

09:49:46 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY, 2ND FEBRUARY,**  
2 **2007, AT 10.00 A.M:**

3  
4 MR. QUINN: Good morning, Sir. Ms. Colette Doyle, please.

10:07:16 5  
6 CHAIRMAN: Good morning, Mr. Quinn.

7  
8 MR. QUINN: I understand, Sir, that Mr. Shipsey has an application to make.

9  
10:07:29 10 MR. SHIPSEY: I appear for Tesco Ireland. Ms. Doyle is the company secretary  
11 of Tesco Ireland. Mr. O'Donovan was here on the day of the opening and applied  
12 for representation. I just want to inform the Tribunal that I appear for  
13 Tesco Ireland.

14  
10:07:43 15 CHAIRMAN: Okay. Thank you very much.

16  
17 **MS. DOYLE, HAVING BEEN SWORN, WAS QUESTIONED BY MR. QUINN**

18 **AS FOLLOWS:**

19 MR. QUINN: Good morning, Ms. Doyle. Ms. Doyle, the Tribunal wrote to you on  
10:08:04 20 the 9th of October 2006 and sought a statement from you in relation to Power  
21 Supermarkets' involvement in relation to the Pye site and the Pye Lands, isn't  
22 that right

23 A. That's right.

24 Q. 1 If I could have screen, please, 1964. I think this is a map showing lands at,  
10:08:20 25 Dundrum, which include what were referred to as the Crazy Prices lands. And  
26 those are the lands on the bottom right-hand corner surrounded by the red line  
27 and coloured white on the map, isn't that right?

28 A. That's right.

29 Q. 2 And those lands I think you have told us in a statement which is to be found at  
10:08:39 30 pages 1813 to 1815. Were lands which were conveyed to H Williams & Co. Limited

10:08:50 1 by two deeds, one dated the 29th of March 1968, which is at 1817, Which  
2 conveyed the leasehold interest to H Williams & Co. Limited and on further  
3 conveyance on the 25th of February 1969, which conveyed the freehold interest,  
4 and that conveyance is at 1827.

10:09:10 5  
6 Sorry, it was not my intention to open either of the conveyances unless  
7 requested to do so by any of the parties present.

8  
9 And I think that you've advised the Tribunal that H Williams & Co. Limited  
10:09:23 10 went into liquidation/receivership in or about 1982, and that Tesco bought a  
11 number of the H Williams stores, and that Tesco has since sold all of its  
12 interest in the subject lands, a copy of the relevant deed, that is to say a  
13 further deed in 1969 is not available.

14  
10:09:44 15 A. That's right.

16 Q. 3 You go on to say at 1813 that "By deed of conveyance and assignment dated the  
17 13th of December 1984" -- and that deed is at 1836 -- "between Pye Ireland  
18 Limited and Albafare, Albafare required some additional lands immediately  
19 adjoining the former H Williams premises."

10:10:02 20  
21 And I think those are the lands coloured yellow and immediately north of the  
22 site which I've just referred to, isn't that right?

23 A. That's right.

24 Q. 4 And that conveyance is to be found at 1836. And the contract dated the 21st  
10:10:15 25 of August 1984 is to be found at 1047 in the brief, isn't that correct?

26 A. That's correct.

27 Q. 5 I think that company Albafare Limited was an unlimited company and was a wholly  
28 owned subsidiary of Power Supermarkets Limited, and now remains a subsidiary of  
29 Tesco, is that correct?

10:10:34 30 A. That's correct, yes.

- 10:10:35 1 Q. 6 I think you go on to say in your statement that Powers Supermarkets Limit was  
2 acquired by Tesco in May 1997. In September 1997 its name was changed to  
3 Tesco Ireland Limited, is that correct?
- 4 A. Yes.
- 10:10:48 5 Q. 7 You said that by deed of conveyance, an assignment dated 27th of February 1999,  
6 Albafare -- and made between Albafare and Tesco -- the Dundrum property was  
7 transferred to Tesco. And that conveyance I think is at 1843, is that  
8 correct?
- 9 A. That's correct, yes.
- 10:11:01 10 Q. 8 That would appear to be a conveyance which transferred the yellow properties to  
11 Tesco, isn't that right?
- 12 A. Yes.
- 13 Q. 9 You don't refer to the conveyance which transfers the white property, that is  
14 the Crazy Prices property to Tesco. But can the Tribunal take it that at some  
10:11:17 15 stage the white property was also transferred to Tesco?
- 16 A. Yes, all property in 1997.
- 17 Q. 10 In or about 1997?
- 18 A. Um-hmm.
- 19 Q. 11 You say a portion of the land in Dundrum was acquired by the Dun  
10:11:29 20 Laoghaire-Rathdown County Council as required for the Wyckham Bypass. Tesco  
21 subsequently sold the balance of the lands to Crossridge Investments Limited, a  
22 company owned by property developer Joe O'Reilly and leased back the store for  
23 999 years. Is that the current situation in relation to the property in  
24 Dundrum?
- 10:11:44 25 A. Yes.
- 26 Q. 12 You refer to the various conveyances which I have just referred to.  
27  
28 You say that also attached is an agreement dated the 9th of March 1993 between  
29 Albafare and Cabriole Construction Limited, which appears to be a predecessor  
10:12:00 30 in title of part of the Dundrum town centre lands, and that agreement is at

10:12:13 1 1854. And I will return to that agreement in a moment.

2

3 And then under the heading, the representations made by or on behalf of Power

4 Supermarkets' Limited in respect of the 1983 Development Plan at 1814, if we

10:12:17 5 could have that, please, you say the following: "Ian MacMillan, former

6 property director of Power Supermarkets Limited from circa 1990 to 1997 has

7 confirmed that in respect of the Cabriole lands he has no knowledge of, and is

8 almost certain that Power Supermarkets Limited did not make any representations

9 in the course of the rezoning, and did not retain any consultants to make

10:12:37 10 rezoning representations on its behalf."

11

12 And at 1815 you go on to say that: "In respect of the lands owned by Power

13 Supermarkets' Limited, he believes that during his time in Power Supermarkets'

14 Limited no representations were made for rezoning of the lands and no

10:12:50 15 consultants were retained for that purpose."

16

17 You were finally asked to identify the persons with whom Power Supermarkets had

18 contact in respect of its interests in Dundrum in the context of the 1993

19 Development Plan and the nature of those contacts, and you say that no one in

10:13:06 20 Tesco with any knowledge of the history of Dundrum lands had any knowledge of

21 any contact with anyone in respect of Power Supermarkets' interest in Dundrum

22 in the context of the 1993 Development Plan, is that correct?

23 A. That's correct.

24 Q. 13 Now, you do know, I take it, that from your inquiries, that there was a very

10:13:20 25 close co-operation between the owners of the remaining Pye Lands and Power

26 Supermarkets throughout the late '80s and '90s in relation to the development

27 of both lands, isn't that right?

28 A. That's right.

29 Q. 14 And a moment ago we referred to the agreement in April 1993. But if we look at

10:13:41 30 1067, this is a letter of the 26th of August 1988 from Pye Ireland Limited to

10:13:47 1 Dublin County Council, a letter contained in the brief.

2

3

We see at 1068 a proposal from Pye that they would develop retail and

4 commercial property at their site, isn't that right? And there are two options

10:14:02 5 there referred to. And also referred to in that opening paragraph at page two

6 is an agreement in principle which had been reached between Quinnsworth/Crazy

7 Prices for an Option One type development, isn't that correct? You may or may

8 not have seen that in the brief.

9 A. I haven't seen that.

10:14:20 10 Q. 15 Yes. And we know that Mr. Ciaran O'Malley put in submissions in relation to

11 the Development Plan in 1990. And again in 1991 there is again reference in

12 correspondence between Mr. Lynn and Mr. Kelly in relation to a possible

13 agreement with Quinnsworth. And we see that at 2001, in a letter of the 10th

14 of January 1991. At the bottom of the page we see under the heading Details,

10:14:44 15 paragraph three he says: "If we do not tie up legally Heads of Agreement with

16 Quinnsworth in the near future we are in danger of losing the deal with them."

17

18 So you agree with me, that that shows that there was ongoing and close contact

19 between the owners of the Pye Lands and Crazy Prices/Quinnsworth at that time

10:15:02 20 or Power Supermarkets at that time?

21 A. Yes.

22 Q. 16 And I think that if we could have 2063, please.

23

24 There was a meeting on the 19th of February 1991 in advance of a motion which

10:15:15 25 was debated on the 31st of May 1991. And the meeting was attended by

26 representatives of Quinnsworth, Cabriole and Cabriole's consultants. Messrs

27 Henry J Lyons & Partners.

28

29 And if we look at 2064, under the heading Planning Permission, we see that the

10:15:34 30 meeting was being advised by Cabriole Limited, that the rezoning proposals had

10:15:38 1 the backing of both Fianna Fail and Fine Gael councillors, with Labour likely  
2 to agree to abstain.  
3  
4 You agree with me that Quinnsworth/Crazy Prices were being advised on an  
10:15:50 5 ongoing basis of the efforts of the Pye representatives to rezone their lands?  
6 A. Yes.  
7 Q. 17 Now, I think that when the motions were put forward for consideration that the  
8 Crazy Prices lands were included with the Pye Lands, and again, you will have  
9 seen that in the brief. You may or may not be familiar with that. You  
10:16:27 10 discussed this matter with Mr. MacMillan I think, isn't that right?  
11 A. Yeah, one of my colleagues has discussed it.  
12 Q. 18 One of your colleagues did. And I think you've given to the Tribunal a contact  
13 number for Mr. MacMillan?  
14 A. That's right.  
10:16:38 15 Q. 19 But it was Mr. MacMillan's recollection that there had been no involvement of  
16 either himself or Crazy Prices with anyone in connection with the rezoning of  
17 the lands, is that correct?  
18 A. That's correct.  
19 Q. 20 But submissions were put in by Cabriole through their agents Kieran O'Malley in  
10:16:56 20 relation to the Draft Plan which had gone on display after the 1992 vote, which  
21 included submissions on the Pye Lands, and we see that at 1214 submissions  
22 dated the 3rd of August 1993.  
23  
24 The lands referred to at 10 C include the Pye Lands, and we see that at map  
10:17:14 25 1526. If we could have 1526.  
26  
27 Do you see 10 C on that map? And would you confirm that those are the Crazy  
28 Prices lands, isn't that right?  
29 A. It appears so, yes.  
10:17:26 30 Q. 21 Yes. And then the submissions which I have just referred to at 1220.

10:17:31 1  
2 Mr. O'Malley is advising that the lands were the property of Crazy Prices and  
3 comprised shops, offices, warehouses and surface carparks, isn't that right?  
4 And he was seeking to have those rezoned to C, isn't that right, in the  
10:17:48 5 Development Plan. He was objecting to their existing zoning at that time.  
6 A. Yes.  
7 Q. 22 Now, I think a planning application was submitted in the November 1993 in  
8 relation to the lands which included the Crazy Prices lands. And that would  
9 have been on foot of the agreement we referred to earlier of April 1993, isn't  
10:18:06 10 that right, between Crazy Prices and Cabriole?  
11 A. Yes.  
12 Q. 23 And we see that agreement I think at 1865 -- sorry. Apologies. 1854 of the  
13 brief.  
14  
10:18:27 15 It's an agreement dated the 9th of March 1993, isn't that right?  
16 A. That's right.  
17 Q. 24 And there are obligations placed on Cabriole in relation to that agreement,  
18 and we see those at 1865, where Cabriole was to use its best endeavours to  
19 apply for and obtain planning permissions in accordance with HJ, and which I  
10:18:46 20 presume is Henry J Lyons, or as subsequently agreed by both parties thereto at  
21 the earliest possible date, isn't that right?  
22 A. That's correct, yes.  
23 Q. 25 Now, there was a meeting I think with officials of Dublin County Council.  
24 Sorry, Dun Laoghaire-Rathdown County Council in January 1995. That's at 1706.  
10:19:11 25 When a difficulty arose in relation to the failure to amend the Written  
26 Statement. I don't know if you, when speaking with Mr. MacMillan or the other  
27 representatives of Power Supermarkets, if you were made aware of those  
28 difficulties at that time?  
29 A. No, I wasn't.  
10:19:32 30 Q. 26 These are planning difficulties. But if I could have 1693.

10:19:36 1  
2 You have made, that is to say, Tesco have made discovery to the Tribunal on  
3 various documents within your possession, isn't that right?  
4 A. That's correct, yes.

10:19:45 5 Q. 27 In relation to this matter. And so far the Tribunal has been unable to locate  
6 the letter on screen, which is a letter of the 24th of July 1995. And it's a  
7 letter from Cabriole Construction Limited to Mr. MacMillan. Do you see that?  
8 A. I see that, yes.

9 Q. 28 And you agree with me that that's correspondence that should be somewhere  
10 within the procurement of Tesco if they have all of the files?  
11 A. Yes.

12 Q. 29 And I think whilst it may not be referred to your affidavit, you have in fact  
13 discovered that file or that letter to the Tribunal, isn't that right?  
14 A. We've given all of the files for the relevant years from Tescos to the  
15 Tribunal.

10:20:30 16 Q. 30 Yes. And I think if we just look at that letter for a moment, it provides  
17 that "In consideration of you advancing 85,000 pounds to us upon the terms  
18 hereafter provided, we hereby undertake as follows." And "The monies are to be  
19 used as outlined on the attached letter dated the 24th of July 1995 to us from  
20 Property Developments Services Limited."  
21  
22 And if we could have 1695, please, we see a letter from a company entitled  
23 Property Development Services Limited, headed Re Mixed Use Development At  
24 Sandyford/Dundrum. And it's a letter which provides that: "Following various  
10:21:10 25 discussions I attach revised programme covering the planning and development of  
26 the lands in Sandyford/Dundrum. I confirm payment of fees, including retail  
27 needs study to be as follows. 25,000 pounds for the end of July 1995, 35 000  
28 pounds at the end of September '95, and 25,000 pounds up to the end of November  
29 1995. Monthly reports will be presented to both yourselves and Power  
10:21:34 30 Supermarkets Limited" And that letter is signed Patrick J Lafferty. isn't that



- 10:21:41 1 correct?
- 2 A. That's correct, yes.
- 3 Q. 31 I think the letter, if I just go back to 1693 for the moment, I think that
- 4 letter was an agreement on certain conditions for Power Supermarkets Limited to
- 10:21:51 5 pay the consideration referred to in that letter, isn't that right?
- 6 A. If you say, yes.
- 7 Q. 32 If we look at 1694, we see that the letter was signed by Power Supermarkets,
- 8 although not dated, signed by Mr. MacMillan, isn't that right?
- 9 A. That's right, yes.
- 10:22:04 10 Q. 33 And it would appear -- would you agree with me that Power Supermarkets Limited,
- 11 sometime in or about July 1995, agreed on condition -- on certain conditions
- 12 to provide a sum of 85,000 pounds to Cabriole Construction Limited in
- 13 connection with planning of their combined sites at Dundrum?
- 14 A. It would appear from this, yes.
- 10:22:26 15 Q. 34 And we know evidence has been given that one of the central difficulties at
- 16 this time, that is June, July 1995 in relation to the development was this
- 17 reference in the Written Statement which prohibited C-type development on the
- 18 site, isn't that right? You may or may not be aware of that.
- 19 A. I'm not aware of that.
- 10:22:48 20 Q. 35 And if we go to 1638.
- 21
- 22 On the 19th of January 1996, Mr. Lafferty, again at this time from Patrick
- 23 Lafferty and Associates writes to Suresun Limited, which is one of the
- 24 companies associated with Mr. Kelly, advising and providing sketch plans,
- 10:23:11 25 initialled for identification in respect of proposed development at Dundrum.
- 26 It says: "The attached sketch plans have also been presented to and approved
- 27 by Power Supermarkets Limited, isn't that correct?
- 28 A. It would appear from this letter, yes.
- 29 Q. 36 And we look at 1639. The accompanying drawings appear to refer to Power
- 10:23:31 30 Supermarkets, isn't that right? Or include the Crazy Prices site. Again, you

10:23:38 1 may or may not be aware of that?

2 A. I'm not aware of it.

3 Q. 37 Yes. I think in time Tesco's sold their interest in this site to a company

4 controlled by Mr. Reilly, is that correct?

10:23:52 5 A. That's correct, yes.

6 Q. 38 Mr. O'Reilly. Thank you very much.

7 A. Thank you.

8

9 CHAIRMAN: All right. Did you want to ask your client?

10:23:57 10

11 MR. SHIPSEY: No questions, Mr. Chairman.

12

13 CHAIRMAN: Thank you very much, Ms. Doyle.

14 A. Thank you.

10:24:03 15

16 **THE WITNESS THEN WITHDREW.**

17

18 MS. DILLON: Mr. Joseph Layden, please.

19

10:24:36 20 **MR. JOSEPH LAYDEN, HAVING BEEN SWORN, WAS QUESTIONED BY MS. DILLON**

21 **AS FOLLOWS:**

22

23 CHAIRMAN: Good morning, Mr. Layden.

24 A. Good morning, Chairman.

10:24:52 25

26 MS. DILLON: Good morning, Mr. Layden.

27 A. Good morning, Ms. Dillon.

28 Q. 39 I think that you were part owner or 50 percent owner of a company called

29 Don-Lay Limited, which was incorporated on the 9th of November 1981, is that

10:25:08 30 correct?

- 10:25:09 1 A. Yes.
- 2 Q. 40 And I think that your other partner or owner in that company was Mr. O'Donnell,  
3 who is also a witness before the Tribunal, isn't that right?
- 4 A. Yes.
- 10:25:17 5 Q. 41 Would it be fair to say, Mr. Layden, that you were 50/50 partners but that you  
6 were the more active member of the operation?
- 7 A. No, I was the majority partner and --
- 8 Q. 42 Sorry, you were the majority partner. And did you in the main conduct the  
9 business of Don-Lay?
- 10:25:33 10 A. Entirely.
- 11 Q. 43 Yes. And you will have seen from the documents with which you've been supplied  
12 by the Tribunal that it would appear that most of the correspondence passing  
13 between Mr. Kelly and Don-Lay or Don-Lay's interests is directed towards  
14 yourself. Would that be fair to say?
- 10:25:48 15 A. Correct.
- 16 Q. 44 Would you describe Mr. O'Connell's interest in the proceedings see being less  
17 involved than your own?
- 18 A. Yes.
- 19 Q. 45 And insofar as you took any step or did any step in connection with the  
10:25:59 20 activities of Don-Lay, in the main would that have been agreed with  
21 Mr. O'Donnell but Mr. O'Donnell wouldn't have had any direct participation?
- 22 A. Correct.
- 23 Q. 46 And insofar --
- 24 A. Policy would have been agreed. Administration would have been an executive  
10:26:13 25 role.
- 26 Q. 47 Right. And insofar as there were meetings or negotiations with the Council,  
27 officials of the Council, or face-to-face meetings with Mr. Kelly in trying to  
28 resolve issues that arose, in the main, did they take place with you as the  
29 person who was acting on behalf of Don-Lay?
- 10:26:29 30 A. Totally.

10:26:30 1 Q. 48 Right. And that Mr. O'Donnell's interest, then, was to agree or disagree as  
2 between yourself and himself with whatever progress was to be made or whatever  
3 decision was to be made?  
4 A. Mr. O'Donnell had no executive role whatsoever.

10:26:44 5 Q. 49 Yeah. So that insofar as the Tribunal requires help or assistance in  
6 understanding the events that happened in connection with the Pye Lands,  
7 insofar as there was an involvement on the part of Don-Lay or any of its  
8 related or connected companies, you are the person who is in the best position  
9 to provide that information?

10:27:01 10 A. Yes.

11 Q. 50 Yes. And I think that in 1987 and 1988 you entered into negotiations with  
12 Mr. Aidan Kelly in connection with the Pye Lands, is that right?  
13 A. '87 and '88?  
14 Q. 51 '88.

10:27:14 15 A. Yes.

16 Q. 52 Yes. That ultimately concluded in an agreement in 1988, isn't that right?  
17 A. Yes.

18 Q. 53 And arising out of that agreement, certain companies were formed which took  
19 certain interests in lands, isn't that right?

10:27:27 20 A. Yes.

21 Q. 54 And if I can show you a map at 1964, Mr. Layden, and I don't know whether you  
22 have seen this map in the brief. But insofar as I can go through the lands  
23 with you as briefly as I can, in the first instance if we look at what divides  
24 the lands is the proposed Dundrum Bypass, is that correct?

10:27:48 25 A. Correct.

26 Q. 55 And to the west of that road there are red lands which were zoned I think  
27 residential in the 1983 plan, isn't that right?  
28 A. Correct.

29 Q. 56 The problem with those lands, for the purpose of development, as I understand  
10:28:01 30 it, was access into the lands?

- 10:28:03 1 A. Correct.
- 2 Q. 57 There had been a number of planning applications which sought to come into the  
3 lands from the south by way of the Linwood development, is that correct?
- 4 A. I wouldn't involved in those.
- 10:28:11 5 Q. 58 Yes. But that had been refused I think both by the Council and on appeal by An  
6 Bord Pleanala?
- 7 A. I don't know.
- 8 Q. 59 When application was made later, and I'll come to it, for planning permission  
9 to develop the red lands, the application provided for access by way of  
10 building a portion of the proposed Dundrum Bypass, and to come across from the  
11 Sandyford Road, isn't that right?
- 12 A. Correct.
- 13 Q. 60 And therefore, you would be coming across the other Pye Lands to get access  
14 into the red lands?
- 10:28:37 15 A. Cabriole lands.
- 16 Q. 61 Across the Cabriole lands. And I think then immediately to the north of those  
17 lands there are two portions of blue lands which were I think also zoned  
18 residential, and part of those were owned by -- given to Cabriole and part to  
19 Dalehall, isn't that right? You see immediately north of the red lands?
- 10:28:56 20 A. Correct.
- 21 Q. 62 Right. And then if you go across or on to the Dundrum Bypass there are lands  
22 coloured brown which were I think given to Cabriole in the agreement and then  
23 there are black lands on which there were buildings. Do you see those?
- 24 A. Yeah, yeah. I think basically that's correct.
- 10:29:16 25 Q. 63 And the Dundrum Property Investment company owned the black lands following the  
26 agreement?
- 27 A. Correct.
- 28 Q. 64 And that was a company that was receiving rents and incomes from the properties  
29 already there?
- 10:29:31 30 A. Correct.

