were representing the PDs, is that correct?
- 18 A. That's correct.
- 19 Q. 1022 Mr. Lydon was representing Fianna Fail.
- 16:44:56 20 A. As was Tony Fox and Trevor Matthews.
- 21 Q. 1023 Tony Fox and Trevor Matthews.
- 22 A. That's correct.
- 23 Q. 1024 So you are saying that there was an agreement between the Dun
24 Laoghaire-Rathdown councillors that they would give each other cross party
16:45:09 25 support is that the position?
- 26 A. There was no such agreement, I was asked if I would mind doing it. So I would
27 have necessary, out of courtesy, cleared it with my colleagues.
- 28 Q. 1025 Yes.
- 29 A. And then I was prepared to sign it, but I was not prepared to either propose,
16:45:22 30 or second or speak.

- 16:45:23 1 Q. 1026 All right?
- 2 A. Because I represented the Ballybrack ward at that stage and I felt I had no
- 3 right to try and impose my opinion on others --
- 4 Q. 1027 And --
- 16:45:32 5 A. -- in the Dundrum area.
- 6 Q. 1028 And is it your position then, Mr. Lohan, that the person who asked you to sign
- 7 the motion or map was Councillor Hand?
- 8 A. That is correct.
- 9 Q. 1029 And did you speak to -- did anybody else seek your support in relation to this
- 16:45:45 10 motion?
- 11 A. The only person -- in the Council meeting, no.
- 12 Q. 1030 Any other person outside the Council meeting?
- 13 A. Yes. Mr. Kelly, Aidan Kelly rang me once after I got elected Cathaoirleach. I
- 14 asked him to send me on his vision of what he wanted on the lands and he would
- 16:46:02 15 read it and think about it and I spoke to Mr. Laden in October 1993 and
- 16 November 1993.
- 17 Q. 1031 And when you say you spoke to Mr. Laden, that's Mr. Joseph Laden?
- 18 A. That's correct.
- 19 Q. 1032 And was he somebody you met prior to signing this motion?
- 16:46:17 20 A. I would have met him in I'd say October -- yeah, yeah. I think we signed the
- 21 motion around the end of October 1993.
- 22 Q. 1033 If you look at 2089, I think, Mr. Lohan, Mr. Laden writes to you on the 6th of
- 23 October and he says, "Many thanks for" -- headed "Pye Lands. Many thanks for
- 24 meeting me the other day in connection with the above --" which is the Pye
- 16:46:38 25 Lands. "I now enclose the map which is the subject matter of the proposed
- 26 motion."
- 27 A. I see that.
- 28 Q. 1034 That would suggest that by the 6th of October you'd had a meeting with
- 29 Mr. Laden, he had sought your support in connection with the map and the
- 16:46:51 30 motion, you had given him some sort of positive encouragement because he's now

- 16:46:57 1 sending you the map to go with the proposed motion, isn't that right?
- 2 A. He would have known at that stage that I was going to support the 1991 Draft
- 3 Plan.
- 4 Q. 1035 Yes. Is it possible that in fact the person who brought you the motion and
- 16:47:08 5 gave you the map was Mr. Laden and it was from him as opposed to Mr. Hand that
- 6 it was for him or at his request that you signed the motion?
- 7 A. Oh, no Mr. Hand asked me in the chamber, I can remember it quite well.
- 8 Q. 1036 And you remember that quite clearly?
- 9 A. Very clearly, yes.
- 16:47:24 10 Q. 1037 Can you tell the Tribunal what you discussed with Mr. Laden when you met him on
- 11 or before the 6th of October 1993?
- 12 A. I think he was requesting my support and the support of my colleagues for his
- 13 vision of what he wanted on the Pye Lands or would like to see in the Pye
- 14 Lands.
- 16:47:40 15 Q. 1038 Yes. And who introduced Mr. Laden to you?
- 16 A. I think he was introduced by my colleague, Helen Keogh, through Mr. O'Malley.
- 17 Q. 1039 Through Mr. Dessie O'Malley?
- 18 A. That's correct.
- 19 Q. 1040 So is it that Mr. Laden approached Mr. Dessie O'Malley for introductions to the
- 16:48:00 20 PD councillors on Dublin County Council?
- 21 A. No, I think just from Helen Keogh and myself.
- 22 Q. 1041 So that you came to meet Mr. Laden, if I can put it to that, as a result of a
- 23 request or introduction by Mr. Dessie O'Malley who was then the leader of the
- 24 PDs?
- 16:48:16 25 A. That's the way I believe it happened, yes.
- 26 Q. 1042 Other than the introduction you yourself had not known Mr. Laden, is that
- 27 correct?
- 28 A. No. I didn't know him at all.
- 29 Q. 1043 And is it as a result of the request from Mr. Dessie O'Malley that you agreed
- 16:48:28 30 to meet with Mr. Laden and listen to whatever proposals he had to make?

16:48:33 1 A. I think I may have met Mr. Laden before I met through the request of Mr.
2 O'Malley.

3 Q. 1044 Yes.

4 A. As far as I can remember.

16:48:39 5 Q. 1045 Yes.

