

Appendix Y

REPORT INTO THE MATTERS COVERED BY CLAUSES A 1, A 2 (A) TO (C) INCLUSIVE, A 3 (A) TO (G) INCLUSIVE, AND A 3 (I), (II), AND (IV).

TERMS OF REFERENCE

IDENTIFICATION AND TITLE OF LOTS 1 TO 6.

At paragraph A.1. of the *Terms of Reference* the Tribunal was asked to enquire urgently into and report on:

"The identification of the lands stated to be 726 acres in extent, referred to in the letter dated 8th June, 1989 from Mr. Michael Bailey to Mr. James Gogarty (reproduced in the schedule herewith) and the establishment of the beneficial ownership of the lands at that date and changes in the beneficial ownership of the lands since the 8th June, 1989 prior to their development"

The letter dated 8th June 1989 from Mr. Michael Bailey to Mr. James Gogarty refers to the lands as:-

- Lot 1: 100 acres (approx.) at North Road, Finglas, including "Barrett's Land."
- Lot 2: 12 acres (approx.) at Jamestown Road, Finglas.
- Lot 3: 100 acres (approx.) at Poppintree, Ballymun.
- Lot 4: 255 acres (approx.) at Donabate (Turvey House and Beaverton House).
- Lot 5: 250 acres (approx.) at Balgriffin.
- Lot 6: 9 acres (approx.) at Portmarnock."

The Tribunal undertook the following investigations to establish the identity and ownership of these lands;

- (i) The above Lands were further identified in correspondence between the Tribunal and the Solicitors acting for Bovale Developments Limited, Smith Foy and Partners.
- (ii) The Tribunal received and considered the results of a search in respect of all registered lands comprised in the Lands carried out at its behest by a specialised firm of title searchers
- (iii) The Tribunal examined Land Registry copy folios of all registered lands comprised in the Lands in relation to the identification and ownership of the said lands as of the 8th June 1989 and subsequent thereto prior to any development.
- (iv) The Tribunal examined the folios for the existence of any caution or inhibition.
- (v) Insofar as any of the Lands were held under unregistered titles, the Tribunal commissioned a search of the Registry of Deeds by a specialised firm of title searchers and have obtained and considered the results of such search.
- (vi) Insofar as any of the Lands were held under unregistered titles, the Tribunal examined copy title documents relating to the said lands for the purpose of identifying the owners of the lands as of the 8th of June 1989 and changes in such ownership since the 8th of June 1989 prior to any development of the lands. Where available, the Tribunal examined indentures and otherwise it examined memorials.

(vii) The Tribunal examined maps relating to the Land Registry folios in respect of the Lands, and maps attaching to any title documents where the title was unregistered.

(viii) The Tribunal entered into correspondence with the solicitors acting for the apparent owners of the Lands as of the 8th of June 1989 and the solicitors for the successors in title to the owners of the Lands so as to inquire into transactions that were evident in the Land Registry and/or the Registry of Deeds in relation to the Lands.

(ix) The Tribunal examined discovery documents obtained by it relating to the Lands.

(x) The Tribunal consulted a professional draftsman concerning the outline of the Lands on the maps examined. Reproduction maps were circulated in advance to the solicitors for the parties to the title and there were no objections to their use.

(xi) A statement of proposed evidence of Maire Anne Howard a Solicitor employed by the Tribunal was circulated to all interested parties and sworn testimony in line with this statement was given at a public hearing of the Tribunal on the 6th March 2000. Ms. Howard's testimony was not challenged.

(xii) The Tribunal heard evidence from a number of witnesses on this issue including Mr. Gogarty and Mr. Joseph Murphy Senior.