- 10:29:31 1 Q. 65 And beneath that was the Millhouse Lands which were owned by Dillon-Digby?
- 2 A. Yes.
- 3 Q. 66 And beneath that were the green lands which were the Cabriole lands?
- 4 A. Correct.
- 10:29:41 5 Q. 67 And beneath that again there were yellow and white lands, which were lands  
6 owned by essentially a company called Albafare Limited, which was a wholly  
7 owned subsidiary of Power Supermarkets?
- 8 A. Correct.
- 9 Q. 68 The subject matter of the rezoning application were the lands to the east of  
10 the proposed Dundrum Bypass, isn't that correct?
- 11 A. Correct.
- 12 Q. 69 And the lands that are west of the proposed Dundrum Bypass were not the subject  
13 of any rezoning application?
- 14 A. Planning application only.
- 10:30:05 15 Q. 70 Yes. But at that time, while the rezoning application was current, the  
16 Prisdine lands or the red lands were the subject matter of a planning  
17 application which was granted by Dublin County Council, appealed to An Bord  
18 Pleanala and allowed, isn't that correct?
- 19 A. Correct.
- 10:30:20 20 Q. 71 And that permission conditioned Don-Lay Limited to build a road across  
21 Cabriole's lands and a part of the Dundrum Bypass?
- 22 A. Conditioned the developer.
- 23 Q. 72 Yes. Is that right?
- 24 A. Yes.
- 10:30:33 25 Q. 73 Now, I think in fact that work was done, isn't that right?
- 26 A. Correct.
- 27 Q. 74 On foot of a works contract or an agreement between Cabriole, and Don-Lay did  
28 that work, is that right?
- 29 A. Correct.
- 10:30:42 30 Q. 75 And Cabriole were to pay for it?

- 10:30:44 1 A. Correct.
- 2 Q. 76 And didn't pay for it at the time, isn't that right?
- 3 A. Well, it was paid for by way of a mortgage.
- 4 Q. 77 Yeah. You got -- Don-Lay got a mortgage over Cabriole's lands when you entered
- 10:30:57 5 into -- when you resolved your difficulties with Mr. Kelly in November of 1991,
- 6 isn't that right?
- 7 A. That's right.
- 8 Q. 78 But before we come to the events of November 1991, when you originally made
- 9 your agreement with Mr. Kelly in 1987, culminating in your agreement in 1988,
- 10:31:13 10 broadly the agreement was to try and seek the development of these lands, is
- 11 that right?
- 12 A. Yes. Among others. There were three main objectives which were shared.
- 13 One was the obtaining of planning approval for a residential development and
- 14 residential on Prisdine lands, and thereafter to develop them. The second one
- 10:31:38 15 was to rezone the Cabriole lands. The third was to, in fact there were four
- 16 really. The third objective was to do a joint venture agreement with Power
- 17 Supermarkets as they then were. And the fourth was to redevelop or enhance the
- 18 quality of the units in Dundrum Property Investment companies, which was the
- 19 old Pye buildings.
- 10:32:04 20 Q. 79 The zoning on the lands that existed under the 1983 plan was that the black
- 21 lands at the top, which is where the old development were or the old shops, and
- 22 that was zoned industrial or E. And the Cabriole lands were zoned residential?
- 23 A. Correct.
- 24 Q. 80 And they were immediately north of lands owned by Power Supermarkets?
- 10:32:24 25 A. The Cabriole lands were zoned I think industrial too.
- 26 Q. 81 Yes. I think partly industrial and partly residential?
- 27 A. Right.
- 28 Q. 82 And then immediately beneath them were the Power Supermarkets lands which had
- 29 the C zoning, which permitted the supermarket premises that was there?
- 10:32:40 30 A. Correct.

- 10:32:40 1 Q. 83 So the combination -- the residential zoning would not have permitted the  
2 commercial development that you were considering, isn't that right? So that in  
3 order to develop the entire site, as you had planned, or as the long-term plan  
4 was, it was necessary to get access into the red lands to development them  
10:32:59 5 residentially. And it was necessary to change the zoning on the lands that  
6 were east of the Dundrum Bypass?  
7 A. That is correct.
- 8 Q. 84 So up to the time that you came to your agreement with Mr. Kelly to go your  
9 separate ways in November 1991, that was up to that point in time your joint  
10:33:16 10 plan. Would that be fair?  
11 A. That is correct, Ms. Dillon, yeah.
- 12 Q. 85 Now, in -- prior to 1988 or prior to getting involved in this site, had you  
13 much experience of development?  
14 A. Substantial.
- 10:33:28 15 Q. 86 Uh-huh. And for how long had you been working, if I might ask you, in that  
16 field?  
17 A. For ten years.
- 18 Q. 87 And Mr. Kelly's experience in development?  
19 A. 11 years, perhaps 12 years in or about that, yeah.
- 10:33:42 20 Q. 88 And what was Mr. Kelly's experience in development, can you say?  
21 A. I can't say.
- 22 Q. 89 Right. How did you come, if you can just briefly tell the Tribunal, how you  
23 came to meet Mr. Kelly and how you came to enter into this agreement with him?  
24 A. It came to my notice that from knowing Mr. Kelly, that Pye Lands would likely  
10:34:03 25 come on the market. And I seen it as a worthwhile opportunity to be looked at  
26 with a view to development. We had other developments going on at the time and  
27 this was simply another development.
- 28 Q. 90 And at that time I think, did you know Mr. Paddy Hickey?  
29 A. Yes, I would have known Mr. Hickey from -- he was a neighbour of mine. We  
10:34:37 30 both lived -- I live in the Parkville, Sandyford Road. And Mr. Hickey lived in



10:34:43 1 Dundrum, in the environs of Dundrum, and we met at community events. We knew  
2 each other also perhaps from meeting at the meetings and things. There was a  
3 small group of people who met to discuss, consider Fianna Fail policy at the  
4 time. and Paddy was -- Mr. Hickey was part of that group as far as I recall.

10:35:11 5 Q. 91 And were you yourself involved in Fianna Fail?

6 A. I was involved. My family were Fianna Fail. I had an officer role in UCD in  
7 the Fianna Fail Cumann, and I had a very small role in that policy committee,  
8 local policy committee for a number of years. But I wasn't a continuous  
9 supporter of Fianna Fail. I was -- I was in that context, I was a supporter  
10 in a small way.

10:35:47 11 Q. 92 It would seem from the documentation, Mr. Layden, that in mid to late 1988  
12 there was a meeting in fact on the 25th of August 1988 in Dublin County Council  
13 at 1067, following which a letter was written by both yourself and Mr. Kelly  
14 putting forward certain proposals to the Council. And you had attended at a  
10:36:10 15 meeting with Mr. Ring, Mr. Rabbitte, Mr. Murray, Mr. Goodbody, and both  
16 yourself and Mr. Kelly, together with Mr. O'Malley had attended the meeting.  
17 And the purpose of the meeting as recorded in the letter was to inform the  
18 Council and put to the Council a proposal about the proposed development on the  
19 lands.

10:36:29 20  
21 And in that, at the following page at 1068, you proposed the immediate  
22 submission of an outlined planning application for the development of a retail,  
23 commercial or leisure centre on those lands adjoining the Sandyford Road  
24 between the Millhouse and Crazy Prices development, to be broadly on the basis  
10:36:53 25 of either options one or two. And options one or two referred to the size of  
26 the retail development. But what you were proposing, I think, Mr. Layden, was  
27 retail development on the lands immediately north of the Crazy Prices lands?

28 A. Correct.

29 Q. 93 Right. Now, that would have been in breach of the 1983 Development Plan?

10:37:09 30 A. Correct.

- 10:37:10 1 Q. 94 And I think that you made an offer in that letter that if the Council were  
2 prepared to support you, that you would build a proportion of the Dundrum  
3 Bypass and part of the link road, isn't that right?
- 4 A. Correct.
- 10:37:23 5 Q. 95 Now, the Council informed you at 1070 that they had no difficulty with the  
6 retail, with the residential element of your plan, and that they felt the  
7 leisure element of your plan could be accommodated but your proposed retail  
8 development was a material contravention?
- 9 A. Broadly, that's correct. They had -- I think they had felt that our proposed  
10 residential was too intensive and they may have reduced the number of houses.
- 11 Q. 96 Yes. But their main objection at that time was that they couldn't even  
12 consider the question of your proposed retail development on the Cabriole lands  
13 because it was in breach of the Development Plan?
- 14 A. Correct.
- 10:38:06 15 Q. 97 And that of course meant that you were going to have to consider either the  
16 question of a material contravention. You had to change the status of the  
17 lands, isn't that right?
- 18 A. Correct.
- 19 Q. 98 Now, what steps did you take in connection with the chaining of the status of  
10:38:18 20 the lands?
- 21 A. Consulted Kieran O'Malley and Associates. Kieran O'Malley were a planning  
22 consultancy and he was experienced in these matters. And before Professor  
23 O'Donnell and I decided to proceed with the purchase in October '88, we wanted  
24 to establish the likelihood of the lands being developable in the context of  
10:38:56 25 our plans. And the meeting that you've just spoken of obviously gave rise to  
26 further consideration in regard to the Cabriole lands or the -- at that stage  
27 they were Pye Lands, of course.
- 28 Q. 99 Uh-huh.
- 29 A. And we took on board the advice of Kieran O'Malley. And he advised us and we  
10:39:21 30 then proceeded to complete the purchase of the various plots of land and

10:39:27 1 properties.

2 Q. 100 And what advice did Mr. O'Malley give you about the development potential of

3 the Cabriole lands?

4 A. I think it was that we should go for rezoning rather than contravention.

10:39:44 5 Q. 101 Yes. I think certainly at the end of the following year, at the end of 1990,

6 that was Mr. O'Malley's advices to you, was that you should seek to change the

7 zoning status of the lands in the review of the plan. And was that the route

8 that you elected to go?

9 A. Yes.

10:39:57 10 Q. 102 Now, before the meeting in 1988, Mr. Hickey has a meeting recorded in

11 Mr. George Redmond's diary. Did you ever meet with Mr. George Redmond,

12 Mr. Layden?

13 A. No.

14 Q. 103 Or did you ever meet, have meetings with Mr. Hickey to discuss how you would go

10:40:18 15 about changing the zoning status of these lands in 1988 now I'm talking about?

16 A. No.

17 Q. 104 Did you later meet with Mr. Hickey to discuss how you might change the zoning

18 status of the lands?

19 A. Well, Mr. Hickey was a local councillor who were very concerned with, he and

10:40:39 20 other politicians, local politicians, were very concerned that Dundrum was

21 choking with traffic congestion and that the town was going downhill, and that

22 the key to unlock the problems were the Pye Lands, which had the possibility of

23 providing the land for a bypass. So Mr. Hickey was very keen to see a

24 development take place, as indeed were most of the politicians I spoke to.

10:41:08 25 Q. 105 Was it the situation that in the course of your discussions with the

26 politicians it became clear that while everybody agreed something should be

27 done with the Pye Lands, there was not universal political agreement as to what

28 should be done with them?

29 A. Initially, the first -- I found very little opposition to the plan initially,

10:41:31 30 which was the '91 Draft Development Plan, where the vote to rezone, as

- 10:41:38 1 according to their proposals was 26 - 3.
- 2 Q. 106 Yes, but thereafter there were difficulties?
- 3 A. They were subsequent, yes, they were subsequent, yes.
- 4 Q. 107 I think that in January of 1989 at 2364, a planning application was made by
- 10:41:55 5 Don-Lay Limited for the development of 86 two storey houses on what's described
- 6 as the Pye Lands, but they are in fact the red lands on the map at 1964,
- 7 Prisdine lands
- 8 A. At this stage, Prisdine lands, yes.
- 9 Q. 108 Yes. And I think that that was granted by the Council.
- 10:42:16 10
- 11 If we just look at 2364. On the 28th of July 1989, subject to conditions,
- 12 which included the building of a portion of the Dundrum Bypass and an access
- 13 road across the green Cabriole lands, isn't that correct?
- 14 A. That's correct.
- 10:42:26 15 Q. 109 That was appealed I think to An Bord Pleanala, which ultimately found in your
- 16 favour, isn't that correct?
- 17 A. Correct.
- 18 Q. 110 Yes.
- 19 A. In December of that year.
- 10:42:35 20 Q. 111 In December of that year. Now, I think in 1990 differences arose between
- 21 yourself and Mr. Kelly, is that right?
- 22 A. Correct.
- 23 Q. 112 And that culminated I think in the issue of certain proceedings in February of
- 24 1991, 1981, please.
- 10:42:53 25 A. Correct.
- 26 Q. 113 And I think ultimately these were the proceedings that were resolved in
- 27 November of 1991?
- 28 A. Correct.
- 29 Q. 114 But that while there was a deterioration in the relationship between yourself
- 10:43:09 30 and Mr. Kelly, of necessity you had to continue working together until you were

- 10:43:13 1 able to organise a rearrangement of your affairs, is that correct?
- 2 A. That's quite correct.
- 3 Q. 115 So would it be fair to say that at this period in time, the working
- 4 relationship between yourself and Mr. Kelly had deteriorated?
- 10:43:25 5 A. Correct.
- 6 Q. 116 And were you in regular communication with Mr. Kelly?
- 7 A. Up to November '91, because we were both involved in serious responsibilities
- 8 to our companies and ourselves, we had an ongoing businesslike relationship.
- 9 Q. 117 And effectively, insofar as the Tribunal is concerned, Mr. Layden, the Tribunal
- 10:43:50 10 can take it that insofar as the Pye lands are concerned, in the period 1988 to
- 11 November of 1991, effectively the two controlling interests in those lands were
- 12 yourself and Mr. Kelly, subject to a small interest held by Pye Ireland in some
- 13 of the companies, isn't that right?
- 14 A. And Mr. O'Donnell.
- 10:44:09 15 Q. 118 And Mr. O'Donnell in your company, isn't that the position?
- 16 A. Correct.
- 17 Q. 119 But that insofar as the day-to-day operational arrangement or making decisions
- 18 were concerned, it was yourself and Mr. Kelly?
- 19 A. Correct.
- 10:44:20 20 Q. 120 But that by this time differences had arisen between you?
- 21 A. Yes.
- 22 Q. 121 And there was a breakdown in that working relationship?
- 23 A. Yes.
- 24 Q. 122 Did that result in Mr. Kelly taking his own course or taking matters into his
- 10:44:31 25 own hand, or did you continue to work together to try and achieve your
- 26 continuing aims?
- 27 A. I think we both decided that it was best from our own point of view and from
- 28 the point of view of the companies that we would disengage. And we drew up an
- 29 agreement which facilitated that, and provided each of the shareholding
- 10:45:06 30 sections. You had Pye and Mr. Kelly, and you had Professor O'Donnell and

10:45:13 1 myself, two sides. And we tried, insofar as we could, to come to an equitable  
2 break-up of the assets of all of the companies.

3 Q. 123 All right. Now, I think in 1990, when the Draft Plan, 1990 Draft Plan was  
4 first published -- at 1424 -- there was no real change in the zoning status of  
10:45:35 5 the Pye lands. They remained as they had been in the 1983 plan, isn't that the  
6 position?

7 A. Yes, so I understand, yes.

8 Q. 124 And I think that in November of 1990 an application or a submission for  
9 rezoning was made by Mr. Kieran O'Malley. At 1094.

10:45:53 10 A. Uh-huh.

11 Q. 125 And I think subsequent to that, there was some correspondence passing between  
12 Mr. O'Malley and yourself, and between Mr. Kelly and yourself. And Mr. Kelly  
13 was critical of the fact that when Mr. O'Malley made the rezoning submission he  
14 hadn't included some of Dalehall's lands, isn't that right?

10:46:10 15 A. I think I responded to that by way of explanation.

16 Q. 126 Yes.

17 A. Yes.

18 Q. 127 I think you told him in reply that it couldn't have covered the Dalehall lands  
19 because they were the other side of the proposed Dundrum Bypass?

10:46:22 20 A. And we didn't have any interest in that.

21 Q. 128 Yes, that's right. But again, it indicates at this stage, at 1999, Mr. Kelly  
22 writes to you, and he says that he refers to the meeting: "And you will recall  
23 at the conclusion of our deliberations I raised the question of what was  
24 happening with regard to the zoning of the land in view of the forthcoming  
10:46:45 25 Development Plan. To my astonishment I was advised the matter had been dealt  
26 with. On further queries I was advised that the site, the property of Dalehall  
27 had not been included. Our arrangements were supposed to be a partnership. In  
28 view of our current discussions regarding splitting lands, this latest episode  
29 is a timely reminder as far as I'm concerned."

10:46:59 30

10:46:59 1 So again, it indicates that there was a dispute between yourself and Mr. Kelly,  
2 and it was an ongoing matter that was happening at the time. You wrote, I  
3 think at 2,000, and explained that the Dalehall lands were the wrong side of  
4 the proposed bypass to have been include in any application, isn't that right?

10:47:15 5 A. Correct.

6 Q. 129 Now, I think in December of 1990 Mr. O'Malley advised you -- at 1100 --  
7 that it was his opinion in the third paragraph that you should get the lands  
8 rezoned and then make an application involving the retail element?

9 A. That was Mr. O'Malley's pretty firm advice at the time.

10:47:39 10 Q. 130 Yes. And in a note I think made by yourself at 2058, you review the matter  
11 following discussions with Ciaran O'Malley and discussions with Mr. Paddy  
12 Hickey. You see there in the very first sentence? "This note to file is made  
13 subsequent to discussions with Kieran O'Malley following on his letter of the  
14 4th of December," which is the letter we've just looked at, "and to discussions  
15 with Mr. Paddy Hickey, MCC."

16 A. Have you a date for that?

17 Q. 131 That I think is dated December 1993 -- 1990. You refer to the letter of the  
18 4th of November 1990 and to discussions subsequent to that, though the document  
19 itself is not dated.

10:48:29 20 A. Well, if we can assume that it's in or about the end of '90 or the beginning  
21 of '91, that would be in keeping with what I would have expected.

22 Q. 132 Yes. So that what I want to ask you about now is what discussions would you  
23 have had with Mr. Paddy Hickey at that time?

24 A. Well, Mr. Hickey was a long-term, a long time Councillor with a lot of  
10:48:55 25 experience. And he had been Chairman, as far as I recall, of the County  
26 Council in the late '80s. And I knew him to be very concerned about Dundrum.  
27 And I felt his advice on the procedures would be coming from someone who knew  
28 them from having had the responsibility of operating them.

29 Q. 133 But did you -- your concern insofar as these lands were concerned, was to get  
10:49:30 30 the zoning on these lands changed, isn't that right?

- 10:49:32 1 A. Correct, correct.
- 2 Q. 134 So can the Tribunal take it that what you would have discussed with Mr. Hickey
- 3 would have been how you were going to go about changing the zoning on the
- 4 lands?
- 10:49:41 5 A. Correct.
- 6 Q. 135 And whether or not, I assume, you would also have sought whether or not an
- 7 indication from Mr. Hickey as to whether or not he would have supported a
- 8 zoning change on those lands?
- 9 A. Correct.
- 10:49:49 10 Q. 136 All right. And I think ultimately Mr. Hickey is the person who proposed the
- 11 first motion seeking the rezoning of these lands?
- 12 A. That's correct.
- 13 Q. 137 Is it the position that Mr. Hickey did that following discussions or
- 14 conversations with you?
- 10:50:02 15 A. Yes, yes, yes.
- 16 Q. 138 So that --
- 17 A. But I think he would have done that on his own volition.
- 18 Q. 139 Yes. Well, we'll look at the motion in a second, Mr. Layden. But just looking
- 19 at this document, at the very end of the document, at 2059, there is a note I
- 10:50:21 20 think in your handwriting. Is that your handwriting?
- 21 A. Yes, it is.
- 22 Q. 140 It says "Ideal solution. Have lands proposed for rezoning in the Draft
- 23 Development Plan?"
- 24 A. Correct.
- 10:50:31 25 Q. 141 Is that a record, then, of the decision that you made at that time that rather
- 26 than proceeding with a planning application you were considering at that time,
- 27 the route you were electing to go was to have the lands rezoned in the Draft
- 28 Plan?
- 29 A. That's correct.
- 10:50:44 30 Q. 142 All right. And that Mr. Hickey's contribution would have been important, if



- 10:50:48 1 not vital, in that he was a local Councillor and he was supportive of a plan to  
2 change the zoning. And would it be fair to say then that your contact with  
3 Mr. Hickey at this time had as its -- had as its -- what you were seeking from  
4 Mr. Hickey was that he would support your application to have these lands  
10:51:11 5 rezoned?
- 6 A. Yes. But just perhaps to put it in context, most of the local politicians,  
7 both at national level and Mr -- for instance Mr. Brennan, Mr. Tom Kitt, they  
8 were all in favour of this. So it was an easy one at that stage. Now, it  
9 became more difficult later on. But at that stage the great majority of  
10:51:40 10 councillors, right across party -- cross-parties -- were in favour of the  
11 proposal.
- 12 Q. 143 Well, initially, the matter comes before the Council on foot of a motion at  
13 716. And this is a motion signed by Councillor Hickey and Councillor Olivia  
14 Mitchell, is that correct?
- 10:52:00 15 A. Correct.
- 16 Q. 144 Now, in the first instance, can you tell the Tribunal who prepared the motion?
- 17 A. I can't.
- 18 Q. 145 Who prepared it?
- 19 A. I don't know.
- 10:52:10 20 Q. 146 You don't know. But it must have been somebody, if I can put it like this, who  
21 was involved on your side of the matter, who prepared this motion, isn't that  
22 right?
- 23 A. Right.
- 24 Q. 147 So it was either yourself or Mr. Kelly. Would that be fair? Or who asked  
10:52:29 25 somebody to do it. Whether it be Mr. O'Malley or whoever?
- 26 A. Yes, I assume it was.
- 27 Q. 148 So it's likely to have been as a result of a request from either Mr. Kelly or  
28 yourself, isn't that right?
- 29 A. Correct.
- 10:52:37 30 Q. 149 Because you've seen in the earlier correspondence that there had been

10:52:40 1 discussion about how to get a matter rezoned. And Mr. O'Malley had explained  
2 about the motion and the map, isn't that right?

3 A. Correct.

4 Q. 150 So it's likely that this was done either at the request of yourself or  
10:52:54 5 Mr. Kelly?

6 A. That's correct, Ms. Dillon.

7 Q. 151 And who obtained Mr. Hickey's signature on the motion?

8 A. I don't know.

9 Q. 152 Well, who was --

10:53:04 10 A. I assume it was whoever drew up the resolution.