6 A. In what circumstances I don't know, but I definitely know he asked to meet
7 Helen Keogh and myself and he asked Mr. O'Malley if he could arrange it.

8 Q. 1046 And Mr. O'Malley did arrange it, did Mr. O'Malley contact you?

9 A. No.

16:48:55 10 Q. 1047 Did he contact Ms. Keogh?

11 A. Ms. Keogh was on the National Executive of the party at the time so she would
12 be meeting Mr. O'Malley on a regular basis.

13 Q. 1048 Was it as a result of the request from Mr. Laden to Mr. O'Malley that you met
14 Mr. Laden in connection with the Pye Lands?

16:49:09 15 A. I would think that was it, yes.

16 Q. 1049 And then following that then, I think the meeting took place on the 2nd of
17 November 1993 and your motion was passed successfully, isn't that correct?

18 A. That's correct.

19 Q. 1050 Now, if I could just ask you to turn initially to the first motion at, the vote
16:49:23 20 at 902. And these are the councillors, the first people who are voting for are
21 the councillors. These are the councillors voting for the Doohan motion. In
22 other words against you.

23 A. Doohan Buckley, yes.

24 Q. 1051 That went first and will you just look there at the councillors voting for
16:49:43 25 Doohan Buckley and see are any members of the PDs there recorded as voting for
26 that motion?

27 A. No.

28 Q. 1052 And if you just look then at those voting against that motion, if you wouldn't
29 mind, Mr. Lohan and see can you identify for the Tribunal the PD councillors
16:50:09 30 who are voting against the Doohan Buckley motion.

- 16:50:12 1 A. I can see six.
- 2 Q. 1053 All right. Would you just call them out there to the Tribunal, if you wouldn't
- 3 mind for the record, please?
- 4 A. I'm going from the top. Mr. Keane, Helen Keogh, myself Larry Lohan, Catherine
- 16:50:36 5 Quinn, Sheila Terry and Con Tyndall.
- 6 Q. 1054 And if you just turn to the following page then at 903. I think it's fair to
- 7 say that the same members of the PDs who vote against Doohan Buckley are
- 8 recorded as voting in favour of your motion, isn't that correct?
- 9 A. That's correct.
- 16:51:00 10 Q. 1055 And I think in fact there is no difference in any of the --
- 11 A. There isn't, no.
- 12 Q. 1056 Between the two. So it would be fair to say that the record on the vote on the
- 13 Pye Lands shows a unanimous vote insofar as PDs are concerned, isn't that
- 14 right?
- 16:51:11 15 A. Yes.
- 16 Q. 1057 Did the PDs have any meeting or discussion in advance of that meeting as to
- 17 how, what approach might be taken?
- 18 A. Well generally it was our policy from the very beginning, we were new in the
- 19 Councils, that we would discuss whatever motions were coming up and try and
- 16:51:26 20 reach a consensus on it, if at all possible, but we never used the whip.
- 21 Q. 1058 Yes. And can I just show you now the vote I think, the 16th of October 1992
- 22 vote, at page 630 on the Mitchell/Fitzgerald motion.
- 23 A. Yes.
- 24 Q. 1059 And the Mitchell/Fitzgerald motion is the motion seeking to keep the Pye Lands
- 16:51:52 25 at the 1983 zoning.
- 26 A. Correct.
- 27 Q. 1060 Is that correct? And this is the motion that you are seeking to overturn,
- 28 isn't that right?
- 29 A. Correct.
- 16:51:59 30 Q. 1061 And I just want to draw to your attention there that at that stage Councillor

- 16:52:04 1 Cass, whom I think was a PD, is that right?
- 2 A. She was indeed.
- 3 Q. 1062 And Councillor Keogh.
- 4 A. Yes.
- 16:52:12 5 Q. 1063 And are there any other members of the PDs?
- 6 A. Catherine Quinn.
- 7 Q. 1064 Catherine Quinn.
- 8 A. Sheila Terry.
- 9 Q. 1065 Sheila Terry. They all vote at that stage, isn't that right?
- 16:52:22 10 A. I see that, yes.
- 11 Q. 1066 They vote in favour of Ms. Mitchell's motion which would be contrary to the
- 12 position you've adopted and that they subsequently adopt, isn't that right?
- 13 A. Absolutely.
- 14 Q. 1067 Yes. Can you assist the Tribunal at all, Mr. Lohan, as to how that came to be?
- 16:52:38 15 A. I just don't know.
- 16 Q. 1068 Right. Do you think it might have had anything to do with the intervention by
- 17 Mr. Laden to Mr. Dessie O'Malley?
- 18 A. No, because Mr. O'Malley never spoke to either myself or Ms. Keogh on the
- 19 motion. The only impact anything could have is the attitude of the local
- 16:52:57 20 councillors because I think I told you when I met you first some years back
- 21 that because we were new we tended to listen to our local councillor who would
- 22 know the area far better than I would, something happening in Dublin West and I
- 23 living in Dun Laoghaire, I couldn't be expected to know about it. In fact,
- 24 that's why the Council was being split up into three so that people would know
- 16:53:19 25 their area. So in all fairness, it would be right to think that if I, as the
- 26 local councillor, and Councillor Keogh were supporting motion on the Pye lands
- 27 that others might be influenced by that, but I made no attempt to influence.
- 28 Q. 1069 Would it be fair to say then that it's your view, in relation to the PD
- 29 position as set out in the voting record, that the decision of the local PD
- 16:53:44 30 councillor to sign the motion and support it would have influenced other PD