The Tribunal considered it expedient to deal with the lands under the headings of each of the six lots as identified in the letter of the 8th June 1989. In the case of registered lands the registered owner is deemed to be the beneficial owner. In his statement of evidence to the Tribunal Mr. Murphy Senior maintained that the initiative to sell these lands came from Mr. Gogarty whom he said had exclusive responsibility for the land holding companies within the Murphy Group. Mr. Murphy Senior maintained that he had for many years past removed himself from the day to day involvement in the Group's affairs and he knew little or nothing about property as his "experience and know how lay in the core business of the group."

The evidence given by Mr. Murphy Senior however qualified this statement to the extent that it was apparent to the Tribunal and accepted by Mr. Murphy Senior that the final decision on selling these properties would eventually come to him. In essence he maintained that Mr. Gogarty was acting unhindered by him "except when it came to the final decision to dispose of the lands", when his permission was sought. He had in effect the final say on the disposal of these lands. In the circumstances the Tribunal concluded that whilst the legal ownership of the lands lay in the various companies the actual ownership rested with the one who had the final say on their disposal namely Mr. Murphy Senior.

PLANNING STATUS

Paragraphs A.2 and A.3 required the Tribunal to inquire urgently into the planning history of the lands including:-

(a) their planning status in the Development Plan of the Dublin Local Authorities current at the 8th June, 1989;

(b) the position with regard to the servicing of the lands for development as at the 8th June, 1989;

(c) changes made or proposed to be made to the 8th June, 1989 planning status of the lands by way of:-

(i) proposals put forward by Dublin Local Authority officials pursuant to the review of Development Plans or otherwise;

(ii) motions by elected members of the Dublin Local Authorities proposing re-zoning;

(iii) applications for planning permission (including any involving a material contravention of the Development Plan);

Whether the lands referred to in the letter dated 8th June, 1989 were the subject of the following:-

- (a) Re-zoning resolutions;
- (b) Resolutions for material contravention of the relevant Development Plans;
- (c) Applications for special tax designations status pursuant to the Finance Acts;
- (d) Applications for planning permission;
- (e) Changes made or requested to be made with regard to the servicing of the lands for development;
- (f) Applications for the granting of building by-law approval in respect of buildings constructed on the lands;
- (c) Applications for fire safety certificates;

on or after the 20th day of June 1985. M

And

(i) to ascertain the identity of any persons or companies (and if companies, the identity of the beneficial owners of such companies) who had a material interest in the said lands or who had a material involvement in the matters aforesaid;

(ii) to ascertain the identity of any members of the Oireachtas, past or present, and/or members of the relevant local authorities who were involved directly or indirectly in any of the foregoing matters whether by the making of representations to a planning authority or to any person in the authority in a position to make relevant decisions or by the proposing of or by voting in favour or against or by abstaining from any such resolutions or by absenting themselves when such votes were taken or by attempting to influence in any manner whatsoever the outcome of any such applications, or who received payments from any of the persons or companies referred to at (i) above.

(iii) to ascertain the identity of all public officials who considered, made recommendations or decisions on any such matters and to report on such considerations, recommendations and/or decisions;

(iv) to ascertain and report on the outcome of all such applications, resolutions and votes in relation to such applications in the relevant local authority.

A recently retired employee of Fingal County Council, Ms. Sinead Collins gave sworn testimony to the Tribunal. She had been an Administrative Officer in the Planning Department from January 1994 and prior to that had held the same position in Dublin County Council where she had worked from July 1982 to December 1993. Before that she had been employed for approximately 24 years by Dublin Corporation during which time she worked in the Engineering Department, later the Planning Department and subsequently the Housing Department.

Ms. Collins's testimony was based on the documentation and information available to her in her capacity as an official of the Council, in relation to matters referred to in paragraphs A2 and A.3(a)-(g) (other than paragraph 3(c) concerning tax designation) inclusive of the *Amended Terms of Reference*.

Ms. Collins relied on the assistance afforded her by Mr. Barry Morris, Senior Executive Engineer and Mr. Liam Coughlan, Senior Engineer of the Environmental Services Department in relation to the position regarding the servicing of lands for development as of 8th June 1989.