11 Q. 153 Yes.

12 A. But Mr. Hickey had already agreed to propose it and Ms. Mitchell agreed to  
13 second it, and there was cross-party support for it. I think with everyone  
14 bar, perhaps the Labour Party didn't support it, but pretty much everyone else.

10:53:29 15 Q. 154 When you say Mr. Hickey had agreed to propose the motion, had he done so  
16 following a request from you?

17 A. I assume, yes. I can't recall the exact time it happened. It would have been  
18 as a result of discussions.

19 Q. 155 And I think at 2062, you wrote on the 30th of January 1991 to Mr. Hickey, isn't  
10:54:00 20 that right?

21 A. Uh-huh.

22 Q. 156 And you have a handwritten note at the bottom of that. "Paddy, many thanks  
23 indeed for proposing that application for rezoning. I look forwards to seeing  
24 you in the near future. Joe?"

10:54:15 25 A. Uh-huh.

26 Q. 157 That would suggest that you had had some contact with Mr. Hickey, isn't that  
27 right?

28 A. Oh, yes.

29 Q. 158 And isn't it likely that being the person who had the most contact with  
10:54:23 30 Mr. Hickey, that you are the person who asked him to sign the motion?

- 10:54:26 1 A. Quite likely, yeah.
- 2 Q. 159 And that you may indeed even have gone so far as to have provided him with the  
3 motion and map having been given it by Mr. O'Malley, or whoever had prepared  
4 it?
- 10:54:37 5 A. I don't know.
- 6 Q. 160 Certainly it would have been somebody from your side, if I can put it that way,  
7 who would have obtained the map and the motion and given it to Mr. Hickey?
- 8 A. Correct.
- 9 Q. 161 Ms. Mitchell has told the Tribunal that she signed the motion as a result of  
10:54:47 10 being approached by Mr. Hickey. Did you at that stage, or anybody on the side  
11 of Cabriole or Don-Lay, approach Ms. Mitchell, do you know?
- 12 A. Yes.
- 13 Q. 162 Did you approach Ms. Mitchell?
- 14 A. Yes.
- 10:54:59 15 Q. 163 Did you ask her to sign the motion?
- 16 A. Yes.
- 17 Q. 164 And when did you meet her?
- 18 A. I met her on numerous occasions.
- 19 Q. 165 Ms. Mitchell told the Tribunal that she was asked to sign the motion by  
10:55:15 20 Councillor Hand, by Councillor Hickey, I beg your pardon. Councillor Hickey?
- 21 A. Yes. And I certainly sought her support. And she was a senior, senior person  
22 in the Fine Gael party at Council level. And I understood that her support  
23 would be influential perhaps in other Fine Gael councillors. And she seconded  
24 the motion, and indeed as I recall, Fine Gael councillors did vote for it.
- 10:56:00 25 Q. 166 The most senior member of Fine Gael in that location at that time was probably  
26 Councillor Tom Hand?
- 27 A. I never met Tom Hand.
- 28 Q. 167 Right. But you did approach Councillor Mitchell and seek her support?
- 29 A. Sorry, I may have met. I don't recall meeting Mr. Hand.
- 10:56:15 30 Q. 168 Right. But you did approach Councillor Mitchell. Indeed, you wrote to her, at

10:56:19 1 2061, and thanked her for seconding the application or signing the motion,  
2 isn't that correct?  
3 A. Yes, indeed.  
4 Q. 169 And you also wrote to Councillor Eithne Fitzgerald at 2060?  
10:56:30 5 A. Yes.  
6 Q. 170 And said that you would be pleased to go through the matter in detail with her?  
7 A. Yes.  
8 Q. 171 Now, I just want to ask you about one slight difference between the letter to  
9 Councillor Hickey and the letters to Councillor Fitzgerald and Mitchell.  
10:56:46 10  
11 At page 2062. The very last sentence you say: "Reaction from the Department of  
12 the Environment has been very positive." Following on a sentence dealing with  
13 the value of your overall contribution, that is to the roads, would be in  
14 excess of two million pounds.  
10:57:07 15 A. Yes.  
16 Q. 172 Yeah. What contact had you had with the Department of the Environment that led  
17 you to state that the reaction from the Department had been positive in January  
18 of 1991?  
19 A. I must have been speaking to perhaps Douglas Hyde or ...  
10:57:21 20 Q. 173 And who was ...  
21 A. A planner.  
22 Q. 174 Yes. In the Department of the Environment? I think Mr. Hyde was a member of  
23 Dublin County Council.  
24 A. Mr. Hyde, was he not a planner?  
10:57:41 25 Q. 175 Yeah, a planner with Dublin County Council?  
26 A. Yes.  
27 Q. 176 And your sentence says, "reaction from the Department of the Environment, which  
28 is a Government Department and not part of the Council, has been very  
29 positive". So what I want to ask you is, who in the Department of the  
10:57:49 30 Environment had you been discussing the roads or the roads contribution with in

10:57:52 1 January of 1991 as a result of which you told Councillor Hickey that reaction  
2 from that Government Department was very positive?

3 A. I can't recall.

4 Q. 177 But ...

10:58:03 5 A. It may have been something to do with funding for the roads.

6 Q. 178 Well isn't it likely that you must have had some discussion with somebody in  
7 the Department of the Environment at that time that caused you to --

8 A. Yes.

9 Q. 179 -- to write this to Councillor Hickey?

10:58:20 10 A. Yes.

11 Q. 180 Yes. And I just want to draw to your attention that insofar as the  
12 correspondence with Ms. Fitzgerald and Ms. Mitchell is concerned. You make no  
13 reference in that to any contact with the Department of the Environment, even  
14 though you do mention the value of the roads contribution that you are making.

10:58:37 15 In other words, what I'm putting to you is that it is only to Councillor Hickey  
16 that you mention that reaction from the Department of the Environment has been  
17 positive and not the other two councillors that you wrote to on the same day  
18 and I wonder is there any explanation for that?

19 A. I don't think -- perhaps it may be that Mr. Hickey had been trying to get the  
10:59:05 20 Dundrum Bypass for quite a while, a number of years and money was the problem  
21 or lack of it was the problem and the Department of the Environment, as far as  
22 I recall, had planned to furnish funds for this bypass but hadn't had the  
23 finances to follow it through. And perhaps when they heard of the rezoning and  
24 they seen the possibility of a developer providing one-third of the, of all of  
10:59:39 25 the land and one-third of the costs of construction that they were pleased.

26 Q. 181 Yes.

27 A. And Mr. Hickey would have been pleased also.

28 Q. 182 The land contribution that you are mentioning, Mr. Layden, was something that  
29 the Council were getting as a result of the Don-Lay planning application to  
10:59:59 30 develop the Prisdine lands, isn't that correct?

- 11:00:01 1 A. No, I don't think that's correct. The residential permission provided a clause  
2 wherein the developer of the Prisdine lands would have to provide access from  
3 Castlebrook, which was the residential development, across the lands that --  
4 owned by Cabriole giving access onto Sandyford road.
- 11:00:32 5 Q. 183 Uh-huh?
- 6 A. And then there was also as an additional requirement the provision of road  
7 construction along the Dundrum Bypass from Prisdine lands, which were south, up  
8 to the point of the link road, which was substantially north, 300 metres north,  
9 so that the access could be provided.
- 11:00:58 10 Q. 184 Yes. That was the access to the Prisdine lands?
- 11 A. Correct.
- 12 Q. 185 And that was part of the planning permission that had been granted by Dublin  
13 County Council and An Bord Pleanala in connection with the development of the  
14 residentially zoned lands.
- 11:01:10 15 A. Correct.
- 16 Q. 186 Isn't that correct? The proposals that you were going to make in connection  
17 with the development of a commercial centre on the Pye Lands. Would have made  
18 certain provision for the delivery up of certain lands to the Council, isn't  
19 that correct?
- 11:01:23 20 A. Correct.
- 21 Q. 187 But that was all conditional upon in the first instance changing the zoning,  
22 isn't that right?
- 23 A. Correct.
- 24 Q. 188 And the zoning itself was not conditional upon any offer of land, isn't that  
11:01:33 25 right? It couldn't have been.
- 26 A. Correct.
- 27 Q. 189 So that the first thing that was going to happen was you were going to have to  
28 get the lands zoned and then in a subsequent planning application you would  
29 enter into your discussions or negotiations with the Council about land take,  
11:01:47 30 isn't that correct?

- 11:01:47 1 A. That's correct.
- 2 Q. 190 But there was no question of ceding any lands to the Council unless and until  
3 such time as the lands were rezoned, isn't that right?
- 4 A. Correct.
- 11:01:55 5 Q. 191 Because there would be no viability in developing a commercial development if  
6 you hadn't got the zoning, isn't that the position?
- 7 A. That's correct.
- 8 Q. 192 The first step in the entire process was to achieve the rezoning of the lands?
- 9 A. That's correct.
- 11:02:07 10 Q. 193 Would it be fair to say that you had a better or a closer relationship with  
11 Councillor Hickey than you had with the other councillors in the area?
- 12 A. Well, I knew him better, but I had a good relationship with everyone, most of  
13 the councillors I met. Even if they didn't agree with our proposals, they were  
14 always courteous.
- 11:02:29 15 Q. 194 Indeed did you meet with Councillor Eithne Fitzgerald?
- 16 A. Yes, indeed.
- 17 Q. 195 I think it would be fair to say she was not supportive?
- 18 A. Not supportive but we had courteous meetings with her.
- 19 Q. 196 And I think that you attended a meeting on the 19th of February of 1991.
- 11:02:45 20
- 21 At 2063, with Mr. Don Tidy and others in connection with the Quinnsnorth  
22 development, isn't that right?
- 23 A. Correct.
- 24 Q. 197 Now, Quinnsnorth were inherently involved in this entire process, isn't that  
11:02:58 25 right?
- 26 A. Correct.
- 27 Q. 198 Because part of your proposal was to replace the then Crazy Prices supermarket  
28 in a separate but related deal with Power Supermarkets, isn't that right?
- 29 A. Yes.
- 11:03:08 30 Q. 199 Yes. And therefore, they equally had an interest in the rezoning of these

11:03:14 1 lands, isn't that right?

2 A. Yes.

3 Q. 200 Because any arrangement you had with Power Supermarkets depended on you being

4 able to bring the Cabriole lands into a commercial development.

11:03:27 5 A. Yes.

6 Q. 201 Right. Now, at this meeting on the 19th of February 1991, at 2064. Sorry,

7 first of all, at 2063, two people are deemed to be representing Cabriole and

8 they are yourself and Mr. Kelly. Do you see that?

9 A. Yes.

11:03:41 10 Q. 202 Now, on the following page at paragraph 2.1 at 2064. "Cabriole stated," and by

11 that it must have been either yourself or Mr. Kelly, "that an application for

12 rezoning of the entire site now being considered by Dublin County Council.

13 Cabriole stated the rezoning proposal had the backing of both Fianna Fail and

14 Fine Gael councillors with Labour likely to abstain. Cabriole stated a

11:04:01 15 successful change of zoning will smooth the path of the application through the

16 planning process."

17

18 Now, can the Tribunal take it, first of all, that the record is likely to be

19 accurate?

11:04:13 20 A. Yes.

21 Q. 203 And that Cabriole's view is likely to have been stated either by yourself or

22 Mr. Kelly?

23 A. Yes.

24 Q. 204 Are you the person who offered that view on the political situation in Dublin

11:04:25 25 County Council to the meeting?

26 A. Probably.

27 Q. 205 And can you outline to the Tribunal then what led you to the opinion that

28 Fianna Fail and Fine Gael councillors were going to back your proposed motion?

29 A. Discussions with Ms. Mitchell for Fine Gael and Mr. Hickey for Fianna Fail and

11:04:51 30 other politicians. Fianna Fail were, as far as I understood, very much in



- 11:05:04 1 favour of it, and indeed Fine Gael were and in the event, I think that was what  
2 happened, I think all Fianna Fail and all Fine Gael councillors did in fact  
3 support something that was good for Dundrum. And my memory of meetings with  
4 Ms. Fitzgerald were that she was in favour of the development but wished to  
11:05:26 5 have a big community element in the development, which, if it were included,  
6 would not have allowed the ceding free of charge of the road reservation for  
7 the Dundrum Bypass.
- 8 Q. 206 Yes. But you are anticipating me to some degree, Mr. Layden, because the next  
9 sentence says that labour was likely to agree to abstain. And again, can the  
11:05:53 10 Tribunal take it that that's a view that you offered to the meeting?
- 11 A. Yes, yes, yes.
- 12 Q. 207 And on what basis were you of the view that Labour were likely to abstain?
- 13 A. My memory of my meeting or meetings with Councillor Fitzgerald gave me to  
14 expect that.
- 11:06:15 15 Q. 208 Councillor Fitzgerald has told the Tribunal that she doesn't think that she  
16 gave you to understand she was likely to abstain in that she was against the  
17 development, but she was in favour of a centre or local facilities being  
18 provided. And in the event Labour did not abstain, isn't that the position?
- 19 A. That's correct.
- 11:06:38 20 Q. 209 And those Labour councillors who voted on the 31st of May 1991, including  
21 Councillor Fitzgerald, voted against your motion, isn't that right?
- 22 A. Correct, um-hmm.
- 23 Q. 210 Now, I think that in April of 1991 you entered into Heads of Agreements with  
24 Mr. Kelly about the proposed dissolution of the arrangement between you, is  
11:06:58 25 that correct?
- 26 A. Correct.
- 27 Q. 211 And that ultimately concluded in an agreement in November '91, correct? And in  
28 May of 1991 you both had a continuing interest in the outcome of the vote,  
29 isn't that right?
- 11:07:08 30 A. Correct.

- 11:07:09 1 Q. 212 And at 721 -- and the vote is recorded at 722. All of the Fianna Fail and Fine  
2 Gael councillors vote in favour of your motion, isn't that correct? And the  
3 Labour councillors vote against it at 723. Isn't that the position?  
4
- 11:07:31 5 So it would appear that the information that you provided to the meeting in  
6 February of 1991 was accurate insofar as the Fianna Fail and Fine Gael  
7 councillors were concerned but not accurate insofar as the members of the  
8 Labour party were concerned, isn't that right?  
9 A. Right.
- 11:07:54 10 Q. 213 Can I ask you whether you were, or any of your companies, a financial supporter  
11 of Mr. Hickey's at any stage?  
12 A. Not that I recall.
- 13 Q. 214 Were you in the habit of making financial contributions generally as part of  
14 your company's activities, political contributions?  
11:08:04 15 A. No.
- 16 Q. 215 Did Mr. Kelly make, to your knowledge, political contributions?  
17 A. Not that I was aware of.
- 18 Q. 216 Right. And was Mr. Kelly associated with any particular political party?  
19 A. Again, I cannot speak about that. I don't know.
- 11:08:23 20 Q. 217 There has been a suggestion I think that Mr. Kelly was a well known Fianna Fail  
21 supporter?  
22 A. Perhaps, I don't know.
- 23 Q. 218 It's not a matter that you can comment on?  
24 A. No.
- 11:08:36 25 Q. 219 Now, I think in July of 1991, as part of the ongoing discussions between you,  
26 at 2041, there was a letter to Mr. O'Grady from I think Gerard Scanlon at  
27 O'Brien. And I just want to draw to your attention paragraph one of that  
28 letter.  
29
- 11:08:54 30 "Mr. Layden and Mr. Kelly have been negotiating the fee to be paid to

11:08:58 1 Mr. Layden in respect of his continued work in relation to planning permission.  
2 Mr. Layden's requirements were that a fee of 35, 000 pounds plus VAT be paid to  
3 him. Mr. Kelly found this unacceptable. A compromise position has now been  
4 reached in that the initial payment onto the works contract being originally  
11:09:07 5 for an amount of 275,000 has been increased to 290,000 pounds."  
6 Do you see that?  
7 A. Yes.  
8 Q. 220 Yes. Now, would you just tell the Tribunal what was your continued work in  
9 relation to the planning permission? What was being referred to there?  
11:09:31 10 A. It was agreed by those involved that it would be in the interest of all  
11 concerned if I were to continue to complete negotiations with Power  
12 Supermarkets in connection with a joint venture, and/or purchase of the  
13 Albafare lands. And also that I would assist in the preparation of a planning  
14 application under the advice of Henry J Lyons, Architects and Kieran O'Malley  
11:10:16 15 and Associates Planning Consultants. And that was the only involvement I had  
16 after November '91. I ceased to have any executive role or director role in  
17 any of the companies other than Prisdine, which, of course, and Don-Lay, but  
18 none of the companies in which the land, the subject land remained.  
19 Q. 221 But you were to continue to assist in the preparation of the planning  
11:10:55 20 application that was to involve Power Supermarkets?  
21 A. Correct.  
22 Q. 222 And that planning application related to lands that were the subject matter of  
23 the rezoning application?  
24 A. At that stage had been rezoned.  
11:11:08 25 Q. 223 Yes. Well, had been provisionally rezoned insofar as the plan had not been  
26 completed, is that correct?  
27 A. Correct.  
28 Q. 224 But the lands that you were being paid to continue your work in connection  
29 with, if I can put it like that, were the lands that were the subject matter of  
11:11:21 30 the zoning application?

- 11:11:22 1 A. Correct.
- 2 Q. 225 So that if the lands weren't rezoned, there was going to be no retail  
3 development involving Power Supermarkets, isn't that the position?
- 4 A. Correct.
- 11:11:30 5 Q. 226 So to that extent, leaving aside the security for the monies owed to Don-Lay,  
6 you had a continuing interest in the planning application?
- 7 A. Well, my continued interest was as a mortgager, to continue to underpin the  
8 value of the subject lands, which were the subject of the mortgage in respect  
9 of which we had a priority agreement with ACC, the prime lender.
- 11:11:58 10 Q. 227 The lands at this stage, and indeed they went out on the first public display,  
11 at page 1429. And if we could just increase the coloured portion.  
12  
13 The lands had -- the lands with the red had been zoned C and they were the Pye  
14 lands, as a result of Councillor Mitchell and Councillor Hickey's motion?
- 11:12:23 15 A. Correct.
- 16 Q. 228 Right. And that C zoning permitted major shops, isn't that right, major  
17 retail?
- 18 A. Correct.
- 19 Q. 229 The northern lands, which had originally been town centre lands in the 1983  
11:12:32 20 plan, had a C2 zoning?
- 21 A. Correct.
- 22 Q. 230 And that didn't permit major shops, isn't that right?
- 23 A. Not major shops.
- 24 Q. 231 Yes. Though it did permit shopping, but limited in size?
- 11:12:41 25 A. Uh-huh.
- 26 Q. 232 But there was a small portion of land between the two which was zoned E, isn't  
27 that the position?
- 28 A. Uh-huh.
- 29 Q. 233 Now from a mortgager's point of view, the land zoned C was infinitely more  
11:12:52 30 valuable from a development point of view than the lands zoned C2?

- 11:12:56 1 A. Correct.
- 2 Q. 234 Because you were going to be able to put on those lands the type of development  
3 that you had envisaged and indeed that Power Supermarkets had envisaged, isn't  
4 that right?
- 11:13:05 5 A. Correct.
- 6 Q. 235 At that time the primary focus of the retail element of your plan was focused  
7 to the south of those lands on what had been the old Crazy Prices Supermarket,  
8 isn't that right?
- 9 A. Yes, in general that's right.
- 11:13:22 10 Q. 236 Yes. Now, you were also proposing other retail development on the lands, but  
11 you were replacing and extending, that was the plan, the old Crazy Prices  
12 Supermarket, isn't that right?
- 13 A. Yes.
- 14 Q. 237 And you were also proposing for more retail going up through the Pye lands, up  
11:13:38 15 to where they joined the old Dundrum Town Centre lands, isn't that right?
- 16 A. Yes, it hadn't quite crystallised at this stage, yes. But that would have been  
17 the general plan.
- 18 Q. 238 Would it be fair to say, Mr. Layden, that from a development point of view, the  
19 more retail that can be put on the land, A, the more valuable it is. But also  
11:13:59 20 the ability to put retail on land provides for financial backing for any other  
21 development you want to do on the lands?
- 22 A. Yes. Retail development is more profitable.
- 23 Q. 239 Uh-huh.
- 24 A. Economically more viable.
- 11:14:17 25 Q. 240 Yeah.
- 26 A. But it depends, of course, on the final analysis of being able to let it.
- 27 Q. 241 Yes. Leaving aside those issues, but from a development point of view, if you  
28 were a developer looking at that map and that was the final map, the Pye lands  
29 were infinitely more valuable to a potential developer because you could put  
11:14:36 30 more shopping on those lands than on the immediately adjoining northern lands,

11:14:41 1 isn't that right?

2 A. Yes.

3 Q. 242 And that's going to provide the income for the development?

4 A. Yes.

11:14:45 5 Q. 243 Yes. And it's going to make it much more profitable, isn't that right?

6 A. Yes.

7 Q. 244 And that can be seen. I mean, in developments such as the Dundrum Town Centre

8 or the Quarryvale lands, for example, isn't that right?

9 A. Yes.

11:14:57 10 Q. 245 Blanchardstown Shopping Centre?

11 A. Yes.

12 Q. 246 Retail lands generate high return, isn't that right?

13 A. Yes.

14 Q. 247 And that was the plan here at that time, even though as you say it hadn't

11:15:09 15 crystallised. It was proposed that these lands would be primarily retail,

16 isn't that right?

17 A. Yeah.

18 Q. 248 Now, I think that there was a Local Election in 1991. In June of 1991, isn't

19 that right?

11:15:21 20 A. I don't know.

21 Q. 249 You didn't know that.

22

23 At 678. And if you just look at the second last box there headed Local

24 Government Elections, you will see that there was a Local Election called on

11:15:32 25 the 21st of May and it took place on the 27th of June.

26

27 And one of the effects of that, Mr. Layden, was that it changed the composition

28 of Dublin County Council. Isn't that right?

29 A. Yeah. Yeah, I wasn't aware of the date of the election or the time, yeah.

11:15:48 30 Q. 250 And I think that Councillor Hickey was unsuccessful in that election?