- 16:53:49 1 councillors?
- 2 A. Well the decision the attitude of any PD councillor in an area would help to
- 3 influence the position of other councillors who knew nothing about the area.
- 4 Q. 1070 Right. And was Helen Keogh a local councillor?
- 16:54:06 5 A. She was indeed, in Dun Laoghaire.
- 6 Q. 1071 And she had voted in the previous year against, in favour of the
- 7 Mitchell/Fitzgerald motion, isn't that right?
- 8 A. Exactly.
- 9 Q. 1072 Right. Do you know how she came to change her position?
- 16:54:19 10 A. I don't know.
- 11 Q. 1073 I think subsequently at 2093 that Mr. Laden wrote to you on the 4th of November
- 12 '93, thanking you for what he described as your important indeed vital
- 13 contribution, isn't that right?
- 14 A. Correct.
- 16:54:30 15 Q. 1074 And I think on the same day he also wrote to Mr. Dessie O'Malley, at 2094.
- 16 A. That's correct.
- 17 Q. 1075 And I think you will have seen that in the brief where he thanks him for
- 18 arranging introductions to the PD councillors on Dublin County Council and in
- 19 particular Larry Lohan and Helen Keogh.
- 16:54:48 20 A. That is correct, yes.
- 21 Q. 1076 And he goes on to describe you as most helpful and constructive and in being of
- 22 enormous assistance to us and have done a great day's work for Dundrum, isn't
- 23 that right?
- 24 A. That is correct, yes.
- 16:55:00 25 Q. 1077 Right. And then he goes on to refer to other matters that aren't really
- 26 relevant. I think the Written Statement changes were confirmed on the 12th of
- 27 November 1993, isn't that right? The changes to the Written Statement.
- 28 A. That's 328.
- 29 Q. 1078 Yes, 329, yes. That's confirmed I think at page 905, and I will see there that
- 16:55:29 30 the amendment to the Written Statement is confirmed, isn't that correct?

- 16:55:31 1 A. That's correct, yes.
- 2 Q. 1079 And I think that Mr. Laden contacted you again in January '95, isn't that
3 right, when he ran into some difficulty with the Written Statement?
- 4 A. That was after the planning permission was turned down.
- 16:55:43 5 Q. 1080 That's correct and he sought your help then again, isn't that right?
- 6 A. He sought my help in trying to get, to reverse the note.
- 7 Q. 1081 Yes. To delete what he described as the objective note.
- 8 A. That's exactly right.
- 9 Q. 1082 I think in fact ultimately a motion was prepared that was signed by Councillors
16:55:59 10 Matthews, the previous witness, and Councillor Fox, isn't that correct?
- 11 A. That's correct.
- 12 Q. 1083 Did you do anything to try and assist Mr. Laden with his difficulty at that
13 particular point in time with the objective note?
- 14 A. No.
- 16:56:10 15 Q. 1084 Right. And did you speak to anybody else in connection with the matter on his
16 behalf?
- 17 A. No, I only spoke to the County Manager about it.
- 18 Q. 1085 Did the PDs have a practice of having meetings in advance of County Council
19 meetings, Mr. Lohan?
- 16:56:26 20 A. Not on a regular basis except there was maybe a major issue to be considered.
- 21 Q. 1086 Yes. Would you have regarded the rezoning of the Pye Lands as a major issue?
- 22 A. Yes, I would, yes.
- 23 Q. 1087 And is it likely then that in November 1993 the PDs had a meeting in advance of
24 the Council meeting in connection with the Pye Lands?
- 16:56:48 25 A. I cannot recall such a meeting but I would not be surprised if it had happened.
- 26 Q. 1088 And if such a meeting had taken place Mr. Lohan, would you have spoken in
27 favour of the proposal to rezone the, to rezone the Pye Lands?
- 28 A. I would have told my colleagues what my position was.
- 29 Q. 1089 Right. Thank you very much, Mr. Lohan?
- 16:57:07 30 A. Okay.

16:57:07 1 Q. 1090 I'm sorry for keeping you so late?

2 A. Not at all.

3

4 MR. WOLFE: No questions, Mr. Chairman.

16:57:13 5

6 CHAIRMAN: Thank you very much, Mr. Lohan.

7 A. Thank you very much, your Your Honour.

8

9 **THE WITNESS THEN WITHDREW.**

16:57:18 10

11 CHAIRMAN: Okay. That concludes today. Half ten tomorrow.

12

13 MS. DILLON: May it please Your Lordship.

14

16:57:36 15 **THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY, WEDNESDAY,**

16 **31ST JANUARY, 2007, AT 10.30 A.M.**

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