A statement of Ms. Collins proposed evidence was circulated to interested parties in advance of her giving sworn testimony to the Tribunal on the 4th and 5th April 2000.

TAX DESIGNATION

Paragraph A.3(c) of the *Terms of Reference* required the Tribunal to establish whether any of the lands were the subject of applications for special tax designations status pursuant to the Finance Act. Mr. Liam Murphy Principal Officer with the Department of Finance gave evidence on tax designation of an area at Popintree/Ballymun as an enterprise area under the Finance Act, 1997. Mr. Murphy worked in the Budget and Economic Division and was the Principal Officer dealing with elements of tax policy. Mr. Murphy's statement of proposed evidence was circulated in advance of his sworn testimony given at a public hearing on the 5th April 2000.

Mr. Murphy's unchallenged evidence related to the designation of the area known as the Popintree/Ballymun site in Lot 3 as an enterprise area under the Finance Act 1997 and is accepted by the Tribunal as an accurate account of the matters dealt with by him.

LOT 1.

PARAGRAPH A. 1.

IDENTIFICATION AND OWNERSHIP

100 acres (approx.) at North Road, Finglas, including 'Barrett's Land.'

Identification as of the 8th of June 1989

(A) The lands in Folio 19360 of the Register County of Dublin, being lands situate in the Townland of Baleskin, Barony of Castleknock and County of Dublin, comprising 33.645 hectares or 83.1368 acres.

(B) The lands in Folio 7462 of the Register County of Dublin, being lands situate in the Townland of Charlestown, Barony of Castleknock and County of Dublin, comprising 15.578 hectares or 38.49324 acres.

Beneficial Ownership as of the 8th June 1989

Folio 19360 of the Register County of Dublin

The full registered owner of the lands comprised in Folio 19360 was **Finglas Industrial Development Limited**, having its registered office at 29 Fitzwilliam Square, in the City of Dublin.

Folio 7462 of the Register County of Dublin.

The full registered owner of the lands comprised in Folio 7462 of the Register County of Dublin was **Barrett Developments Limited**, having its registered office at 6 Foster Place, in the City of Dublin.

There was no inhibition or caution registered in respect of either of these folios nor did it appear that the lands comprised in either folio was the subject of any charge or encumbrance.

Changes in Beneficial Ownership since the 8th June 1989 and prior to their Development

(A) Certain steps were taken in 1989/91 which affected not only Lot 1 but all of the Lands, save for Folio 4327 (see Lot 4 below). Following the 8th June 1989 and prior to the disposal of the Lands to Bovale Developments Limited; -

- (i) The Grafton Construction Company Limited on the 15th of December 1989 agreed to sell to Lajos Holdings Limited such of the Lands as were held by the Grafton Construction Company Limited on that date.
- (ii) At an Extraordinary General Meeting of Barrett Developments Limited held on the 18th December 1989, it was resolved that the company be wound up voluntarily and that John Eddison be appointed Liquidator;
- (iii) At an Extraordinary General Meeting of Finglas Industrial Estates Limited held on 18th December 1989, it was resolved that the company be wound up voluntarily and that John Eddison be appointed Liquidator;

- (iv) At an Extraordinary General Meeting of Turvey Estates Limited held on the 18th December 1989, it was resolved that the company be wound up voluntarily and that John Eddison be appointed Liquidator;
- (v) In a Statutory Declaration sworn by John Eddison on the 29th January 1991, the liquidator of Turvey Estates Limited, Barrett Developments Limited and Finglas Industrial Developments Limited declared that the lands owned by the respective companies were surplus lands after the payment of all debts of the three companies. He as liquidator of the three companies was not claiming any charge or lien over the lands or any part thereof in respect of any charges, costs or expenses incurred in the course of the liquidation or in respect of his fees. He was satisfied that adequate provision had been made for his fees. He further declared that Lajos Holdings Limited was entitled as the sole legal shareholder of the three companies to have the said lands distributed to it *in specie*;