- 11:15:57 1 A. In what year?
- 2 Q. 251 1991?
- 3 A. Really? Yeah.
- 4 Q. 252 Were you aware of that?
- 11:16:01 5 A. No.
- 6 Q. 253 No. But the effect of that from your point of view or from the point of view  
7 of developing those particular lands at that time, you still had an interest in  
8 those lands, was that you were -- in order to confirm those lands the Council  
9 were going to have to confirm the C zoning, isn't that right?
- 11:16:17 10 A. Yes.
- 11 Q. 254 Now, you would also, I assume, from your experts, have been aware of that?
- 12 A. Yes.
- 13 Q. 255 Yes. So I think that Kieran O'Malley made a submission to Dublin County  
14 Council.
- 11:16:29 15
- 16 At 1110. In November of 1991 supporting the C zoning on the Pye lands. And I  
17 think that in November of 1991 you entered into your arrangement with Mr. Kelly  
18 about separating the companies and the lands, is that right?
- 19 A. Yes.
- 11:16:54 20 Q. 256 Right. Now, if I could have the map at 1964, please.
- 21
- 22 Would it be fair to say, Mr. Layden, that you kept Prisdine with Mr. O'Donnell  
23 and that the balance of the lands, and indeed all of the lands that are east of  
24 the proposed Dundrum Bypass, were passed to Mr. Kelly's companies in which  
11:17:18 25 Mr. Kelly, Dillon-Digby and Pye had an interest?
- 26 A. Yes. Subject to certain rights of way and so on across Cabriole land and on to  
27 Dundrum -- on to Sandyford Road. The Prisdine lands had no access other than  
28 through the proposed Dundrum Bypass and the link road.
- 29 Q. 257 Yes.
- 11:17:47 30 A. So provision of the agreement to disengage provided Prisdine with a

- 11:17:54 1 right-of-way across those lands.
- 2 Q. 258 And you had been conditioned as owners of Prisdine, but as Don-Lay Limited by
- 3 the Council to build the link road, isn't that right?
- 4 A. Yes.
- 11:18:06 5 Q. 259 And to build the portion of the Dundrum Bypass that the link road connected to?
- 6 A. Yes.
- 7 Q. 260 If we could just increase at the centre of those green lands, please, where we
- 8 see underneath where the white writing is, you see that there is actually a
- 9 link road drawn. It's in the centre of the green lands and it comes from the
- 11:18:25 10 Sandyford Road, yes.
- 11 A. That's the link road.
- 12 Q. 261 That's the link road. And that connects into the Dundrum Bypass and that's
- 13 what you were conditioned as Don-Lay Limited to build?
- 14 A. Yes.
- 11:18:34 15 Q. 262 And in your severance agreement with Mr. Kelly, you arranged a right-of-way
- 16 that would continue to allow you to develop the Prisdine lands for residential
- 17 development?
- 18 A. Yes.
- 19 Q. 263 And allow you to fulfil the conditions of the planning permission that had been
- 11:18:48 20 grant, isn't that right?
- 21 A. Yes.
- 22 Q. 264 And also you had ranking and priority after the Agricultural Credit
- 23 Corporation, who had then become financiers to Mr. Kelly and his companies, you
- 24 had a charge over the green lands and the other lands in order to secure the
- 11:19:05 25 money that was due to your company, isn't that right?
- 26 A. Yes. It didn't rank secondary to the ACC. It was a subject matter of a
- 27 priority agreement.
- 28 Q. 265 Yes. But subject to that, you had a continuing interest in those lands because
- 29 you were owed I think a figure of approximately three quarters of a million
- 11:19:24 30 pounds or 750,000 pounds, which was secured on those lands, isn't that right?



- 11:19:29 1 A. Yes.
- 2 Q. 266 Now, you would have known, would you not, Mr. Layden, that if those lands were
- 3 not rezoned, the chances of development were reduced considerably, isn't that
- 4 right?
- 11:19:40 5 A. Yes. But perhaps I should say that our charge, i.e. the Don-Lay charge,
- 6 crystallised at a point which would have left our mortgage secure irrespective
- 7 of how well the lands were developed.
- 8 Q. 267 Yes.
- 9 A. Our charge was such as to secure us very comfortably.
- 11:20:10 10 Q. 268 Yes. And the lands were certainly worth many multiples of 750,000 pounds even
- 11 without being rezoned, isn't that the position?
- 12 A. As -- yes, the lands were worth more than the value that they had to get to
- 13 secure our mortgage no matter which way the zoning went.
- 14 Q. 269 Yes. These were very valuable lands, isn't that right? And I think there's no
- 11:20:37 15 issue that everybody who saw the lands knew that they would ultimately be
- 16 developed, but there wasn't agreement among all of the parties that were
- 17 involved, including the Council, as to how they would be developed?
- 18 A. Yes.
- 19 Q. 270 But there is no issue but that they were security for 750,000 pounds and indeed
- 11:20:54 20 multiples of 750,000 pounds, isn't that right?
- 21 A. Yes.
- 22 Q. 271 But if they were rezoned with the C zoning, that made them much more valuable,
- 23 isn't that right?
- 24 A. Confirmed.
- 11:21:05 25 Q. 272 Confirmed. Yes, and I'm saying confirmed in the '93 plan. That would have
- 26 made them extremely valuable lands, isn't that right?
- 27 A. Yes, yes, yes. They were very valuable one way or the other.
- 28 Q. 273 Yes. But they were much more valuable --
- 29 A. More valuable.
- 11:21:22 30 Q. 274 -- once they had retail on them, isn't that the position? Now I think that

11:21:26 1 you, in December 1991, after you had entered into your arrangement with  
2 Mr. Kelly, that you wrote to Kieran O'Malley.

3

4 At 1104.

11:21:39 5

6 And you write to Mr. O'Malley, and you say: "Dear Kieran, Further to our  
7 meeting in Tony's office" -- that's Tony Lyons, isn't that right?

8 A. Uh-huh.

9 Q. 275 -- On last Monday Aidan and I have had time to reflect on the possible

11:21:51 10 planning approaches which we discussed then. We've decided to go full steam  
11 ahead with the target submission date of the end of February 1992. In due  
12 course, if it is thought to be more prudent, we could seek an extension of time  
13 so that the decision could be deferred. This is a matter for the future. In  
14 the circumstances we would be most obliged if you could proceed in putting  
11:22:08 15 together your team for the EIS and furnish us with an approximate price

16 quotation."

17 A. Uh-huh.

18 Q. 276 Do you confirm first of all that you wrote that letter?

19 A. Yes.

11:22:17 20 Q. 277 And what you're setting out there to Mr. O'Malley is that in pursuance of your  
21 joint plan with Mr. Kelly you are going to lodge your planning application in  
22 February of 1992?

23 A. This letter was in compliance with the provision in the agreement that I would  
24 assist in the lodging of the application and in putting together the  
11:22:36 25 application.

26 Q. 278 But what the letter is telling Mr. O'Malley is that yourself and Mr. Kelly have  
27 agreed to lodge a planning application for the development of the Pye lands at  
28 the end of February 1992, isn't that right?

29 A. That is correct.

11:22:48 30 Q. 279 So to that extent, yourself and Mr. Kelly have put aside your differences and

- 11:23:01 1 you are now proceeding on another joint endeavour together, isn't that right?
- 2 A. On the planning application there was -- the planning application was separate
- 3 to the ownership.
- 4 Q. 280 Yes. And the planning application was conditional upon the zoning being
- 11:23:07 5 confirmed at C, isn't that right?
- 6 A. Correct.
- 7 Q. 281 Yes. And in the event that the zoning was not confirmed at C, your planning
- 8 application was going nowhere, isn't that correct?
- 9 A. Correct.
- 11:23:16 10 Q. 282 So that you did have a continuing interest to that extent, I think as you've
- 11 already said, in the lands?
- 12 A. Yes.
- 13 Q. 283 Now, I think in April of 1992 Mr. Kieran O'Malley wrote to you again. At 1131.
- 14
- 11:23:32 15 And he reminds you that a representation has been made. And at paragraph two
- 16 he says: "We understand that the Council is considering representations county
- 17 wide so it might be very appropriate if you were to have a word with your own
- 18 supporters to emphasise your support for the proposed zoning naturally, and to
- 19 counter any objections that have been filed, and I'm sure there are several by
- 11:23:53 20 other competing interests such as local residents. In other words, it would be
- 21 well worthwhile renewing contacts with your local elected representatives at
- 22 this stage and maintaining them perhaps for most of 1992."
- 23
- 24 Now, first of all, who were your own supporters, Mr. Layden?
- 11:24:08 25 A. In the original motion, that was the May '91, Olivia Mitchell for Fine Gael and
- 26 Paddy Hickey for Fianna Fail and their respective councillors. I spoke to very
- 27 few other councillors other than them. And in subsequent, I took no part at
- 28 all in the '82 motion. I don't think I --
- 29 Q. 284 Do you mean the '92 motion?
- 11:24:56 30 A. The '92. Sorry, the '92 motion, yes. The '92 motion was in October, wasn't

- 11:25:01 1 it?
- 2 Q. 285 Yes.
- 3 A. Yeah, I didn't partake in that at all and I was quite surprised when I heard
- 4 that it was overturned, that the zoning was changed back to the zoning that was
- 11:25:16 5 applicable in the 1983 plan.
- 6 Q. 286 When you say that you were -- you refer to Councillor Hickey and his own
- 7 councillors. Their respective councillors I think was the word that you used.
- 8 By that do you mean the Tribunal to understand that once Councillor Hickey was
- 9 on board he brought with him the Fianna Fail councillors?
- 11:25:39 10 A. Well, my memory of it is that we had plans which we furnished, and they were
- 11 discussed, and the whole basis of representations to County Councillors was
- 12 that this was what Dundrum needed. And it was very difficult to say back in
- 13 the early '90s that Dundrum did not need this development, if nothing else but
- 14 for the provision of the Dundrum Bypass.
- 11:26:18 15 Q. 287 But insofar as you understood that Councillor Hickey and Councillor Mitchell
- 16 had their respective councillors, by that do you mean that it was your
- 17 understanding that once Councillor Hickey was supporting the motion the Fianna
- 18 Fail councillors would support it, and once Councillor Mitchell was supporting
- 19 it that the Fine Gael councillors would support it?
- 11:26:38 20 A. I don't know was that true. But I understood it to be that there would be
- 21 cohesion between the parties.
- 22 Q. 288 Yes. And that -- indeed, on that vote it appeared to be the case, isn't that
- 23 right?
- 24 A. Apparently.
- 11:26:47 25 Q. 289 Because the only people who didn't vote for your motion were the Labour Party
- 26 councillors, isn't that right.
- 27 A. That's right.
- 28 Q. 290 Right. Now, in -- when the matter came before the Council again in October of
- 29 1992, a large number of motions had been lodged with the Council about the Pye
- 11:27:01 30 lands primarily by Councillor Olivia Mitchell and some by Councillor Eithne

- 11:27:06 1 Fitzgerald. Did you have any involvement at that stage with any of those  
2 motions?
- 3 A. None.
- 4 Q. 291 Were you aware of the level of activity that Mr. Kelly was involved in on his  
11:27:15 5 own behalf in corresponding with residents groups and with councillors and  
6 having meetings with councillors?
- 7 A. No.
- 8 Q. 292 Did Mr. Kelly or anybody on his behalf ever come to you and ask you to exercise  
9 whatever influence you might have had with any Councillor to seek support?
- 11:27:30 10 A. In '92?
- 11 Q. 293 In '92.
- 12 A. Not that I recall.
- 13 Q. 294 And were you aware of any mounting sense of difficulty about these lands at any  
14 stage in 1992?
- 11:27:40 15 A. Not that I recall.
- 16 Q. 295 Did you know Mr. Frank Dunlop?
- 17 A. No.
- 18 Q. 296 Did you ever meet Mr. Dunlop?
- 19 A. No. As far as I recall I have never met him. I certainly don't know him.
- 11:27:51 20 Q. 297 Did you ever hear of Mr. Frank Dunlop in connection any activity with County  
21 Councillors, local authorities or the rezoning of lands?
- 22 A. I must have, but I don't particularly remember it.
- 23 Q. 298 Were you aware or did you know of a Mr. Richard Lynn?
- 24 A. No.
- 11:28:19 25 Q. 299 Did you ever meet subsequently, I'm not talking about 1992. I'm talking at any  
26 time, did you ever have any dealings with Mr. Lynn?
- 27 A. He was mentioned in correspondence subsequently, well on, maybe '95, '96.
- 28 Q. 300 In 1995?
- 29 A. Was it, yeah? But I don't recall meeting him. I certainly didn't know him.
- 11:28:32 30 Q. 301 So that insofar as may the Tribunal take it then, Mr. Layden, that insofar as

11:28:38 1 Mr. Dunlop may have been retained or had an involvement in 1992 in connection  
2 with the rezoning of these lands, and insofar as Mr. Lynn may have been  
3 retained in 1992, that was not something with which you had any involvement or  
4 knowledge?

11:28:51 5 A. I have never engaged the services of either Mr. Dunlop or his company or Mr.  
6 Lynn or his company. No representative acting on my behalf has ever engaged  
7 their services. And no business association of any kind existed and no  
8 personal association existed. And as far as I recall, I have never met either  
9 gentlemen.

11:29:21 10 Q. 302 Did you know Mr. Patrick Lafferty?

11 A. No.

12 Q. 303 And can I ask you just to confirm to the Tribunal that you had no signing  
13 authority on any account of Cabriole Construction Limited in 1992 or 1993?

14 A. That is correct.

11:29:36 15 Q. 304 And insofar therefore as any payments may have been made to Mr. Lynn or Mr.  
16 Dunlop or Mr. Lafferty out of the accounts of Cabriole, that's not a matter  
17 with which you could have had any involvement because you had no signing  
18 authority?

19 A. That's correct.

11:29:49 20 Q. 305 Is that the position?

21 A. Or executive role or director role.

22 Q. 306 By that stage you had resigned all involvement, isn't that correct, in  
23 connection with the -- did you meet or were you in contact at all at this time  
24 with Mr. Aidan Kelly?

11:30:05 25 A. Perhaps initially at meetings which were planning associated and/or Power  
26 Supermarkets associated. And that would have been in the early stages after --  
27 when it was still zoned C in the Draft Development Plan. But thereafter I had  
28 very little contact, if any, other than correspondence, which was the  
29 correspondence between a mortgager and a mortgagee.

11:30:33 30 Q. 307 Did you have any contact with Mr. Tom Linane?

11:30:36 1 A. Yes, I met Mr. Linnane on an informal basis later on again. This was at a time  
2 where the bank, the prime bank to Cabriole and EPIC, which was ACC, and Don-Lay  
3 as joint mortgagors, were getting impatient regarding the non-payment, the  
4 non-repayment of the loan.

11:31:09 5 Q. 308 And that I think in fairness is something that started to crystallise or take  
6 shape commencing in 1994 and crystallising really in 1995 I think.

7 A. '95 perhaps.

8 Q. 309 And then ultimately with putting a receiver -- the bank putting in a receiver  
9 in January, isn't that right, 1996? But if we go back to October of 1992,  
11:31:30 10 Mr. Layden, for the moment, and we just look very briefly at the vote at -- on  
11 the motion at 1515.

12  
13 And this is the vote on the motion by Councillor Mitchell and Fitzgerald, which  
14 is to return the zoning on the Pye lands to their 1983 zoning, which would have  
11:31:52 15 been A, E and C, and then to change the Written Statement to change Council  
16 policy in connection with those lands, that the lands would be developed for  
17 tourism-related recreational or light industrial uses, to be complimentary to  
18 the commercial functions of the existing village core on Dundrum Main Street.

19  
11:32:11 20 Now, that was passed following contributions from certain councillors, isn't  
21 that right?

22 A. I have no knowledge of this.

23 Q. 310 And you were not involved in any way with this, is that the position?

24 A. That is right.

11:32:22 25 Q. 311 And -- now, I think subsequently also on the 1st of June 1993. At 1517. The  
26 Written Statement was changed, at 1523, by the addition of a paragraph  
27 incorporating that change. You will see it there at paragraph 3.2 of page  
28 1523. And it appears that following the successful motion by Councillor  
29 Mitchell and Fitzgerald, the colour of the map was changed to revert to 1983  
11:33:02 30 but the Written Statement was also to be changed. And that then went on public

11:33:08 1 display. You didn't have any involvement with that also?

2 A. No.

3 Q. 312 Now, the matter went on public display in 1993 with all of the those changes on

4 public display and a submission was made in August of '93 by Kieran O'Malley

11:33:29 5 objecting to the proposed changes. Is it the position that throughout this

6 time you did not have any involvement with the lands or with the preparation of

7 any submission to overturn the zoning?

8 A. Correct.

9 Q. 313 Right. Now, I think that ultimately in September 1993 Mr. Linnane contacted

11:33:47 10 you, isn't that the position?

11 A. Uh-huh.

12 Q. 314 And can you just tell the Tribunal why Mr. Linnane contacted you?

13 A. I think this was leading up to a motion to have the lands rezoned to their '91

14 draft status in the Council meeting of the 2nd of November '93. And that in

11:34:17 15 the lead-in to that I agreed to do what I could with any contacts I had to ask

16 councillors to consider their proposition that the lands would be rezoned back

17 to their draft status in May '91, which would have allowed the development to

18 proceed. And with that in mind, I contacted certain people. Perhaps

19 Mr. O'Malley and Mr. Brennan -- in Mr. O'Malley's case, just to ask him for

11:35:12 20 introductions to PD councillors Lohan and Keogh. Mr. O'Malley and I had no

21 discussions of any kind whatsoever in connection with the land or the zonings.

22 It was simply I knew him socially, and he arranged the introductions without

23 getting involved in any way at all with discussions on the subject matter.

24

11:35:47 25 I subsequently met Mr. Lohan and Ms. Keogh and asked for their support, again,

26 based on what was good for Dundrum. Remember, now, at this stage this planning

27 saga has gone on for 13, 14 years. And Dundrum, in the meantime, has suffered

28 as a result of traffic congestion and non-development. So again, my request

29 was to consider this matter in the interests of Dundrum. And as far as I can

11:36:36 30 recall, I spoke to a few people, sent them in what I perhaps felt would be an



11:36:48 1 appropriate redevelopment or development of the lands. But remember that at  
2 this stage, I did not have an executive role or a director role, just the role  
3 of an interested party who happened to have a mortgage. And Ms. Lohan or  
4 Ms. Keogh and Mr. Lohan subsequently supported the motion, which was carried,  
11:37:14 5 as far as I recall, by a fair bit of cross-party support again on the 2nd of  
6 November '93. And it was rezoned back to the status of May '91.

7  
8 Inexplicably, within two weeks, that zoning was overturned to a great extent by  
9 the insertion of a written objective note by the County Manager, which, as I  
11:37:49 10 understand it, was not proposed or seconded and was not voted on. It was  
11 simply inserted

12 Q. 315 I'll come to that in a moment.

13  
14 Can I ask you in the first instance, why Mr.-- sorry. Am I correct in  
11:38:08 15 understanding, Mr. Layden, that the reason Mr. Linnane came to you in September  
16 1993 was to seek that you would use whatever political influence you had in  
17 order to achieve what he wanted in connection with the zoning of the lands?

18 A. Oh, you'd have to ask Mr. Linnane that. But I would assume that that may very  
19 well be the case.

11:38:32 20 Q. 316 Because what you did after he contacted you was you set about contacting  
21 politicians, isn't that the case?

22 A. Yeah.

23 Q. 317 And the purpose of your contact with those politicians was to seek to effect a  
24 change or a reversal of the zoning that had been placed the previous year on  
11:38:46 25 the lands, isn't that right?

26 A. Yes.

27 Q. 318 Yes. I understand the stenographer would like a break.

28

29 CHAIRMAN: All right. We'll break for ten or fifteen minutes.

11:38:55 30

11:39:17 1 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK AND RESUMED**

2 **AS FOLLOWS:**

3

4 MS. DILLON: Mr. Layden, please.

11:56:47 5

6 I understand, Sir, that subject to any application from any of my colleagues,  
7 that you don't require to hear any evidence from Professor O'Donnell in view of  
8 the evidence earlier this morning of Mr. Layden.

9

11:56:59 10 CHAIRMAN: No, I don't think so. So he needn't be called.

11

12 MS. DILLON: Unless there is an application from anybody who requires it?

13

14 CHAIRMAN: If there is we'll deal with it. But I doubt it.

11:57:09 15

16 MS. DILLON: Mr. Layden, can I just ask you, before I resume looking at the  
17 vote in November 1993, whether you ever made any political contributions  
18 directly or indirectly?

19 A. Yes, I would have, yeah. Partly -- usually ahead of General Elections, and

11:57:34 20 they would be probably cross-party too.

21 Q. 319 Yes. And would you have made those contributions personally or would you have  
22 made them through a company?

23 A. I would have thought it probably would have been through one of our companies.

24 Q. 320 Yes. And would it have been when you say across the board, would it have been  
11:57:55 25 to political parties or would it to have been to individuals within political  
26 parties?

27 A. There could have been both, it could have been both.

28 Q. 321 Yes.

29 A. Fianna Fail, Fine Gael perhaps, PDs and maybe some individuals, too.

11:58:10 30 Q. 322 And when you say individuals, do you mean individual national politicians?

- 11:58:16 1 A. Yeah, it would be. I think it was all national politicians.
- 2 Q. 323 And would you have --
- 3 A. I think, I think.
- 4 Q. 324 Yes. Would you have made political contributions to any of the politicians to
- 11:58:24 5 whom you've made reference today?
- 6 A. Not that I know of.
- 7 Q. 325 Right. And in general what was the order of these political contributions?
- 8 A. Small.
- 9 Q. 326 And when you say "small" can you put a figure on it?
- 11:58:37 10 A. A couple of hundred?
- 11 Q. 327 May the Tribunal take it when you say a couple of hundred, that the greatest
- 12 political donation that you ever made would have been less than 500 pounds?
- 13 A. I would have thought so, yes.
- 14 Q. 328 And that in all cases these would have been company or corporate donations
- 11:58:56 15 drawn on company bank accounts?
- 16 A. That is my memory of it.
- 17 Q. 329 And that in the main these would have been donations to political parties as
- 18 opposed to individuals, but that there were some to individuals?
- 19 A. Correct.
- 11:59:06 20 Q. 330 Right. Did you ever make a political contribution to Mr. Dessie O'Malley?
- 21 A. To the PDs?
- 22 Q. 331 In the first instance to Mr. Dessie O'Malley?
- 23 A. Not that I recall.
- 24 Q. 332 Did you make a political contribution to the Progressive Democrats?
- 11:59:20 25 A. I probably did.
- 26 Q. 333 Would you have made a political contribution at the time of elections only or
- 27 at other times?
- 28 A. At the time of elections.
- 29 Q. 334 Okay. And what would the amount that you would have given to the Progressive
- 11:59:34 30 Democrats have been, Mr. Layden?

- 11:59:35 1 A. Small.
- 2 Q. 335 And if I can take you back now to Mr. Linnane's contact with you in September
- 3 1993, which was, I think, directed towards securing a change in the zoning on
- 4 the lands at his request, is that right?
- 11:59:50 5 A. Yes, yeah.
- 6 Q. 336 And I think that you told the Tribunal that you contacted Mr. Dessie O'Malley,
- 7 who in turn arranged an introduction to you, an introduction for you with
- 8 Mr. Larry Lohan and with Ms. Helen Keogh, is that correct?
- 9 A. Yes.
- 12:00:04 10 Q. 337 And I think at page 2089, on the 6th of October you wrote to Mr. Lohan
- 11 enclosing the map, the subject matter of the proposed motion, isn't that right?
- 12 A. Yes.
- 13 Q. 338 And you acknowledge that you had met him the other day in connection with the
- 14 above?
- 12:00:17 15 A. Yes.
- 16 Q. 339 And is that the meeting which had been set up as a result of the introduction
- 17 by Mr. O'Malley?
- 18 A. Yes.
- 19 Q. 340 And the map to which you are referring I think is the map that's attached to
- 12:00:25 20 the motion at page 1534, that's the map?
- 21 A. Yes.
- 22 Q. 341 That's attached to the motion?
- 23 A. Yes.
- 24 Q. 342 And the motion itself is at page 1533.
- 12:00:39 25
- 26 And you will see there that Councillor Lohan signed the motion?
- 27 A. Yes.
- 28 Q. 343 Yes. Did you ask Mr. Lohan to sign the motion?
- 29 A. Yes.
- 12:00:48 30 Q. 344 Right. And did you have the motion with you when you asked him, or a map when

- 12:00:54 1 you met him?
- 2 A. I had a map and the draft motion, as far as I recall, and I think it was
- 3 Mr. O'Malley, Kieran O'Malley, who drafted it and it was in fact Kieran
- 4 O'Malley, yeah.
- 12:01:10 5 Q. 345 Do you think that you are the person who was likely to have got Mr. Lohan's
- 6 signature?
- 7 A. No, I wouldn't have got his signature. I wouldn't have been involved at that
- 8 level. I would simply have sought his support and asked him to support it.
- 9 Q. 346 Right. The Tribunal has been told by all of the people who signed that motion,
- 12:01:29 10 with the exception, obviously, of the late Tom Hand, that they did so at the
- 11 request of and in the presence of Mr. Tom Hand. Did you have anything to do
- 12 with getting the signatures on that motion other than seeking the support of
- 13 Councillor Lohan?
- 14 A. That is correct. I had nothing to do with the motion other than to seek the
- 12:01:48 15 support of Mr. Lohan.
- 16 Q. 347 Yes. And I think that you wrote to other councillors at that time as well,
- 17 including Mr. Donal Marren, isn't that right?
- 18 A. That is correct.
- 19 Q. 348 And you wrote to Councillor Fitzgerald but she was then a Minister, is that
- 12:02:00 20 right?
- 21 A. That is correct.
- 22 Q. 349 And you wrote to Mr. Frank Buckley, who was a Labour Councillor at that time?
- 23 A. That's correct.
- 24 Q. 350 And indeed he had a counter motion which was lost on the day, isn't that right?
- 12:02:09 25 A. That's correct. I don't know that.
- 26 Q. 351 Yes. I'll show you the motion.
- 27 A. I accept what you say.
- 28 Q. 352 And I think you also wrote to Mr. Sean Barrett seeking his support, isn't that
- 29 right?
- 12:02:20 30 A. Yes.

- 12:02:20 1 Q. 353 Now, I think on the day that -- of the vote of the 2nd of November, the vote in  
2 question is on page 902.  
3
- 4 And this in fact is a vote on the first motion, which was Councillor Buckley  
12:02:41 5 and Doohan's motion, seeking to confirm the changes. Now, that's not what Mr.  
6 Linnane, Mr. Kelly or yourself wanted, isn't that right?  
7 A. That's right.
- 8 Q. 354 Yes. So a vote against this motion would be a vote for what you wanted, isn't  
9 that right?  
10 A. Yes.
- 11 Q. 355 And I just want to draw to your attention there just a number of names, and  
12 they are Councillor Keane, Councillor Keogh, Councillor Lohan, Councillor  
13 Quinn, Councillor Terry and Councillor Tyndall. They were all members of the  
14 Progressive Democrats, isn't that right?  
12:03:15 15 A. I only knew Lohan and Keogh.
- 16 Q. 356 Yes. And were they the only two councillors that you spoke to, were  
17 councillors Keogh and Lohan?  
18 A. Yes. As I recall it, they were considered to be the councillors, the PD  
19 councillors who would have influence perhaps with their colleagues.
- 12:03:42 20 Q. 357 Right. So you would have regarded them as key councillors?  
21 A. Perhaps, yeah.
- 22 Q. 358 From the PD point of view. And I just want to show you now the previous vote  
23 in October of 1992, at 1515.  
24
- 12:03:56 25 And the motion that's being voted on here, Mr. Layden, is the  
26 Mitchell-Fitzgerald motion.  
27 A. Uh-huh.
- 28 Q. 359 Which is bringing back the 1983 zoning on the Pye lands. And I want to draw to  
29 your attention that Councillor Cass, Councillor Keane, Councillor Keogh,  
12:04:15 30 Councillor Quinn and Councillor Terry, who are all PD councillors, all vote in

12:04:19 1 favour of Councillor Mitchell and Fitzgerald's motion?

2 A. Yes.

3 Q. 360 So that in -- at that meeting in October '92 they are voting in favour of the

4 1983 zoning on the Pye lands, isn't that right?

12:04:33 5 A. I see that.

6 Q. 361 And then in November 1993, when they come to vote again on the same lands at

7 page 902. They are voting in favour of your position, isn't that right?

8 A. Yes.

9 Q. 362 That would suggest, Mr. Layden, that you had been very successful in your

12:04:53 10 intervention with the Progressive Democrats, isn't that right?

11 A. Yes.

12 Q. 363 Yes. In fact, I think you acknowledge that in correspondence at 2092, where

13 you wrote to Ms. Helen Keogh thanking her for her support last Tuesday, that it

14 was important and appreciated, isn't that right?

12:05:11 15 A. Yeah.

16 Q. 364 And you wrote to Mr. Lohan at 2093, and you describe his contribution as hugely

17 important, indeed vital contribution, and you were most grateful for it. And

18 you asked him to pass on your thanks to his colleagues, isn't that right?

19 A. Did I mention in those letters that it was a great decision for Dundrum

12:05:32 20 village?

21 Q. 365 Yes, you did. That's the second or third line down there, a great -- good

22 decision for Dundrum village, which badly needs this type of development.

23 A. Okay.

24 Q. 366 I think you wrote also to Mr. Dessie O'Malley at 2094, and you thanked him for

12:05:47 25 the "arranging introductions to the PD councillors on Dublin County Council, in

26 particular Larry Lohan and Helen Keogh. They were most helpful and

27 constructive, and in being of enormous assistance to us, done a great day's

28 work for Dundrum. Looking forward," and then you go on to a different matter.

29

12:06:05 30 And again, it would seem there you are acknowledging that that introduction to

- 12:06:10 1 Councillor Lohan and Keogh came through Mr. O'Malley, isn't that right?
- 2 A. And perhaps you can note from the letter that it was his only involvement, was
- 3 that of introduction.
- 4 Q. 367 Yes. But it was an enormously important introduction because the PD
- 12:06:26 5 councillors who had previously voted against your position, if I can call it
- 6 that, were now voting in favour of your position, isn't that right?
- 7 A. Yes.
- 8 Q. 368 And it would seem from the documentation that has been discovered to the
- 9 Tribunal that the factor that led to that change was your intervention at the
- 12:06:44 10 request of Mr. Linnane, isn't that right?
- 11 A. It would appear that way.
- 12 Q. 369 Yes. Because you are the person who contacted the Progressive Democrats, isn't
- 13 that right, the Progressive Democrat councillors?
- 14 A. Yes.
- 12:06:55 15 Q. 370 Yes. And I think indeed that Mr. O'Malley acknowledged your letter at 2095, in
- 16 which he thanked you for your letter and said that he was glad that things had
- 17 worked out in Dundrum satisfactorily, isn't that right?
- 18 A. That's right.
- 19 Q. 371 And therefore, would it be fair to say then that from your consideration of
- 12:07:13 20 the brief and the documents made available to the Tribunal, that your
- 21 intervention on behalf of the Pye lands in October of 1993 turned out to be a
- 22 vital intervention in assisting Mr. Linnane in getting the rezoning overturned,
- 23 isn't that right?
- 24 A. Yeah, the rezoning changed back to the original --
- 12:07:38 25 Q. 372 Changed back to the C zoning, isn't that right?
- 26 A. Yes.
- 27 Q. 373 Because what appears to have been the main change that happened was that the PD
- 28 councillors, who had voted previously against your position, were now
- 29 supporting your position?
- 12:07:46 30 A. Yeah.



- 12:07:46 1 Q. 374 And you are the person who intervened with the PD councillors following the  
2 contact with Mr. O'Malley, isn't that the position? Now, I think subsequently  
3 the objective note to which you refer on the 12th of November was passed by the  
4 Council unanimously, was passed by the Council without objection. At page 905.
- 12:08:06 5 It will come up on screen. This is where the Written Statement was changed,  
6 confirmed, isn't that right?
- 7 A. No representations received.
- 8 Q. 375 Yes.
- 9 A. There was no vote on it, was there?
- 12:08:17 10 Q. 376 There was no vote recorded, no. It was declared confirmed.
- 11 A. By who?
- 12 Q. 377 By the Council. This is a public meeting of the Council at page 904. You will  
13 see there the members of the Council who are present when that confirmation  
14 takes place.
- 12:08:34 15 A. It's extraordinary. It was extraordinary -- it still is.
- 16 Q. 378 Yes. But you accept that in any event, however it happened --
- 17 A. It happened.
- 18 Q. 379 However it happened, that the effect of this was that while you had your map  
19 changed back to the C zoning, which permitted retail. The Written Statement  
12:08:50 20 was now in conflict with that position?
- 21 A. And as subsequent events showed, the decision that the councillors took, what  
22 was it, nine days before that, was effectively overturned.
- 23 Q. 380 And --
- 24 A. Without them knowing it.
- 12:09:06 25 Q. 381 Yes. And if you look at the map at 1549, which was the Development Plan for  
26 Dublin that was made in December of 1993, and the Pye lands which are coloured  
27 pink or purple on those lands, they had a C zoning, isn't that right?
- 28 A. I can't see it. I assume if you say so, yes.
- 29 Q. 382 These lands were the Pye lands?
- 12:09:28 30 A. Oh, yes, yes, yes.

- 12:09:29 1 Q. 383 And they had a C zoning, isn't that right?
- 2 A. Yes.
- 3 Q. 384 Yes. And the northern lands had a zoning with C2 zoning, but with major shops  
4 permitted, isn't that right?
- 12:09:44 5 A. C2 I think, yeah.
- 6 Q. 385 Yes. But it was permitted to have major shops by virtue of a motion brought by  
7 Councillor Mitchell and Fitzgerald, isn't that right?
- 8 A. I didn't know that.
- 9 Q. 386 Yeah. So the effect or the end result was that by the end of 1993, on the map  
12:10:00 10 you had achieved your objective. But the effect of the Written Statement was  
11 that you couldn't in fact put retail on it, isn't that right?
- 12 A. That's right.
- 13 Q. 387 And I think you discovered that when a planning application was made in October  
14 of 1994, isn't that right? Isn't that the position?
- 12:10:19 15 A. Well, I think advice, professional advice, showed that to be the case well  
16 before that planning application was regarded in contravention. I wasn't  
17 involved in that planning application other than as a mortgagor. I'd an  
18 interest in it, but I think professional advice at the time, end of '93, was  
19 well -- well, it was perhaps unusual. It was unusual and perhaps unique that a  
12:10:50 20 written objective statement would overturn a decision taken by councillors in  
21 regard to the mapped zoning.
- 22 Q. 388 In any event, I think that by the time the full extent of the effect of the  
23 written statement was appreciated, it became clear that some step would have to  
24 be taken to alter the Written Statement if the planning application was to  
12:11:11 25 proceed successfully, isn't that correct?
- 26 A. That's correct.
- 27 Q. 389 The Written Statement was a block to what you wanted to achieve?
- 28 A. Yes.
- 29 Q. 390 Because the objection was that the retail element again was in breach, was a  
12:11:22 30 material contravention, it was in breach of the Development Plan. And I think

12:11:26 1 that differences arose between yourself and Mr. Kelly as to the best way to  
2 approach that problem, isn't that right?

3 A. Yes, I think my concern again at that stage was as a mortgagor.

4 Q. 391 But your concern was to have what's called -- that paragraph in the Written  
12:11:43 5 Statement deleted, isn't that right?

6 A. Yes.

7 Q. 392 And you wanted that done by way of a motion brought before the Council?

8 A. Yes.

9 Q. 393 And you contacted again Councillor Lohan about the matter, isn't that right?

12:11:54 10 A. Yes.

11 Q. 394 In January '95?

12 A. Yes.

13 Q. 395 But Mr. Kelly wanted to put in a planning application which would be flipped,  
14 in other words, the retail element would be to the north of the site, isn't  
12:12:04 15 that right?

16 A. Uh-huh.

17 Q. 396 And there is an exchange of correspondence between yourself and Mr. Kelly in  
18 early 1995, where he makes references to his planning consultant, isn't that  
19 right? And the advices he was getting from his planning consultant, whom I  
12:12:21 20 think was Mr. Lynn?

21 A. Yes, I don't recall.

22 Q. 397 In the correspondence you have seen references to Mr. Lynn, isn't that right?

23 A. Yes.

24 Q. 398 But you never met Mr. Lynn?

12:12:29 25 A. No, as far as I can recall.

26 Q. 399 Can I show you a a document, Mr. Layden, at 2135, and first of all ask you is  
27 it your document?

28 A. Yes, I'm not familiar with this but it's my writing.

29 Q. 400 Yes. It appears to be notes that are made, Mr. Layden, for the purpose of  
12:12:50 30 working out an agreement with Mr. Kelly about deleting the objective note and

12:12:55 1 bringing the motion before the Council?

2 A. Uh-huh.

3 Q. 401 And it says: "Motion to delete 22nd of May '95, lodge new planning as shown

4 22nd of May '95. PL -- which I think is Pat Lafferty, and RL, Richard Lynn --

12:13:09 5 to liaise directly with DL -- that's yourself I think -- and the ACC. Subject

6 to motion to delete being carried and lodgement of plans, 25,000 pounds paid

7 direct to PL and RL. Loan from ACC to Cabriole."

8 A. Uh-huh.

9 Q. 402 And that's followed by: "Subject to motion to delete being confirmed in

12:13:32 10 August '95, 50,000 pounds paid direct to Pat Lafferty and Richard Lynn, loan

11 from ACC to Cabriole."

12 A. Uh-huh.

13 Q. 403 Now, would you just explain to the Tribunal there why you were agreeable that a

14 sum of 25,000 pounds would be paid to Mr. Lafferty and Mr. Lynn on the

12:13:50 15 lodgement of the plans and 50,000 pounds when the motion was successful?

16 A. Well, we're talking about mid '95. At that stage, ACC and Don-Lay, as

17 mortgagers, were becoming impatient with regard to the non-payment of the

18 monies outstanding. ACC were more concerned than Don-Lay because the security

19 exposed them to greater risk. You'll recall that ACC and Don-Lay entered into

12:14:41 20 a priority of security back when ACC became the prime lender in November '91.

21 That priority agreement secured Don-Lay's loan to a very satisfactory degree.

22

23 In or about this time ACC were considering the appointment of a receiver, but

24 didn't do so I think for a further six months or in or about that. And as a

12:15:21 25 last ditch effort, I perhaps I met Kelly, Mr. Kelly and Cabriole had a cashflow

26 problem, as far as I recall, and the professional advisors, in order to submit

27 applications, required payment and I would, as I recall, I agree with Mr. Kelly

28 that we would agree with ACC if they lent the money to Cabriole for the payment

29 of professional fees and planning fees. There were planning fees too, would be

12:16:09 30 allowed priority in respect of I think it was 75,000, I think, total. Does

12:16:15 1 that make -- yeah.

2 Q. 404 The figure there is 25,000 pounds and 50,000 pounds, which is 75,000 pounds. I

3 think the actual agreement was 85,000?

4 A. 85 --

12:16:24 5 Q. 405 Which included 10,000 pounds planning fees.

6 A. Okay.

7 Q. 406 But the figure of 75,000 pounds is to Mr. Lafferty and Mr. Lynn?

8 A. Yeah.

9 Q. 407 The first 25 is conditional upon the motion to delete being carried and

12:16:36 10 lodgement of plans. And then the 50,000 pounds is subject to the motion to

11 delete being confirmed, isn't that right?

12 A. Yeah.

13 Q. 408 And in fact, that is recorded at 2136 in a letter to the directors of Don-Lay

14 Limited.

12:16:50 15 A. Uh-huh.

16 Q. 409 Of May 1995, from Cabriole which is not signed, but I want to draw your

17 attention to paragraph C, which says: "A further loan, the sum of 85,000

18 pounds to be obtained by Cabriole or to pick from ACC with a drawdown

19 facilities as follows: Payments to be made directly to the relevant

12:17:07 20 professional firm or local authority. 25,000 pounds on the 1st of July '95,

21 conditional upon the motion having been passed by the Council. Then 10,000

22 pounds planning fees and 50,000 pounds on the 1st of October, conditional upon

23 the motion being confirmed."

24 A. Yes.

12:17:23 25 Q. 410 Isn't that right?

26 A. Yeah.

27 Q. 411 So the payment of 25,000 pounds to Mr. Lynn and Mr. Lafferty was conditional

28 upon the motion having been passed by the Council. And the payment of 50,000

29 pounds was conditional upon the motion having been confirmed by the Council,

12:17:37 30 isn't that right?

- 12:17:49 1 A. Yes, yeah.
- 2 Q. 412 And therefore, what contribution were Mr. Lynn and Mr. Lafferty making to  
3 having the motion passed by the Council and confirmed by the Council?
- 4 A. I think they were the professional advisors that Cabriole were using at that  
12:18:10 5 stage for the purposes of planning. And these fees were payable by Cabriole on  
6 the production of certain works. And it would be normal, I suppose, if  
7 professional consultants are not being paid, or are having uncertainty about  
8 payment, that they would seek clarification. And they may very well have  
9 required a letter from ACC. Did ACC issue a letter of offer?
- 12:18:47 10 Q. 413 I don't believe that ACC issued a letter of offer. I think ultimately an  
11 arrangement was made with Power Supermarkets, which was never implemented for  
12 the same monies.
- 13 A. Okay.
- 14 Q. 414 And according to Mr. Lynn's evidence yesterday, while they had been paid monies  
12:19:03 15 the previous October they were not paid any monies subsequently. And according  
16 to Mr. Lynn, he was never paid in respect of this.  
17  
18 But what I'm asking you about is what did you understand that Mr. Lynn and  
19 Mr. Lafferty could or would do that would justify fees of 75,000 pounds in  
12:19:20 20 connection with the motion?
- 21 A. Planning application.
- 22 Q. 415 Well, it's the motion with respect, Mr. Layden.
- 23 A. Well, I think at this stage there was substantial planning fees due, and I  
24 think the motion deletion and the planning application at this stage would have  
12:19:36 25 been so closely related that in order to get movement I think they had to be  
26 taken as one.
- 27 Q. 416 Yes. But in fact what the document records is that the 25,000 pounds was  
28 conditional upon the motion being passed and the 50,000 pounds is conditional  
29 upon the motion being confirmed?
- 12:19:55 30 A. Well, my understanding of it was, quite clearly, that it was two items. They

- 12:20:01 1 were professional planning fees, and planning application fees from the  
2 planning office.
- 3 Q. 417 And I think in June -- I think that at that time there was an exchange of  
4 correspondence between Mr. Linnane on the one part and yourself on the other,  
12:20:19 5 as to who was to have responsibility for drafting the motion. And it's an  
6 exchange of angry correspondence, if I can call it that. You will have seen it  
7 in the brief. I can go through it if you wish.
- 8 A. No, that's okay.
- 9 Q. 418 I just want to draw to your attention to one other document on the 21st of June  
12:20:36 10 '95, at 2156.  
11  
12 And there are allegations and counter allegations about who should have done  
13 what at this stage. But Mr. Linnane has contacted you and spoken to you, and  
14 you say: "As mentioned, the lack of cohesion and action by Mr. Kelly and his  
12:20:53 15 advisor Mr. Lynn, I still not have had any contact from them, raises doubt in  
16 my mind of Mr. Kelly's desire to succeed and have the objective note deleted.  
17 I enclose a copy of the planning history. The Motion as proposed, together  
18 with a proposed strategy. It would be my intention to contact Seamus Brennan,  
19 in effect to use his influence where possible, on FF councillors, whom I assume  
12:21:12 20 are already on side.  
21  
22 "I would make contact with or have contacted Paddy Madigan, FF, and Richard  
23 Conroy, FF, who tend to absent themselves in such matters. I will contact  
24 Larry Lohan and Helen Keogh PDs. I will also contact Olivia Mitchell of FG.  
12:21:25 25 Little chance here of support. Yours, sincerely Joseph Layden." Isn't that  
26 right?
- 27 A. Uh-huh, that's right.
- 28 Q. 419 Now, in that letter you appear to be of the view that the Fianna Fail  
29 councillors should have already been on side, isn't that right?
- 12:21:38 30 A. Well, like I have mentioned, Fianna Fail councillors certainly, in the days --

12:21:45 1 earlier days, had all, had been in favour of the development of Pye lands  
2 insofar as it was the only option for the traffic problems of Dundrum to be  
3 resolved. And Fianna Fail, I think their councillors remained pretty well  
4 committed to that along this whole saga. I would have contacted Seamus Brennan  
12:22:15 5 at the -- I don't think he was a Councillor. But again, he would have had  
6 contact with his Fianna Fail councillors.