(B) (i) All of the Lands (including Lot 1) save for Folio 4327 (see Lot 4 below) were acquired by Bovale Developments Limited on foot of a composite Deed of Transfer and Conveyance dated the 12th of September 1991 and made between LAJOS HOLDINGS LIMITED of the first part, GRAFTON CONSTRUCTION COMPANY LIMITED of the second part, BARRETT DEVELOPMENTS LIMITED (in Liquidation) of the third part, FINGLAS INDUSTRIAL DEVELOPMENTS LIMITED (in Liquidation) of the fourth part, TURVEY ESTATES LIMITED (in liquidation) of the fifth part, JOHN EDDISON of the sixth part and BOVALE DEVELOPMENTS LIMITED of the seventh part hereinafter referred to as the "*Composite Indenture*."

(ii) In the Composite Indenture, the Grafton Construction Company Limited by way of sub-sale pursuant to the agreement of 15th December 1989 referred to above, assured to Bovale Developments Limited all of the lands comprised in Folio 3212 of the County of Dublin (see Lot 5 below); part of Folio 175 of the Register of County of Dublin (see Lot 6 below); all of Folio 577 of the County of Dublin (see Lot 3 below); all of Folio 6262F of the County of Dublin (see Lot 3 below); all of Folio 18462 of the County of Dublin (see Lot 2 below); all of Folio 6952 of the County of Dublin (see Lot 2 below); and all of unregistered lands at Balgriffin (see Lot 5 below).

(ii) In the Composite Indenture the Liquidator of Barrett Developments Limited, Finglas Industrial Estates Limited and Turvey Estates Limited assured to Bovale Developments Limited all of the lands referred to in the Terms of Reference, which had been in the ownership of those companies (see below Lot 1 and Lot 4 respectively).

Regarding Lot 1, as can be seen from the recitation of the parties to the Composite Indenture, the respective registered owners of the lands comprised in Folios 19360 and 7462 were parties to the deed, i.e. Finglas Industrial Developments Limited (being the registered owner of the lands comprised in 19360 of the Register County of Dublin) and Barrett Developments Limited (being the owner of the lands comprised in Folio 7462 of the Register County of Dublin) both companies by then in Liquidation. On the 26th of February 1992, Bovale Developments Limited, having its registered office at 59 Fitzwilliam Square, in the City of Dublin, became the full registered owner of the lands comprised in Folio 19360. The Land Certificate was issued to Messrs. Smith Foy & Partners on the 8th of February 1998. On the 26th of February 1992, a collateral charge for present and future advances (repayable with interest) was registered against the lands in Folio 19360 in favour of the Governor and Company of the Bank of Ireland. It is noted from the folio that this charge was also registered on Folios 3212, 83876F, 577,6262F, 18462, 6952, 7462 and 4327 of the Register County of Dublin. This charge was cancelled on the 11th March 1998.

On the 10th of March 1998, a collateral charge for present and future advances (repayable with interest) was registered against property No. 2 only of the lands comprised in Folio 19360 of the Register County of Dublin, charged in favour of Anglo-Irish Bank Corporation plc. It is noted from the folio that this charge is also registered against the lands comprised in Folios 6952, 7462 and 18462 of the Register County of Dublin.

FOLIO 7462 of the Register County of Dublin

A-24 On the 26th of February 1992, Bovale Developments Limited, having its registered office at 59 Fitzwilliam Square, in the City of Dublin, became the full registered owner of the lands comprised in Folio 7462 of the Register County of Dublin. The Land Certificate was issued to Messrs. Smith Foy and Partners, Solicitors on the 12th of December 1997. On the 26th of February 1992 a charge for present and future advances (repayable with interest) was registered against the lands in Folio 7462 in favour of the Governor and Company of the Bank of Ireland. This charge was also registered against the lands comprised in Folios 3212, 83876F, 577, 6262F, 18462, 6952, 19360 and 4327 of the Register County of Dublin. This charge was cancelled on the 11th march 1997. On the 5th of June 1984, the lands comprised in Folio 7462 were subject to a wayleave in favour of Bord Gais Éireann pursuant to Section 43 of The Gas Act, 1976. All of the lands comprised in Folio 19360 of the Register County of Dublin and 7462 of the Register County of Dublin remained in the registered ownership of Bovale Developments Limited until 1994.