7 Q. 420 Yes.

8 A. Again, on the plan, what we had in mind, which was good for Dundrum.

9 Q. 421 But would you have contacted Mr. Brennan in the same way as you had previously  
12:22:33 10 contacted Mr. O'Malley?

11 A. Yeah, except that in this case Mr. Brennan was a local man.

12 Q. 422 And would you have contacted Mr. Brennan with the intention that Mr. Brennan  
13 should exert his influence on the local councillors so that they would support  
14 the position that you were adopting?

12:22:49 15 A. Well, I don't think it was that. I think it was more like that he would alert  
16 them to the proposal which we had in mind.

17 Q. 423 You are a very careful man, Mr. Layden. And you have given your evidence here  
18 today very, very carefully. And I suggest that you would not have said "It  
19 would be my intention to contact Seamus Brennan to use his influence where  
12:23:15 20 possible," if you had meant something else.

21 A. No, no, no, that's what I meant.

22 Q. 424 So that the purpose of your contact with Mr. Brennan was that he, a national  
23 politician, would exert whatever influence he could on the local politicians to  
24 support the position that you were adopting in connection with the lands.  
12:23:29 25 Isn't that the position?

26 A. Having regard to the Fianna Fail history in supporting this idea.

27 Q. 425 But is that not the position, Mr. Layden?

28 A. That is correct, yes, yeah.

29 Q. 426 And that is the same thing that you had done previously with Mr. O'Malley; that  
12:23:45 30 he would contact his local councillors in connection with the position that you



- 12:23:48 1 were adopting?
- 2 A. No, that's not quite true. Mr. O'Malley wouldn't have been aware at all of the
- 3 details of the Pye lands and the zoning history of the Pye Lands.
- 4 Mr. O'Malley's involvement was simply by way of introduction.
- 12:24:09 5 Q. 427 To the local councillors?
- 6 A. To the two, Councillor Keogh and Councillor Lohan.
- 7 Q. 428 Yes.
- 8 A. He had -- as far as I know, we had no discussion on the subject lands at all.
- 9 Q. 429 But Mr. O'Malley was then I think the leader of the Progressive Democrats, is
- 12:24:24 10 that right?
- 11 A. Yes, I think so.
- 12 Q. 430 Yes. And through him you contacted the local councillors. And then in 1995
- 13 you are telling Mr. Linnane that you would have contacted Mr. Seamus Brennan,
- 14 and in order that he would use his influence where possible on the Fianna Fail
- 12:24:38 15 councillors?
- 16 A. Yes.
- 17 Q. 431 Yes. And again, would you see that as a legitimate exercise that you would
- 18 contact the politicians that you knew to exercise their senior influence, if I
- 19 can put it like that, on the more junior members?
- 12:24:53 20 A. Insofar as the object of the approach was to carry out a development which they
- 21 had been in favour of since my first coming in contact with them, which at this
- 22 stage was five years previously.
- 23 Q. 432 In all of the time, Mr. Layden, that you were involved in developing land and
- 24 in developments, and indeed in connection with these lands or any lands, did
- 12:25:20 25 you ever offer any financial inducement to any Councillor?
- 26 A. I'd like to state very clearly that in my contacts with politicians and public
- 27 representatives, both national and local, at no time was I ever asked for a
- 28 donation or a favour of any kind whatsoever. At no time did I ever offer a
- 29 favour, a donation, an incentive of any kind whatsoever. I can say positively
- 12:26:06 30 that that also is the situation with regard to the professional advisors

12:26:15 1 representing me and the companies, who were Henry J Lyons and Partners,  
2 Architects and Kieran O'Malley & Co, Planning Consultants. That is a complete  
3 positive, unconditional statement with regard to that.

4 Q. 433 In your opinion, Mr. Layden, and in fairness to Mr. Kelly, because he is not  
12:26:44 5 here, in your view, was Mr. Kelly the sort of person who would have sought to  
6 have bribed a Councillor?

7 A. Over a period of --

8  
9 MR. BYRNE: Chairman, sorry.

12:26:54 10  
11 CHAIRMAN: I don't think --

12  
13 MS. DILLON: Very good. Thank you very much, Mr. Layden. If you would answer  
14 any questions anybody else might have. Thank you.

12:27:01 15  
16 CHAIRMAN: Mr. Byrne, do you want to ask any question of this witness?

17  
18 MR. BYRNE: No.

19  
12:27:07 20 MR WOLFE: There was just one matter in the same kind of country that Mr. Byrne  
21 was objecting to Ms. Dillon's question. But perhaps he won't object if I put  
22 it in this way. And I'll pause before Mr. Layden answers it, in case he does.

23  
24 You are aware of the allegation that's made by Mr. Dunlop, Mr. Layden, aren't  
12:27:27 25 you?

26 A. Yes.

27 Q. 434 Just that one of the core matters that the Tribunal is looking at is in  
28 relation to an alleged payment of 5,000 pounds, that was allegedly made by  
29 Mr. Kelly to Mr. Dunlop, and you know the difference between the two parties,  
12:27:40 30 that Mr. Dunlop says that it was to garner support or backup support from

12:27:47 1 certain councillors, and Mr. Dunlop claims that it's his belief, is the way he  
2 puts it, that Mr. Kelly would have been aware that the payment would have  
3 involved -- that getting the support of councillors would have involved making  
4 payments to councillors. That's what he says, but you are probably aware from  
12:28:06 5 the evidence that he simply says that is his belief.

6  
7 You are aware as well, then, that Mr. Kelly says that it was a payment for  
8 consultancy services or for work to be done by Mr. Dunlop, and he completely  
9 and vehemently denies that it had any linkage with any payments to councillors.  
12:28:23 10 You know all of that I think, Mr. Layden, don't you?

11 A. Yes.

12 Q. 435 Well, could I ask it this way. And I think it's perhaps a fair way to  
13 Mr. Kelly to put it. You knew Mr. Kelly well from your dealings with him. And  
14 was there ever anything to remotely suggest in your opinion that Mr. Kelly  
12:28:40 15 would have had any involvement in any improper or legitimate payments to  
16 councillors.

17  
18 CHAIRMAN: You have no difficulty with that question, Mr. Byrne?

19  
12:28:48 20 MR. BYRNE: I much prefer the way that was put.

21 A. I can say again, quite positively, and over an association of many years, I  
22 never heard Mr. Kelly say anything, nor I never saw him do anything that would  
23 suggest to me that he ever contemplated the payment or making of favours to any  
24 Councillor or planning official in return for their support. And I'm quite  
12:29:38 25 certain that that is a view I formed over a number of quite a number of years.  
26 We never discussed such a situation. And I never saw or heard from Mr. Kelly  
27 anything that would suggest to me that he ever contemplated such.

28 Q. 436 MR WOLFE: Thank you, Mr. Layden.

29  
12:30:03 30 CHAIRMAN: Could I just ask you one thing, Mr. Layden. We've heard evidence

12:30:08 1 from a number of people to the effect that there were rumours of corrupt  
2 payments being made to councillors in the early 1990's. There were both  
3 rumours and there was fueled to some degree, possibly a significant degree by  
4 newspaper articles that were being written at the time. And there was a speech  
12:30:34 5 by the Minister for the Environment of the day, I think in 1993, Mr. Michael  
6 Smith.

7  
8 Do you recall, because you were close to the property scene at that time, do  
9 you recall hearing any such rumours or talk of that type of activity?

12:30:51 10 A. In the generality?

11  
12 CHAIRMAN: Yes.

13 A. Yes.

14  
12:30:54 15 CHAIRMAN: All right. And what did you hear, would this be in the early  
16 1990's now?

17 A. Yes.

18  
19 CHAIRMAN: Uh-huh. And what sort of ...

12:31:05 20 A. Only what was in the public press.

21  
22 CHAIRMAN: This would be the newspaper articles?

23 A. Yes.

24  
12:31:10 25 CHAIRMAN: But beyond that, it was nothing that you were particularly aware  
26 of?

27 A. No. But I can say that at no time ever did I feel in planning applications  
28 that it was needed. I don't feel that any application failed if it were a  
29 reasonable application and in accordance with zoning.

12:31:41 30

12:31:41 1 CHAIRMAN: All right.

2

3 JUDGE FAHERTY: Just one or two matters, Mr. Layden.

4

12:31:46 5 Could I ask you. Could I have 2136, please. That document. This is the  
6 document that Ms. Dillon was asking you about, Mr. Layden.

7 A. Yes.

8

9 JUDGE FAHERTY: And this contemplated payment of fees to Messrs. Lafferty and  
10 Lynn. I think we've been through it shortly.

12:32:01

11 A. Uh-huh.

12

13 JUDGE FAHERTY: You said in response to Ms. Dillon that you presumed the  
14 75,000 was in relation to planning permission fees for professional planning  
15 fees and the planning permission application fees.

12:32:15

16 A. Uh-huh.

17

18 JUDGE FAHERTY: And I think it's been said here before I think there was a  
19 10,000 pounds fee required I think at planning permission applications, isn't  
20 that correct, by the Council? I just want to ask you. These sums were  
21 envisaged to be paid to Mr. Messrs. Lynn and Lafferty. At this stage, as I  
22 understand it, Mr. Kieran O'Malley had been retained and there was other  
23 architects as well, is that right?

12:32:27

24 A. Yes.

12:32:50

25  
26 JUDGE FAHERTY: We know because Mr. O'Malley had put in a planning permission  
27 application I think back in '93. And again a subsequent one in '94 as I  
28 understand it. Was it contemplated that his fees would be paid out of this sum  
29 or how was Mr. O'Malley's fees, how were they discharged?

12:33:10 30 A. I didn't know that they hadn't been discharged. Like I say, I didn't have an

12:33:15 1 executive role nor a director role. And therefore I was -- would not have been  
2 aware of the situation.

3  
4 JUDGE FAHERTY: Yes. I'm not suggesting that they hadn't been discharged.  
12:33:25 5 But I'm just asking what did you say, what did you think was to be paid by --  
6 if this money was being paid over to Mr. Lynn, who was another professional, as  
7 I understand it, isn't that correct?

8 A. I had never dealt with Mr. Lynn.

9  
12:33:40 10 JUDGE FAHERTY: Yes, I understand that. It was envisaged here that money  
11 would be paid over to Mr. Lynn and Mr. Lafferty, who were also professionals  
12 engaged, apparently, or contemplated being, engaged and Mr. O'Malley was a  
13 professional. And presumably whoever engaged either/or of those professionals  
14 would pay them in due course. I'm just asking you was it envisaged here, for  
12:34:02 15 example, that any other professional engaged by the company Cabriole would be  
16 paid by Mr. Lynn and Mr. Lafferty?

17 A. I'm sorry, I don't quite get your point.

18  
19 JUDGE FAHERTY: Well maybe I'm not making myself clear, Mr. Layden. This  
12:34:20 20 document. I'm only asking you in response to an answer you gave Ms. Dillon.  
21 And I may have mistaken your answer.

22 A. Okay.

23  
24 JUDGE FAHERTY: But you said that you thought that the 75,000 contemplated in  
12:34:29 25 the earlier note and in this document --

26 A. Yes.

27  
28 JUDGE FAHERTY: -- was planning permission fees that it was professional  
29 planning fees and planning application fees.

12:34:39 30 A. Yes.

12:34:39 1  
2 JUDGE FAHERTY: And certainly in relation to a planning application fee, we  
3 know there is a fee charged by the Council for anybody making a planning  
4 permission application. I'm talking about the other 75,000. It said here that  
12:34:52 5 25 was to be paid once the -- if the motion -- this was now the motion to  
6 delete the written objective restriction or policy document.  
7 A. Right.  
8  
9 JUDGE FAHERTY: In the plan. If that was passed --  
12:35:04 10 A. Yes.  
11  
12 JUDGE FAHERTY: 25,000 had to be paid to Messrs. Lynn and Lafferty.  
13 A. Yes.  
14  
12:35:09 15 JUDGE FAHERTY: And obviously if it was passed, it had would have to go out on  
16 public display again because it was a change, and there'd have to be another  
17 meeting about it. And the 50,000 was to be paid if it was deleted.  
18 A. Yes.  
19  
12:35:22 20 JUDGE FAHERTY: And I'm just asking you, you said those were planning  
21 permission -- planning fees. But what planning fees could they entail?  
22 A. Well, I assume -- and here I think it was in accordance with '95. So it's in  
23 the context of ACC and Don-Lay getting impatient. And what has to be done and  
24 apparently what had to be done was these fees had to be paid by way of  
12:36:05 25 payments. I think there were, as I recall, the payments were to be made  
26 directly to the professionals involved from ACC, and they were paid as planning  
27 fees.  
28  
29 JUDGE FAHERTY: I see. And just to ask you, when Mr. Linnane came to you in  
12:36:25 30 October of 1993 to seek your assistance --

12:36:32 1 A. Uh-huh.  
2  
3 JUDGE FAHERTY: Forget -- to put in the motion to revert to, were such  
4 planning -- were those sort of planning fees envisaged at that time?  
12:36:49 5 A. Well, you'll recall that there was a planning application, a full planning  
6 application lodged.  
7  
8 JUDGE FAHERTY: Yes.  
9 A. During '94.  
12:36:58 10  
11 JUDGE FAHERTY: Well, I think there's evidence that there was one lodged on  
12 the 1st of November 1993, the day before the vote by Cabriole.  
13 A. Okay. And --  
14  
12:37:06 15 JUDGE FAHERTY: And there was one in '94 as I understand it also.  
16 A. So there would have been substantial fees due. And in these situations in a  
17 practical business environment, unless fees are paid, services are withheld.  
18 So I would imagine that there was an ongoing situation that required fees,  
19 substantial fees, perhaps architectural and planning fees, along during this  
12:37:36 20 time, and extending for years perhaps.  
21  
22 JUDGE FAHERTY: But the company, the developing company would have paid those  
23 fees, isn't that correct, Mr. Layden? There's nobody else going to pay them  
24 A. No.  
12:37:47 25  
26 JUDGE FAHERTY: Mr. Lynn wouldn't pay them or Mr. Lafferty.  
27 A. But wasn't Mr. Lynn one of the professionals?  
28  
29 JUDGE FAHERTY: Yes, he was a professional, but I'm just saying that the fees  
12:37:56 30 that were contemplated by this document were going to Mr. Lynn, isn't that



12:38:00 1 correct? That's really all I'm trying to establish.

2 A. I really don't know.

3

4 JUDGE FAHERTY: In view of your answer to Ms. Dillon.

12:38:07 5 A. Was there not two people involved?

6

7 JUDGE FAHERTY: Yes, Mr. Lafferty and Mr. Lynn.

8 A. So the fees would have been paid to them I assume. I assume.

9

12:38:15 10 JUDGE FAHERTY: Yes, but them only. All right. And just one other question.

11 You said that after the first -- when the plan before the plan ever went out on

12 display there was a vote.

13 A. Uh-huh.

14

12:38:27 15 JUDGE FAHERTY: And the C zoning was obtained in 1991, and that was a good

16 result obviously, because there was a full town centre.

17 A. Uh-huh.

18

19 JUDGE FAHERTY: And you said in response to Ms. Dillon that coming into 2002

12:38:40 20 you had been in correspondence with Mr. O'Malley. I think there was letters

21 saying that you were going to go full steam ahead.

22 A. Mr. Ciaran O'Malley, yes.

23

24 JUDGE FAHERTY: Even though at this stage you and Mr. Kelly had agreed, if you

12:38:53 25 like, to go your separate ways. But you were still obviously intent on

26 pursuing the planning permission.

27 A. Well, this was in the context of the provision in the --

28

29 JUDGE FAHERTY: Absolutely. Yes, I accept that, absolutely. But can I just

12:39:07 30 ask you. You said to Ms. Dillon that you didn't -- it came as a surprise to

12:39:12 1 you in October 1992 that the C zoning had been lost. And I just want to ask  
2 you. If you were going, if you like, full steam ahead, I think is the phrase  
3 which you used in relation to planning permission --

4 A. Yeah.

12:39:28 5  
6 JUDGE FAHERTY: Which obviously, if you were, as I understand it, abiding by  
7 Mr. O'Malley's advices, couldn't really happen until the zoning was confirmed,  
8 isn't that correct?

9 A. I don't think so. I think that you'll find that in some cases the draft, the  
12:39:49 10 draft zoning can be the basis of a successful application.

11  
12 JUDGE FAHERTY: In fairness, you may well be right in that. It was still  
13 subject to obviously conditional upon confirmation.

14 A. Confirmation.

12:40:00 15  
16 JUDGE FAHERTY: Confirmation. And that's my point. And I'm just wondering.  
17 You seem to have, if I can put it like this, on your own evidence, disengaged  
18 from the process from that time until 1993, Mr. Layden. Did you not -- how  
19 could it come as a surprise to you that a vote had been lost?

12:40:20 20 A. Well remember --

21  
22 JUDGE FAHERTY: Or the zoning had been lost, I should say.

23 A. Remember, my involvement was simply to assist in the Power Supermarkets  
24 contract.

12:40:29 25  
26 JUDGE FAHERTY: I see.

27 A. And to assist in the planning permission application.

28  
29 JUDGE FAHERTY: Uh-huh.

12:40:36 30 A. I had no involvement beyond that. And I ceased all executive and director

12:40:41 1 involvements as of November the 27th of '91.

2

3 JUDGE FAHERTY: I see. And just as a matter of interest. Were you a local  
4 resident in the area?

12:40:50 5 A. I was.

6

7 JUDGE FAHERTY: Yeah. And obviously, would you have been aware at all -- two  
8 things had happened obviously since you'd first engaged with Mr. Hickey and  
9 Ms. Mitchell. One was Mr. Hickey had lost his seat?

12:41:02 10 A. Yes.

11

12 JUDGE FAHERTY: And also it would appear from what we know that Ms. Mitchell  
13 had a change of mind about the whole thing?

14 A. Apparently, yes.

12:41:09 15

16 JUDGE FAHERTY: Over the course of '91 and '92. I'm just wondering if you  
17 were local, would you not would have been aware of that?

18 A. I was really -- I left it. Quite frankly I left the business. It wasn't my  
19 business. It was Mr. Kelly who was in charge at that stage. And I had  
12:41:27 20 discharged my responsibilities on foot of the provision in the agreement. And  
21 then I went about my other business.

22

23 JUDGE FAHERTY: All right. Thank you very much, Mr. Layden. That's all I  
24 have.

12:41:38 25

26 CHAIRMAN: Thank you very much, Mr. Layden.

27 A. Thanks, Chairman. Thanks Ms. Dillon.

28

29 **THE WITNESS THEN WITHDREW.**

12:41:45 30

12:41:46 1 MR. QUINN: Mr. Linnane, please.

2

3 **MR. LINNANE, HAVING BEEN SWORN, WAS QUESTIONED BY MR. QUINN**

4 **AS FOLLOWS:**

12:42:24 5

6 CHAIRMAN: Good afternoon, Mr. Linnane

7 A. Good afternoon.

8

9 MR. QUINN: Good afternoon, Mr. Linnane. Mr. Linnane, you were written to by  
12:42:31 10 the Tribunal on the 27th of September 2006. If we could have 1734, please.

11 And you were asked to provide a statement setting out your involvement with the  
12 Pye lands.

13 A. Yes.

14 Q. 437 And I think you responded on the 10th of October 2006. And we see your  
12:42:44 15 manuscript letter at 1735 and at 1737?

16 A. Yes.

17 Q. 438 And in that letter you say in response to Mr. King's letter of the 27th of  
18 September, paragraph A, "I had no dealings whatsoever with the Pye lands at any  
19 time."

12:42:57 20 A. Yes.

21 Q. 439 Paragraph B. "No dealings whatsoever with any person in respect of Pye lands  
22 at any time."

23 A. Yes.

24 Q. 440 "For clarity I outline my association with Pye Ireland Plc, and with Cabriole  
12:43:08 25 Construction Limited, Dundrum Property Investment Company Limited."

26 A. Yes.

27 Q. 441 "I was employed by Pye Ireland Plc as an accountant for the period 1976 to 1986  
28 when I was made redundant as a result of considerable trading losses at Pye  
29 Ireland Plc. During my employment I was involved in the manufacturing and  
12:43:25 30 distribution of electrical products. I had no involvement whatsoever with Pye

12:43:28 1 lands.

2

3 "Subsequent to that period, as a result of the difference of strategy between

4 the managing directing of Pye Ireland, Plc, Mr. Aidan Kelly, and the directors

12:43:36 5 of Pye Ireland, Plc over how to deal with the Philips Trading account,

6 Mr. Aidan Kelly resigned as managing director and company secretary, Philips

7 being the other major shareholder. I was approached by the directors of Pye

8 Ireland, Plc, and asked to act as company secretary for the purpose of

9 assisting to prepare a Statement of Affairs for an extraordinary general

12:43:57 10 meeting of the shareholders, which I did in 1991.

11

12 "I later became involved in the letting of the old Pye buildings on a part-time

13 basis for the new owners of the buildings, after the purchase by Pye Ireland,

14 Plc. As a result of a major flood in 1993 the buildings were severely damaged.

12:44:12 15 The rental income was substantially reduced. During this period I dealt with

16 tenants and worked on behalf of Mr. Aidan Kelly."

17

18 Then you were written to again by the Tribunal on the 23rd of October 2006, at

19 1740, and you were asked to amplify upon your narrative statement in certain

12:44:32 20 respects, in particular detailing your involvement with the rezoning of the Pye

21 lands, and identifying persons with whom you had meetings, contacts, both in

22 relation to the rezoning of the Pye lands and generally.

23

24 And you responded I think on the 30th of October 2006 at 1741 and 1742 as

12:44:48 25 follows:

26

27 You say: "Further to your letter of the 23rd of October, I reply as follows:

28 1. As advised in my letter of the 10th of October 2006 I had no dealings

29 whatsoever with the Pye lands at any time. I had no dealings with the rezoning

12:45:00 30 of the Pye lands.

12:45:02 1  
2 "2. As advised in my letter of the 10th of October 2006 I had no dealings  
3 whatsoever with any person in respect of the Pye lands at any time. I had no  
4 dealings with any person in respect of the rezoning of the Pye lands."  
12:45:15 5  
6 At paragraph 3 you say: "I advised in my letter 10th of October 2006 I was  
7 involved in the letting of the old Pye buildings on a part-time basis. I made  
8 no representations on behalf of Cabriole Construction Limited in respect of the  
9 Pye lands. Pye buildings were separate from Pye lands and not owned by  
12:45:31 10 Cabriole Construction Limited."  
11  
12 Paragraph 4. "New owners referred to in my letter of the 10th of October 2006  
13 relate to the Pye buildings and not the Pye lands. The buildings were owned by  
14 Dundrum Property Investment Company Limited."  
12:45:44 15  
16 You were again written to I think on the 31st of October 2006. And we see that  
17 letter at 1743 and 1744, and you responded on the 3rd of November 2006 at 1745  
18 as follows:  
19  
12:45:57 20 "I acknowledge receipt of your letter of the 31st of October 2006, the contents  
21 of which have been noted. As advised I had no dealings with the Pye lands. I  
22 had no dealings with the rezoning of the Pye lands. Yours sincerely."  
23  
24 Mr. Linnane, is it still your position before this Tribunal that you had no  
12:46:15 25 involvement and no dealings whatsoever with any persons connected in connection  
26 with the rezoning of the Pye lands?  
27 A. My position is that I wasn't actually involved in the Pye lands. I wasn't  
28 involved in property transactions. And I wasn't involved in the rezoning. I  
29 never met any councillors.  
12:46:34 30 Q. 442 Is it still your position, Mr. Linnane, that you were never involved --

12:46:38 1 A. Apart from the fact --

2 Q. 443 -- With the rezoning of the Pye lands?

3 A. I acted as a go-between.

4 Q. 444 No, in a moment we will deal with the extent of your possible involvement.

12:46:46 5 A. Yes.

6 Q. 445 But is it still your position, as you advised the Tribunal on three separate

7 occasions?

8 A. Yes.

9 Q. 446 That you had no involvement in the rezoning of the Pye lands?

12:46:55 10 A. The only --

11 Q. 447 Are you still maintaining --

12 A. Yes, yes.

13 Q. 448 -- Mr. Linnane, that you had no involvement in the rezoning of the Pye lands?

14 A. Yes. Apart from the one situation with Joe Layden, when I acted as a

12:47:06 15 go-between between Aidan Kelly and Joe Layden as a result of a breakdown in

16 communication. Outside of that --

17 Q. 449 Can the Tribunal take it that you did have an involvement in the rezoning of

18 the Pye lands, contrary to what was said in your correspondence with the

19 Tribunal?

12:47:19 20 A. Well, in the sense that I acted as a go-between, yes.

21 Q. 450 So you were involved in the rezoning of the Pye lands.

22

23 CHAIRMAN: Well, I suppose we better hear the extent.

24 A. I was acting --

12:47:31 25

26 CHAIRMAN: I think Mr. Linnane is saying that he doesn't regard that as an

27 involvement.

28 A. Yes, because I didn't. I wasn't actually involved in the --

29

12:47:40 30 CHAIRMAN: I think we'll have to hear more detail about it.

12:47:42 1 A. Yes.  
2  
3 MR. QUINN: You were a shareholder in Pye Ireland?  
4 A. No, I never held shares.  
12:47:49 5 Q. 451 If we could have 2585, please.  
6  
7 This is a letter to the Inspector of Taxes from Atkins Prisdine, dated the 16th  
8 of February 1983. Do you see there a listing of shareholdings to include a  
9 Mr. Thomas Linnane?  
12:48:05 10 A. Yes.  
11 Q. 452 That's not you, is it?  
12 A. No, it's not me. It's an elderly gentleman who was a director of Pye before I  
13 joined.  
14 Q. 453 Okay. So you never had a shareholding in Pye?  
12:48:16 15 A. No, never held any shares.  
16 Q. 454 But you did work for Pye Plc, isn't that right?  
17 A. Yes.  
18 Q. 455 And you were the management accountant with Pye, isn't that right?  
19 A. Yes.  
12:48:24 20 Q. 456 And on the 11th of June 1987, I think you, in that capacity, were in  
21 communication with the Inspector of Taxes. If we look at 2583, isn't that  
22 right, on behalf of Pye, in relation to the sale of lands?  
23 A. Yes, yes, that's ... yes.  
24 Q. 457 And I think you continued to be involved with Pye after 1996 and 1997, isn't  
12:48:47 25 that right?  
26 A. '86, sorry.  
27 Q. 458 You ceased in 1986?  
28 A. Yeah, I was made redundant in '86 but I continued on a part-time basis.  
29 Q. 459 So when you wrote that letter on the screen on the 11th of June 1987, are you  
12:48:59 30 saying that you were a part-time employee of Pye Ireland?



- 12:49:02 1 A. I was a part-time self-employed person.
- 2 Q. 460 Well, were you on -- you describe yourself there as management accountants?
- 3 A. Yes, I accept that.
- 4 Q. 461 So you were not an employee of Pye Ireland?
- 12:49:13 5 A. No, I was not an employee, no.
- 6 Q. 462 But you were acting in a consultancy capacity, is that right?
- 7 A. I was involved -- in that particular case I would have been requested to write
- 8 to the Inspector in relation to a tax certificate I think.
- 9 Q. 463 Yes. So who would have paid for those services at that time?
- 12:49:34 10 A. I think Pye had a limited amount of cash I think, yes.
- 11 Q. 464 And they would have retained you for the purpose of communicating with the
- 12 revenue at that time, isn't that right.
- 13 A. On this instance. Not on an ongoing basis, but on the odd occasion.
- 14 Q. 465 Did you have discussions, for example, with Sudway & Co. Chartered Surveyors in
- 12:49:50 15 or around this time?
- 16 A. I may have phoned them at the request of Aidan Kelly, something to do with
- 17 capital gains tax, something to do with current use value.
- 18 Q. 466 At 2584 we see a reference in the correspondence between Sudway and Mr. Kelly?
- 19 A. Yes.
- 12:50:05 20 Q. 467 To discussions with you?
- 21 A. Yes.
- 22 Q. 468 Yes.
- 23 A. That was in '88.
- 24 Q. 469 Yes.
- 12:50:10 25 A. Yes. I think it was -- it was a pending sale to Cabriole and Dundrum Property
- 26 Investment. And I may have had a discussion with Terry Sudway on current price
- 27 value.
- 28 Q. 470 And were you to hold shares in a company in trust for Pye?
- 29 A. No, I don't recall that.
- 12:50:30 30 Q. 471 If we could have 2011. This is correspondence between Noel Smyth & Partners,

- 12:50:35 1 who were solicitors to Pye Ireland, Plc?
- 2 A. Yes.
- 3 Q. 472 And Douglas and Barron, Solicitors, who were acting for Don-Lay Limited,
- 4 Mr. Layden and Mr. O'Donnell?
- 12:50:45 5 A. Yes. No, I wasn't party to that.
- 6 Q. 473 I know you weren't a party to that proposed agreement, but if we go to 2013,
- 7 did you know that it was being proposed that the share capital of a company
- 8 about to be established would hold 100 shares of 1 pound each fully issued and
- 9 paid up? 98 of the shares were held by Pye Ireland, Plc, one share by Thomas
- 12:51:09 10 P. Hogan, a trust for Pye, and one share by Thomas Linnane in trust for Pye?
- 11 A. No, I don't recall that, no.
- 12 Q. 474 Could that be the other Mr. Linnane?
- 13 A. It could have been. It could have been but I'm not sure, but I'm not aware of
- 14 that.
- 12:51:21 15 Q. 475 Were you to hold shares in a company Rentals Limited, or could that have been
- 16 the other, you're not T --
- 17 A. No, that may have been -- no, I never held shares. I never held shares.
- 18 Q. 476 You are not TJ Linnane, that's the other Mr. Linnane, is it?
- 19 A. No, I am TJ Linnane.
- 12:51:39 20 Q. 477 If we could have 2008. This is correspondence again between Don-Lay Limited
- 21 and Niall Barrett of the 17th of February 1988.
- 22 A. Yes.
- 23 Q. 478 In relation to the purchase of the Pye complex. And a reference to the
- 24 purchaser being Dalehall Property Company Limited?
- 12:51:54 25 A. Yes.
- 26 Q. 479 And if we go to 2009. You see under the heading Rentals Limited, "Niall
- 27 Barrett to purchase the total share capital in trust as follows: One share for
- 28 Eamonn Walsh and the remaining share for TJ Linnane for a total consideration
- 29 of 100 pounds."
- 12:52:10 30 A. My name is there, yes. But I never held shares in rentals.

- 12:52:14 1 Q. 480 Yes. Who would have put forward your name in those circumstances, do you know?
- 2 A. Aidan Kelly.
- 3 Q. 481 Were you very closely associated with Mr. Kelly?
- 4 A. Well, I had an ongoing working relationship, and after Pye I was involved in
- 12:52:26 5 the letting of the old Pye properties.
- 6 Q. 482 Now, at 732, on the 27th of November 1991, there is a minute of a directors
- 7 meeting of Cabriole Construction Limited?
- 8 A. Yes.
- 9 Q. 483 You have seen that in the brief?
- 12:52:39 10 A. Yes.
- 11 Q. 484 This is a director's meeting?
- 12 A. Yes.
- 13 Q. 485 And it would appear that someone had entered your name but they had crossed it
- 14 out?
- 12:52:46 15 A. Yes.
- 16 Q. 486 And again, it was being resolved that you would co-opted as a director to the
- 17 company? Were you ever a director of the --
- 18 A. No, I wasn't, no, no.
- 19 Q. 487 No?
- 12:52:55 20 A. Definitely not.
- 21 Q. 488 But you were, I think, a director of Dalehall Property Company Limited, were
- 22 you?
- 23 A. No.
- 24 Q. 489 If we could have 2035, please.
- 12:53:04 25
- 26 It would appear that a minute of a director's meeting of Dalehall held, again
- 27 on the 27th of November, 1991, that the directors who are noted as being
- 28 present are Aidan Kelly and Thomas Linnane?
- 29 A. No, I was never -- I never held shares in Dalehall, to the best of my
- 12:53:22 30 knowledge.

- 12:53:22 1 Q. 490 In fairness to you, you will see there a resolution that you be co-opted as a  
2 director is deleted. Do you see that?
- 3 A. Yeah. So in a sense then, yes, my name is there but I was never involved.
- 4 Q. 491 You didn't ever attend any of the meetings, the director's meetings of either  
12:53:38 5 Dalehall or Cabriole in November 1991?
- 6 A. No, I didn't.
- 7 Q. 492 Now, you say that you were employed and involved in the letting of the  
8 property?
- 9 A. Yes.
- 12:53:49 10 Q. 493 When did you get involved in that?
- 11 A. I think after '86 I think I got involved in the letting of the old Pye  
12 buildings.
- 13 Q. 494 So you would have been employed by --
- 14 A. I was self-employed.
- 12:54:00 15 Q. 495 You were self-employed?
- 16 A. Yes.
- 17 Q. 496 And were your offices in the Dundrum centre in the Pye --
- 18 A. I would have had an office in one of the buildings, yes. There was a large  
19 number of buildings.
- 12:54:10 20 Q. 497 And who was -- who was paying your consultancy fees at that time?
- 21 A. As far as I'm aware, Aidan Kelly on behalf of Pye.
- 22 Q. 498 Pye. We know there were a series of companies after November 1991 including  
23 the Dundrum property investments company and Cabriole Construction Limited?
- 24 A. Yes.
- 12:54:28 25 Q. 499 Had you any involvement with either of those companies, either as a  
26 shareholder, director or otherwise?
- 27 A. No, I was never a shareholder or a director.
- 28 Q. 500 Okay. Did you have any involvement with the accounts of that company? Were  
29 you a signatory of any of their cheques?
- 12:54:41 30 A. No, I wasn't, no.

- 12:54:43 1 Q. 501 You never -- who had the signing authority on the cheques of those companies?
- 2 A. As far as I can recall, Aidan Kelly.
- 3 Q. 502 Would it be fair to say that Mr. Kelly seems to have run a one-man operation,  
4 so to speak, at this time?
- 12:54:57 5 A. Yes.
- 6 Q. 503 And he was involved I think. And it's a common case that the rezoning of these  
7 lands was an issue that concerned Mr. Kelly?
- 8 A. Yes.
- 9 Q. 504 In the early 1990's?
- 12:55:07 10 A. Yes.
- 11 Q. 505 Can I just before I get onto the rezoning, Mr. Kelly, you would have known  
12 Mr. Kelly back in the early 1990's?
- 13 A. Yes, that's true, yes.
- 14 Q. 506 Mr. Kelly will tell the Tribunal of two incidents involving, one, a claim from  
12:55:23 15 him by an unnamed third party for monies to sort out difficulties, planning  
16 difficulties. And did Mr. Kelly ever bring any such claim to your attention?
- 17 A. No, he never did. No, I wasn't involved. Anything to do with planning or  
18 rezoning.
- 19 Q. 507 No, I accept that.
- 12:55:38 20 A. No, it was never.
- 21 Q. 508 But he never brought that to your attention?
- 22 A. No, never did.
- 23 Q. 509 Did Mr. Kelly ever tell you that he had been to see Mr. Redmond and that  
24 Mr. Redmond had contacted him subsequently and asked him to come alone if ever  
12:55:52 25 coming to see me again?
- 26 A. No, he didn't, no.
- 27 Q. 510 Now, in 1992 Mr. Kelly seems to have retained the services of Mr. Dunlop?
- 28 A. Yes.
- 29 Q. 511 Did you know that Mr. Kelly had retained the services of Mr. Dunlop?
- 12:56:06 30 A. No, I didn't.

- 12:56:08 1 Q. 512 Did you know Mr. Dunlop?
- 2 A. No, I never met him nor spoke to him.
- 3 Q. 513 Did Mr. Kelly ever tell you of his efforts in 1991 or 1992 to have these lands
- 4 rezoned?
- 12:56:17 5 A. No, he didn't.
- 6 Q. 514 Did you know that the rezoning motion in October 1992 had been a setback for
- 7 Mr. Kelly's plans on these lands?
- 8 A. Well, as I say, I was a distance from the planning and the rezoning process. I
- 9 was really involved in the letting of the old Pye property.
- 12:56:35 10 Q. 515 Did you know Mr. Richard Lynn in 1992?
- 11 A. No, no, I didn't.
- 12 Q. 516 Did you know that Mr. Kelly had retained the services of Mr. Lynn in 1992?
- 13 A. No, I didn't. No, I wasn't involved.
- 14 Q. 517 Did you ever know Mr. Lynn?
- 12:56:50 15 A. I may have met him once at a Dundrum Chamber of Commerce meeting. There was a
- 16 Dundrum Chamber of Commerce and I think it was attended by -- I chaired a
- 17 meeting with the residents, and Dillon-Digby was there for Cabriole, and I
- 18 think Lynn represented Cabriole as well.
- 19 Q. 518 Can I ask you --
- 12:57:10 20 A. I had no input into the meeting other than to introduce the parties.
- 21 Q. 519 Can I ask you to date that meeting?
- 22 A. No, I --
- 23 Q. 520 Was it -- which year would it have been?
- 24 A. Well, I think I noticed in the brief there was a booklet. But it must have
- 12:57:25 25 been at the very early stages but I can't put a date on it.
- 26 Q. 521 Well, would it have been in 1992, for example?
- 27 A. Sorry, but I can't. I just -- what brought it to my mind was when I saw the
- 28 booklet in the Pye brief.
- 29 Q. 522 This is the Gateways to the Mountain booklet?
- 12:57:50 30 A. Yes. That brought it to mind. And I did have -- there was a public meeting

12:57:51 1 with the residents.

2 Q. 523 In relation to that booklet. You, I think, if we could have 2191?

3 A. Yes.

4 Q. 524 Did you write to Dundrum Chamber of Commerce in relation to the booklet?

12:58:01 5 A. I was secretary of the Dundrum Chamber of Commerce.

6 Q. 525 Yes.

7 A. Yes.

8 Q. 526 You will have seen the document on screen?

9 A. Yes.

12:58:07 10 Q. 527 Now, Mr. Lynn says that that booklet was produced in early 1993?

11 A. Well then --

12 Q. 528 Do you think it might have been produced in 1992?

13 A. I'm not sure. I mean, I can't recall when it was produced. I mean, yeah.

14 Q. 529 Well, we know for example that Mr. Kelly paid both Mr. Lynn and Mr. Lafferty in

12:58:29 15 1992. You will have seen on the brief cheques to Mr. Lynn and Mr. Lafferty in

16 1992. If we could have 2490 and 2492.

17 A. Yeah.

18 Q. 530 In October -- and I think perhaps either the 12th or 13th of October 1992. And

19 then a payment of the 12th of October 1992 to Mr. Lafferty?

12:59:01 20 A. Yes.

21 Q. 531 So would it be fair to say, and can the Tribunal take it that Mr. Kelly had

22 retained the services, for whatever reason, of both Mr. Lynn and Mr. Lafferty

23 by that date in 1992?

24 A. Well, it was Mr. Kelly who dealt with Mr. Lynn and Mr. Lafferty. I had no

12:59:16 25 dealings with them.

26 Q. 532 In 1992?

27 A. No.

28 Q. 533 Did you subsequently come to have dealings with them?

29 A. No, the only time I met Lynn was when at the public meeting of the Dundrum

12:59:27 30 Chamber of Commerce.

- 12:59:27 1 Q. 534 And you can't date that meeting?
- 2 A. No, I can't.
- 3 Q. 535 What was being discussed at that meeting, can you recall?
- 4 A. I think it was part of the booklet to launch the concept of the plan.
- 12:59:38 5 Q. 536 Yes. And you think that the booklet was in being when that meeting took place?
- 6 A. The first time I let Lynn was at that meeting and that booklet was, yes,
- 7 because I think that booklet was a forerunner to the meeting.
- 8 Q. 537 Now, if we could have 2082.
- 9
- 12:59:56 10 Mr. Layden wrote to you I think in September 1993, isn't that right? And he
- 11 enclosed information on the County Council?
- 12 A. This is Mr. Layden, yes.
- 13 Q. 538 That's right. Which might be helpful in working out a strategy in seeking
- 14 support for the Pye lands proposals?
- 13:00:11 15 A. Yes.
- 16 Q. 539 Was that letter written in the context of an upcoming meeting in relation to
- 17 the rezoning of the Pye Lands?
- 18 A. I may have been requested by Aidan Kelly to contact Joe Layden and to request
- 19 that information.
- 13:00:23 20 Q. 540 Yes.
- 21 A. But if I got that information, I would have passed it on to Aidan Kelly as I
- 22 wasn't actually involved with the councillors.
- 23 Q. 541 Yes. You had no involvement with the councillors?
- 24 A. No, never.
- 13:00:34 25 Q. 542 But you knew what was going on vis-a-vis the councillors and Mr. Kelly at this
- 26 time, did you?
- 27 A. I was only at a distance. I mean, I had no direct involvement with any
- 28 councillors.
- 29 Q. 543 Well, did you ever discuss the development of these lands with Mr. Kelly?
- 13:00:50 30 A. Well, he would mention what he was doing to me but I had no say in the matter.



13:00:55 1 Q. 544 Did he ever tell you, for example, that he was retaining the services of  
2 professional lobbyist to assist with the rezoning of the lands?  
3 A. No, he didn't.

4 Q. 545 Did he ever tell you he had retained Mr. Dunlop?  
13:01:09 5 A. No, he didn't.

6 Q. 546 But at some stage he must have told you of Mr. Lynn's involvement?  
7 A. Well, as I say, I met Mr. Lynn at that public meeting but, yes, I was involved.  
8 I was aware that Lynn was involved.

9 Q. 547 Yes. And you knew Mr. Lynn was involved for the purposes of assisting and  
13:01:26 10 having the lands rezoned, isn't that right?  
11 A. Yes.

12 Q. 548 And you met Mr. Lynn and you attended at least or chaired that meeting, isn't  
13 that right?  
14 A. Yes.

13:01:35 15 Q. 549 Now, I think Mr. Ciaran O'Malley was also involved, isn't that right?  
16 A. Well --

17 Q. 550 He was a planner?  
18 A. Yes, yeah. I may have spoke to him briefly, something about money. But I  
19 never spoke to him about planning.

13:01:49 20 Q. 551 Yes. If we look at 1246. Mr. O'Malley, in January '94, when he was writing  
21 to Cabriole Construction Limited concerning fees he was marking the  
22 correspondence for your attention, isn't that right?  
23 A. Yeah, there may have been a phone call as regards money.

24 Q. 552 Can I ask you, Mr. Linnane, if you had no signing authority on the books and  
13:02:08 25 records of Cabriole Construction Limited why Mr. O'Malley was directing  
26 correspondence concerning fees to you?  
27 A. I may have been requested by Aidan Kelly to contact O'Malley and to say to him  
28 something about when he would expect payment or when he would be paid. And as  
29 a result of that, Mr. O'Malley wrote back to me confirming a conversation as  
13:02:28 30 regards the money.

- 13:02:28 1 Q. 553 Yes. Mr. Kelly himself I think did write to Mr. O'Malley arising out of that  
2 correspondence. And we see that on the 25th of February '94 at 1247. And he  
3 was seeking to split the fees between an EIS fee --
- 4 A. Yes.
- 13:02:45 5 Q. 554 -- And other fees due for zoning and ACC/Ernst & Young, isn't that right?  
6 A. I wouldn't have been involved in that. My only connection with O'Malley would  
7 have been a phone call to say that he may expect payment at some is date,  
8 whatever it was.
- 9 Q. 555 You I think -- were you a tenant of the --
- 13:03:06 10 A. No, because of my involvement with Pye. Pye had the use of an office, an old  
11 office. There was numerous buildings and offices.
- 12 Q. 556 If we could have 1654, please. There is reference in the discovery from the  
13 receiver Mr. Linane --
- 14 A. Yes.
- 13:03:22 15 Q. 557 -- to the ground floor 9A, first floor, second floor?  
16 A. Yes.
- 17 Q. 558 Block. And the tenant is given as Tom Linnane.  
18 A. Yes.
- 19 Q. 559 With a service office. Do you see that?
- 13:03:33 20 A. Yes.
- 21 Q. 560 Long lease, 35 year lease?  
22 A. Yes.
- 23 Q. 561 You weren't a tenant of Pye at that time?  
24 A. I think the background to that is that I was -- because of the threatened  
13:03:45 25 receivership by the ACC Bank, I was given a lease backdated on the service  
26 offices.
- 27 Q. 562 Now, did you know that payments had been made through ACC to Mr. Lynn and  
28 Mr. Lafferty in October '94 of 28,000 -- well totalling 34, 848. If we could  
29 have 2797.
- 13:04:15 30 CHAIRMAN: Mr. Quinn, do you want to continue on to finish shortly?