In or about the year 1994, portion of the lands comprised in Folios 19360 and 7462 together with portion of Folio 577 (see Lot 3 below) were compulsorily acquired by the County Council of the County of Dublin in connection with the construction of the M50 motorway. The portion of lands acquired by the County Council of the County of Dublin from the three said folios were transferred into Folio 99886F of the Register County of Dublin. The County Council of the County of Dublin became registered as owner of these lands on the 17th of February 1994. Messrs. Smith Foy have confirmed that as part of the transaction involving the compulsory acquisition of portion of Folios 19360 and 7462, the County Council agreed that Bovale would have access over an area coloured green on an enclosed map but that no Deed of a Grant of Way has yet been delivered. Fingal County Council have confirmed access from the N2 to the remaining Bovale lands over this section of Lot 1 although the precise location of the access road was not stated.

PARAGRAPH A.2.

PLANNING HISTORY

The lands are comprised in two folios, Folio 7462 in the townland of Charlestown and Folio 19360 in the townland of Baleskin. Lot 1 originally consisted of a single holding but as a result of the construction of the Northern Cross Motorway – the M50 – the lands were bisected and the lands in the townland of Baleskin – Folio 19360 – Co. Dublin – are mainly to the north of the motorway, bounded along part of their south-western boundary by North Road, Finglas and partly along the north-eastern boundary by St Margaret's Road and a small portion measuring 1.86 hectares (4.6 acres) are to the south of the M50. The lands at Charlestown comprising 15.58 hectares (38.49 acres), which are bounded along their north-western boundary by the motorway and on their eastern boundary by St Margaret's Road, Finglas are those comprised in Folio 7462 - Co. Dublin. The Tribunal considered it expedient to deal with the planning history of Lot 1 in 2 parts: -

Lands south of the M.50
Lands north of the M.50

LANDS SOUTH OF THE M.50 BEING FOLIO 7462 LANDS AT CHARLESTOWN AND LANDS AT BALSESKIN BEING PORTION OF LANDS IN FOLIO 19360.

Paragraph A.2 (a) of the Terms of Reference namely the planning status of these lands in the Development Plan of the Dublin Local Authorities current at the 8th June 1989

The Development Plan current as of the 8th June 1989 was the 1983 Development Plan for the County of Dublin wherein these lands were zoned "B" *"to protect and provide for the development of agriculture."* In the 1972 County Development Plan, the lands in this folio were zoned "P" – that is *"to provide for the further development of agriculture"* and a narrow strip south of the proposed motorway was zoned "R" – *"to preserve open space amenity."*

In the proposed 1990 Draft Development Plan (as proposed by the Manager), it was proposed that the lands would retain a "B" zoning. In the 1991 Draft Development Plan which was approved by the elected members and put on public display for three months, the lands were shown with a proposed "B" zoning – that is *"to protect and provide for the development of agriculture."*

In 1993 the elected members proposed an amendment to the 1991 Draft Development Plan and proposed to change the zoning of the lands in question from "B" to "E" – *"to protect and provide for*

industrial and related uses." In the 1993 Development Plan which was adopted by the elected members in December 1993, the lands were zoned "E".

In the 1999 Fingal County Development Plan, part of the lands at Charlestown were zoned "E" and a small part were zoned "TDC" – "to protect and enhance the special physical and social character of town and district centres and provide and/or improve town and district facilities."

Paragraph A.2 (b) of the Terms of Reference. The position regarding the servicing of the lands for development as at the 8th June 1989

Foul sewer

There were no foul sewers available to service this land within the Dublin County area at the above date. The nearest foul sewer facilities were located within the Dublin Corporation Area and there was no agreement with that Authority to accept drainage from these lands.

Surface water

A number of streams traverse these lands and these streams drain into the Dublin Corporation Area. Before any proposal for the development of these lands could be lodged consultation would have to take place with the Dublin Corporation Drainage Division. Any upgrading of the surface water system within the Corporation Area would have to be carried out by the Corporation Drainage Division at the proposers' prior expense.

Water supply

A limited supply would have been available from the North Road, providing physical access had been possible. The supply available with St. Margaret's Road, is a boosted supply sourced from the Corporation 450 mm diameter watermain. The supply is limited and would not serve any extensive development within this area.

Paragraph A.2(c)(i) of the Terms of Reference. Changes made or proposed to be made to the 8th June 1989 planning status of the lands by way of proposals put forward by Dublin Local Authority Officials pursuant to a review of Development Plans or otherwise

There were no proposals put forward by any Dublin Local Authority Official to change the 8th June 1989 planning status of these lands. However, in the 1998 Draft Fingal Development Plan a portion of the site was zoned "TDC" – "to protect and enhance the special physical and social character of town and district centres and provide and/or improve town and district facilities." This was confirmed in the 1999 Fingal Development Plan.

Paragraph A.2(c)(ii) of the Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of motions by elected members of the Dublin Local Authorities proposing re-zoning

In January 1991 Garth May, a planning consultant, made an application to Dublin County Council for the re-zoning of lands at Finglas/Poppintree on behalf of Bovale Developments Limited ("Bovale"). This application related to three parcels of land – one being east of the North Road at Charlestown, Finglas, the second at Jamestown Road and the third located south of the revised route for the Northern Cross Motorway at Poppintree. This application was given the number 000166. Three plans accompanied the application (plan 1, plan 2 and plan 3) the location of the three sites being shown on plan/drg. No. 76/03 entitled "application for re-zoning Finglas/Poppintree for Bovale Developments."

On the map Mr. May indicated that approximately 20 acres of Bovale lands were affected by the Northern Cross Motorway and that the land, the subject of the application for re-zoning, was approximately 75 acres. By letter dated 18th November 1991 Mr. May on behalf of Bovale, requested that his submission made in January 1991 be accepted as an objection/representation to the 1991 Draft Development Plan (then on public display) together with supplemental information contained in his letter of 18th November. This representation was given the Ref. No. 166.

At a meeting of Dublin County Council held on 19th March 1993, when representations in relation to the 1991 Draft Development Plan were being considered, the following motion, signed by Councillors Cyril Gallagher, John Gilbride and Ann Devitt in relation to all of the said lands south of the M.50, was proposed by Councillor Cyril Gallagher and seconded by Councillor Ann Devitt - (Ref: 12 (2) (A) (i)) in the minutes of the Council's meeting; -

"Dublin County Council hereby resolves that the lands at Charlestown, Finglas outlined in red on the attached map comprising about 40.78 acres and which has been signed for identification purposes by the proposer and seconder of this motion, be zoned industrial in the Draft Review of the County Development Plan"

A map (map no11) showing the various zonings proposed for the North Fringe Lands, including the lands at Charlestown shown on Folio 7462, was put on public display between the 2nd day of September 1991 and the 3rd day of December 1991.

Following the public display of the Draft Development Plan the staff of the Council gathered together the objections/representations, which related to particular lands or particular areas. Each representation was given a number and a copy of each representation was circulated to each of the 78 Councillors prior to the meeting at which the particular representation was to be considered. In addition, the Manager prepared a report in which he set out a synopsis of the various representations, and outlined the position in relation to zoning as shown in the 1983 Development Plan. The Manager's report encompassed the Planning Officer's report with a recommendation as to whether the draft plan should or should not be changed in the light of the representation/representations received. The Planning Officer's report was almost invariably prepared by the Planning Officer after consultation with other relevant departments such as the Environmental Services Department. The objections and representations received following the first public display were considered by the members at a series of 50 special meetings, which extended over a period from April 1992 to June 1993.