13:04:19 1  
2 MR. QUINN: I won't be more that be fifteen minutes, I hope. If that's  
3 agreeable to the Tribunal.  
4

13:04:24 5 CHAIRMAN: Yes.  
6

7 MR. QUINN: Did you know that ACC had made those payments?  
8 A. No, I wasn't aware of that payment.  
9 Q. 563 You knew of the precarious financial situation involving Pye and the  
13:04:35 10 involvement of ACC and the monies due to Don-Lay?  
11 A. Oh, yes, yeah.  
12 Q. 564 You were familiar with all of that, isn't that right?  
13 A. Yes, yes.  
14 Q. 565 Now, on the 20th of April 1995 at 2122 there is a manuscript letter signed by  
13:04:50 15 you --  
16 A. Yes.  
17 Q. 566 -- Sent to Mr. Layden with a copy to Mr -- with a copy to ACC Bank, isn't that  
18 right?  
19 A. Yes, yes.  
13:05:00 20 Q. 567 And that relates to a further revised agreement, isn't that right?  
21 A. Yes.  
22 Q. 568 Of the 5th of May '94. Were you involved in negotiating that agreement?  
23 A. No, I wasn't.  
24 Q. 569 How did you come to write that letter, can I ask you?  
13:05:10 25 A. I think the letter -- it would have been dictated to me by Aidan Kelly.  
26 Q. 570 I see.  
27 A. Yes.  
28 Q. 571 And we see, for example, at 2123 that there had been a meeting in the County  
29 Council offices the previous week?  
13:05:23 30 A. Yes.

- 13:05:23 1 Q. 572 Had you been at that meeting?
- 2 A. No, never attended a Council County Council office meeting.
- 3 Q. 573 If we go to 2124. There is a reference to again the -- to both a zoning change
- 4 and obtaining planning. The zoning change being referred to there I think was
- 13:05:41 5 the amendment to the Written Statement, isn't that right?
- 6 A. As I say, that letter was probably dictated to me by Aidan Kelly. I wasn't
- 7 actually involved in these matters.
- 8 Q. 574 And I think the letter provides that it was a very major problem regarding the
- 9 Council and zoning and the professional team could confirm this, isn't that
- 13:06:01 10 right?
- 11 A. Yes, but I mean, I'm commenting on something that was dictated to me, if you
- 12 know what I mean.
- 13 Q. 575 You say that was dictated to you by Mr. Kelly?
- 14 A. Yes.
- 13:06:08 15 Q. 576 If we could have 2135. Did you know that there was an agreement with
- 16 Mr. Lafferty and Mr. Lynn for the payment of monies in relation --
- 17 A. No, no, I wasn't familiar with that.
- 18 Q. 577 You weren't familiar with that?
- 19 A. No, no.
- 13:06:19 20 Q. 578 You weren't present when any such agreement was met?
- 21 A. No, I wasn't, no.
- 22 Q. 579 Well, if we look at the 8th of June 1995, at 2143, I think you again wrote to
- 23 Mr. Layden?
- 24 A. Yes.
- 13:06:29 25 Q. 580 Following recent communications with ACC Bank?
- 26 A. Yes.
- 27 Q. 581 And you say: "We have asked our consultants to contact you shortly with a view
- 28 to updating you on the progress to date." Do you see that?
- 29 A. Yes.
- 13:06:43 30 Q. 582 Do you see the reference to "we" and "our consultants"?

- 13:06:46 1 A. Yes.
- 2 Q. 583 Are you not included in that correspondence?
- 3 A. Well, you could say that. But that letter would have been dictated to me as
- 4 well by Aidan Kelly.
- 13:07:05 5 Q. 584 Leaving aside the fact that the letter may have been dictated to you by
- 6 Mr. Kelly. Doesn't that seem to suggest that you were concerned -- or sorry.
- 7 You had asked your consultants to contact Mr. Kelly or Mr. Layden?
- 8 A. No. I mean, I had, you know, we have asked our consultants to contact you
- 9 shortly with a view. No, that would have been Aidan Kelly that would have
- 13:07:19 10 contacted the consultants.
- 11 Q. 585 So you say that you were no more than providing a service to Mr. Kelly in
- 12 writing that letter?
- 13 A. Yes.
- 14 Q. 586 And why did Mr. Kelly not write the letter?
- 13:07:29 15 A. Well, he had difficulty with Joe Layden. There was a breakdown in
- 16 communication because of monies due under a works.
- 17 Q. 587 I accept that.
- 18 A. And especially around that period.
- 19 Q. 588 Well, if we look at 2139, there's a letter of the 9th of June 1995 from
- 13:07:43 20 Mr. Kelly to Mr. Layden. You didn't write that letter?
- 21 A. No, that's not my writing.
- 22 Q. 589 So when he wanted to, Mr. Kelly at this time --
- 23 A. Yes.
- 24 Q. 590 The day following the letter we were just looking at a moment ago, wrote
- 13:07:55 25 directly to Mr. Kelly, isn't that right?
- 26 A. Yes.
- 27 Q. 591 So if we could now again look at 2143.
- 28 A. Yes.
- 29 Q. 592 Are you absolutely certain, Mr. Linnane, that you were not there -- that that
- 13:08:09 30 letter there wasn't referring to both yourself and Mr. Kelly?

- 13:08:11 1 A. No, I wasn't involved with the consultants. I had no involvement with  
2 consultants.
- 3 Q. 593 If we could have 2144.
- 4 A. Yes.
- 13:08:23 5 Q. 594 And again, a letter of the 9th of June 1995. "Dear Joe" --  
6 A. Yes.
- 7 Q. 595 You see that?
- 8 A. Yes, yes. You can take it that all of these letters around that period of June  
9 '95 were dictated to me by Aidan Kelly.
- 13:08:35 10 Q. 596 Well, do you see the final paragraph "We would appreciate you arranging for the  
11 PD members to sign the necessary motion?"
- 12 A. Yes. It's terminology. But I had no involvement with the councillors.
- 13 Q. 597 You are not suggesting that I would appreciate -- or Mr. Kelly would appreciate  
14 you arranging. It's "we would appreciate?"
- 13:08:57 15 A. Yes. It's the terminology. The letter was dictated to me and that was the  
16 manner in which it was written.
- 17 Q. 598 Well, if we look at 2139 again, this is Mr. Kelly's letter.
- 18 A. Yes.
- 19 Q. 599 Directly to Mr. Layden?
- 13:09:07 20 A. Yes.
- 21 Q. 600 On the same day. Do you see the heading rezoning?
- 22 A. Yes.
- 23 Q. 601 "Dear John. Since Tom Linnane wrote to you late this afternoon I have received  
24 the attached letter from ACC Bank."
- 13:09:16 25 A. Yes.
- 26 Q. 602 Are you still maintaining to the Tribunal --
- 27 A. Sorry, I am maintaining -- yes, I wrote the letters. I'm not denying that I  
28 wrote any of those letters. What I am saying is that the content was dictated  
29 to me by Aidan Kelly.
- 13:09:31 30 Q. 603 And you -- the we referred to in the letter does not include you?

- 13:09:35 1 A. No, it does not.
- 2 Q. 604 Were you still acting in a consultancy capacity at this stage?
- 3 A. Yeah, I was involved in the lettings of the Pye property and the old Pye
- 4 property.
- 13:09:45 5 Q. 605 Did you have an interest in the Pye lands at this stage?
- 6 A. No.
- 7 Q. 606 Other than that as a tenant?
- 8 A. No, I had no interest in the Pye Lands.
- 9 Q. 607 And you say that the letters you had written you had only written at the
- 13:09:58 10 direction of Mr. Kelly?
- 11 A. Yes.
- 12 Q. 608 You would agree with me that on reading the letters --
- 13 A. Absolutely.
- 14 Q. 609 They would give the impression --
- 13:10:06 15 A. Absolutely. And when I saw them on the file, yes.
- 16 Q. 610 And again, if we look 2140 there is the letter to Mr. Kelly from ACC Bank?
- 17 A. Yes.
- 18 Q. 611 And it refers to a conversation with you, isn't that right?
- 19 A. Yes.
- 13:10:19 20 Q. 612 Had you been in communication with the bank?
- 21 A. Yes, I would have been.
- 22 Q. 613 And was that at Mr. Kelly's?
- 23 A. Insistence, yes.
- 24 Q. 614 And at 2141. I think Mr. Kelly himself was writing to the bank in relation to
- 13:10:30 25 rezoning and planning fees, isn't that right?
- 26 A. Yes.
- 27 Q. 615 Mr. Lynn was very much involved at this stage, isn't that correct?
- 28 A. Well, I had very little to do with it. Apart from the meeting at the public
- 29 meeting at the residents, I had no involvement with Lynn.
- 13:10:43 30 Q. 616 Mr. Lynn and Mr. Lafferty, they were zoning consultants at this stage, isn't

- 13:10:47 1 that right?
- 2 A. My understanding was that Lafferty was an architect and Lynn was a property  
3 consultant.
- 4 Q. 617 Was Mr. Lynn looking after the zoning change?
- 13:10:55 5 A. Yes, I would imagine he was.
- 6 Q. 618 Yes. And I think there was a motion, if we look at 2152, dated 12th of June  
7 '95. Do you know anything about how that motion came into existence?
- 8 A. No, as I said, I had no involvement with councillors.
- 9 Q. 619 If we could have 2146, please. The 15th of June.
- 13:11:22 10 A. Yes.
- 11 Q. 620 You wrote to Mr. Layden?
- 12 A. Yes.
- 13 Q. 621 You head the letter rezoning, isn't that correct?
- 14 A. Yes.
- 13:11:23 15 Q. 622 And you attach --
- 16 A. Yes.
- 17 Q. 623 -- The rezoning motion. Had the zoning motion been signed at that stage?
- 18 A. The zoning motion would have been given to me by Aidan Kelly and he would have  
19 dictated a letter.
- 13:11:30 20 Q. 624 And you --
- 21 A. Well, I wasn't -- you know, I was removed from this activity.
- 22 Q. 625 If we look at, for example, the 19th of June. 2148. You are again writing to  
23 Mr. Kelly or Mr. Layden I should say?
- 24 A. Yes.
- 13:11:44 25 Q. 626 "I attach herewith copy letter from the County Manager. Our planning zoning  
26 consultant --"
- 27 A. Yes.
- 28 Q. 627 "-- whom you have met."
- 29 A. Yes.
- 13:11:51 30 Q. 628 You say that "our planning zoning consultant," who presumably is Mr. Lynn or



13:11:56 1 Mr. Lafferty, isn't that right?

2 A. Yes.

3 Q. 629 Will be dealing totally with the motion from our side?

4 A. Yeah. Again, as I say, it's difficult for me to comment on some of them

13:12:09 5 because I wasn't actually involved and the letters were dictated to me.

6 Q. 630 Yes.

7 A. But our planning ... I'm not sure.

8 Q. 631 Can I just on that point. Can I just shoot forward, if I may, to 2157. This

9 is a letter of the 25th of June '95?

13:12:27 10 A. Yes.

11 Q. 632 Do you see that letter?

12 A. Yes.

13 Q. 633 Again, you say that letter would have been written by you on behalf of

14 Mr. Kelly?

13:12:32 15 A. Yes.

16 Q. 634 But do you see at the very end, "Yours sincerely, Aidan P. Kelly, PP Tom

17 Linnane"?

18 A. Yes. Yes, I see. Yes, that's --

19 Q. 635 What does that mean?

13:12:42 20 A. That one was --

21 Q. 636 What does that mean?

22 A. Well, that letter was dictated to me and it was "Yours Sincerely, Aidan Kelly,"

23 that's my writing and "PP Tom Linnane." Again, it's a letter that would have

24 been dictated to me.

13:12:57 25 Q. 637 What does it mean "Yours Sincerely, Aidan P. Kelly, PP Tom Linnane," is it

26 signed by Mr. Kelly on your behalf?

27 A. No. That's a letter from, as I say, the background is the letters were

28 dictated to me. So in a sense, all of these letters were from Aidan Kelly.

29 Q. 638 Who signed that letter?

13:13:17 30 A. AP Kelly. That's my writing.

- 13:13:20 1 Q. 639 Who signed the letter?
- 2 A. Well, I signed it.
- 3 Q. 640 You signed it on behalf of Mr. Kelly or did you put in Mr. Kelly's name?
- 4 A. I put in Mr. Kelly's name and I signed the bottom of it. And the letter was
- 13:13:37 5 dictated to me, similar to the other ones.
- 6 Q. 641 Yes. But the other ones were signed by you?
- 7 A. I notice that.
- 8 Q. 642 Why did you adopt that approach this time around.
- 9 A. It was just, I mean, I wouldn't put any meaning, you know. No significance to
- 13:13:52 10 it.
- 11 Q. 643 Under normal circumstances if you received a letter signed Aidan P Kelly, PP
- 12 Tom Linnane --
- 13 A. Uh-huh.
- 14 Q. 644 What would you understand that to mean?
- 13:14:02 15 A. That was -- well, the letter was from Aidan Kelly. The letter -- I wrote --
- 16 Q. 645 No, no, I'm not talking about this letter. Now under normal circumstances,
- 17 leaving aside this letter, what would you understand "Yours Sincerely, Aidan P
- 18 Kelly, PP Tom Linnane"?
- 19 A. That I wrote the letter on his behalf.
- 13:14:24 20 Q. 646 Now, that's a letter headed land zoning, isn't that right?
- 21 A. Yes.
- 22 Q. 647 It relates to -- it refers to Mr. Lynn?
- 23 A. Yes.
- 24 Q. 648 "The comments in your letter of yesterday afternoon concerning Mr. Lynn and
- 13:14:36 25 myself as being inactive."
- 26 A. Yes.
- 27 Q. 649 The myself there I think is Mr. Kelly, isn't that right?
- 28 A. Yes.
- 29 Q. 650 Now, if we could have 2149. I think Mr. Layden wrote to Mr. Kelly on the 19th
- 13:14:57 30 of June?

- 13:14:57 1 A. Yes.
- 2 Q. 651 And he was able to understand from you that the motion would be coming up for  
3 consideration at a meeting on the 10th of July, isn't that right?
- 4 A. Yes.
- 13:15:05 5 Q. 652 But it didn't have cross-party support?
- 6 A. Uh-huh.
- 7 Q. 653 That means that's all the information that you were in a position to convey to  
8 Mr. Layden, isn't that right?
- 9 A. Any information I imparted it to Layden would have been from Aidan Kelly.
- 13:15:23 10 Q. 654 On the -- if I could have 2150.
- 11 A. Yes.
- 12 Q. 655 Again, a letter headed land zoning, isn't that right?
- 13 A. Yes.
- 14 Q. 656 And you say, "I refer to your letter dated 19th of June to Mr. Aidan Kelly,  
13:15:40 15 which crossed with my letter of same date."
- 16 A. Yes.
- 17 Q. 657 "And my letter dated the 15th of June and enclosures and my letter and that of  
18 Mr. Aidan Kelly both dated the 9th of June."
- 19 A. Yes, I didn't.
- 13:15:51 20 Q. 658 "I note you regret the motion not being cross-party support. We regret very  
21 much particularly the first fact that you were unable to have the PDs signed  
22 prior to us putting down the motion." Was that a letter --
- 23 A. Yes. That was dictated to me, yes.
- 24 Q. 659 Again, you say that was dictated to you by Mr. Kelly?
- 13:16:12 25 A. Yes. I mean, I had no input into the land zoning or the councillors or any of  
26 that.
- 27 Q. 660 At 2153, again a letter signed by you with a copy to ACC Bank dated 21st of  
28 June '95?
- 29 A. Yes.
- 13:16:20 30 Q. 661 "Regarding your letter this morning and a letter which may have crossed, could

13:16:24 1 we please have urgently the names of those councillors whose support you can  
2 obtain?"

3 A. Yes.

4 Q. 662 Were you there writing to Mr. Layden asking him to supply you with the names of  
13:16:34 5 councillors whom his support he could obtain for your proposals?

6 A. That again was another letter dictated to me.

7 Q. 663 And I think that letter is in the notepaper of Dundrum Property Investment  
8 Company Limited?

9 A. Yes.

13:16:47 10 Q. 664 And you say again that that was -- did Mr. Kelly have a secretary?

11 A. No, not at that time.

12 Q. 665 You say there is -- "If there is any specific relevant information being  
13 required, we will forward same by return. Mr. Lynn will be contacting you."

14 A. Yes.

13:17:07 15 Q. 666 Did you again write on the same day, at 2154, to Mr. Linnane, advising him  
16 that the motion was likely to be heard on the 26th of June?

17 A. Yes.

18 Q. 667 And asking him --

19 A. Yes.

13:17:19 20 Q. 668 -- By return --

21 A. Again, that would --

22 Q. 669 -- The names of councillors who would support, who would support a motion.  
23 Is that it?

24 A. Yes, that's another dictated letter, yes.

13:17:28 25 Q. 670 On the 21st of June, at 2155, Mr. Layden writes to Mr. Kelly, referring to your  
26 letter of the 20th, the contents of which were incorrect according to him,  
27 isn't that right?

28 A. Uh-huh. Yes, I see that letter, there, yes. But he would be responding to a  
29 letter that I wrote that was dictated to me. I mean, that was the tenure of  
13:17:48 30 all of the correspondence.

- 13:17:49 1 Q. 671 If we look at 2156. The 21st of June '95, there is a letter from Mr. Layden  
2 directly to you.
- 3 A. From Mr. Layden, yes. Yes, that's true.
- 4 Q. 672 "I refer to our telephone conversation and faxes."
- 13:18:01 5 A. Yes, I could have phoned him, yes. And I could have sent.
- 6 Q. 673 "As mentioned, the lack of cohesion and action by Mr. Kelly and his advisor,  
7 Mr. Lynn, I still have not had any contact from them, raises doubts in my mind  
8 as to Mr. Kelly's desire to succeed in having the objective note deleted."
- 9 A. Uh-huh.
- 13:18:16 10 Q. 674 And then he lists persons whom he might contact, isn't that right?
- 11 A. Yes.
- 12 Q. 675 And did you write again, this time PP Tom Linnane, on the 22nd of June '95. At  
13 2157.
- 14 A. Yes. Again, that's a similar letter that was dictated to me.
- 13:18:36 15 Q. 676 At 2160 on the 26th of June, I think there had been a meeting with the County  
16 Manager, isn't that right?
- 17 A. I don't know. I mean, I mean, that was a letter that was again dictated to me.  
18 I had no involvement with any of the officials or County Manager.
- 19 Q. 677 And at 2161, did that letter conclude by advising that Mr. Lynn would be --  
13:19:00 20 would contact him that. That is to say would contact Mr. Layden?
- 21 A. Yes, it does conclude with that, yes.
- 22 Q. 678 And did you enclose a note on Section 4 for his information and asking him to  
23 note that Mr. Lynn's success rate, which was now -- that Mr. Lynn was now on a  
24 success fee only?
- 13:19:16 25 A. I could have included a Section 4 which would have been given to me by Aidan  
26 Kelly.
- 27 Q. 679 Yes. Did you know that Mr. Lynn, by June '95 was on a success fee only?
- 28 A. No, I wasn't aware of his financial arrangements.
- 29 Q. 680 Did you know that the management -- the Manager was being held out as being  
13:19:38 30 supportive of what was now being proposed in June '95?

- 13:19:41 1 A. No.
- 2 Q. 681 You wrote again on I think the 27th of June '95, at 2163, again to Mr. Layden.
- 3 And if we look at 2164, you say that: "In summary the management are fully
- 4 behind the project and the County Manager emphasised on several occasions his
- 13:19:55 5 commitment to meetings with the bank and he understood the success rate with
- 6 management support of the county for various projects."
- 7
- 8 Are you saying all of that again was written --
- 9 A. Yes, absolutely.
- 13:20:05 10 Q. 682 -- At Mr. Kelly's suggestion?
- 11 A. Yes, yes. I mean, my background is I wasn't involved with councillors or with
- 12 planners.
- 13 Q. 683 Yes. But you knew what was happening?
- 14 A. I had a broad idea what was happening but I certainly wasn't involved with
- 13:20:19 15 them.
- 16 Q. 684 Is there any reason why Mr. Kelly himself couldn't have written some of those
- 17 letters, after all, he had written letters directly to Mr. Layden at this time?
- 18 A. I think in the Joe Layden case there was a lack of communication because of the
- 19 monies that were owed to him and because Joe wasn't happy with the planning
- 13:20:37 20 process. So in that instance, the reason why I was -- the letter was because
- 21 there was no communication and I was used as a vehicle to communicate between
- 22 the parties.
- 23 Q. 685 At 1693. On the 24th of July 1995. I think agreement was concluded with Power
- 24 Supermarkets for the payments of monies, isn't that right?
- 13:20:57 25 A. I wasn't involved in that.
- 26 Q. 686 You know nothing about that?
- 27 A. No.
- 28 Q. 687 Thank you very much Mr. Linnane.
- 29 A. Thank you.
- 13:21:05 30 CHAIRMAN: Mr. Wolfe?

13:21:07 1  
2 MR WOLFE: No questions.  
3  
4 CHAIRMAN: Mr. Byrne?  
13:21:10 5  
6 MR. BYRNE: No.  
7  
8 CHAIRMAN: Thank you very much, Mr. Linnane  
9 A. Thank you.  
13:21:14 10  
11 CHAIRMAN: That concludes this particular Module, with the exception of I  
12 think Mr. Kelly's evidence.  
13  
14 MS. DILLON: Yes. And I think Mr. Noel Smyth, who was taken ill.  
13:21:23 15  
16 CHAIRMAN: And we'll --  
17  
18 MS. DILLON: And Mr. Lafferty. But a day and a half will finish all of those  
19 witnesses.  
13:21:30 20  
21 CHAIRMAN: All right. Well, we'll have to decide later what day we'll notify  
22 the parties.  
23  
24 MS. DILLON: The earliest possible date will be the last week in March.  
13:21:39 25  
26 CHAIRMAN: All right. Well, we'll see what we can organise and we'll be in  
27 contact with the parties. All right.  
28  
29 MS. DILLON: May it please you, Sir.  
13:21:46 30

13:21:47 1 CHAIRMAN: All right. Thank you very much.

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

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