A total of 8 representations were received from or on behalf of landowners whose lands formed part of the north fringe lands south of the Northern Cross Route and between North Road Finglas and Santry By-pass. This part of the lands in Lot 1 was the subject matter of a motion to rezone. These 8 representations, which appear under the reference C218/93 commencing at page 272 of the Council's minutes, were received in respect of the following:

Lands south of the Northern Cross Route:

Representation No. 000166 – Bovale Developments Limited – Charlestown, Jamestown and Poppintree. These are the lands south of the M.50.

Representation No. 000249 – Mr & Mrs J McCourt/Charlestown.

Representation No. 000173 – T Gammel, Jamestown.

Representation No. 000128 PH Ross Limited Jamestown.

Representation No. 000646 – GKR Developments and Jamestown/Meakestown.

Representation No. 000762 Mr and Mrs Fitzpatrick, Meakestown.

Representation No. 000370 – H Byrne, Ballymun.

Representation No. 000333 – A O'Boyle, Woodford House, Turnapin.

The motion to rezone the lands in Lot 1 south of the M.50 was one of eight applications to rezone lands south of the M.50.

The following report by the Manager that had been circulated to all 78 elected members was considered.

"SYNOPSIS OF REPRESENTATIONS:

All of these representations from landowners refer either in whole or part to the North Fringe lands, south of the Northern Cross Route between the North Road, Finglas and the Santry By-Pass. The representations support the proposed Draft Plan development zonings 'A I' and 'E' and in addition seek the re-zoning of almost the entire remainder of the area for development purposes to a combination of 'A I' and 'E'.

The principal arguments put forward for re-zoning the area for development purposes are as follows:

There is no prospect of agricultural use of the lands south of the motorway due to vandalism, trespass and severance.

The motorway should form the logical development zoning boundary.

A large area between the Jamestown Road and St. Margaret's Road has already been zoned 'A1' Residential and 'E' Industrial.

The Area Action Plan referred to in Paragraph 3.2.8 of the Draft Written Statement be brought forward as this would provide more details on precise drainage requirements and on the financial contributions towards this infrastructural investment that would be forthcoming.

(A) Representation No. 000166 - Bovale Developments Limited

Bovale Developments refer to three lots of land at (i) Charlestown (16 ha.); (ii) Jamestown (8 ha.); (iii) Poppintree (8 ha.) and seeks a re-zoning of (i) and (iii) from 'B' and 'F' to a zoning providing for mixed development, such as a combination of 'A1' and 'E'. The area of Jamestown (8 ha.) was re-zoned 'E' in the 1991 Draft Plan.

(B) Representation No. 000249 - Mr. and Mrs. J. McCourt:

A re-zoning of 23 ha. at Charlestown from 'B' to 'E' is sought.

(C) Representation No. 000173 - T. Gammell:

The Draft Plan 'A1' zoning of lands at Dubbercross/Jamestown is supported.

(D) Representation No. 000128 - P.H. Ross Limited Jamestown

The Draft Plan 'A1' zoning of lands at Poppintree/Jamestown is supported.

(E) Representation No. 000762 - Mr. & Mrs. Fitzpatrick:

Re-zoning of lands (9 ha.) at Meakestown from 'F' to 'A1' and 'E' is advocated.

(F) Representation No. 000646 - G.K. Developments:

The Draft Plan 'A1' zoning of lands at Poppintree/Jamestown is supported. [App. 1.4.1]

(G) Representation No. 000370 - H' Byrne:

Re-zoning of 22 ha. at Ballymun from 'B' to 'E' is sought.

(H) Representation No. 000333 - A. O'Boyle, Woodford House:

Re-zoning of 8 ha. from 'B' to 'E' is advocated.

DEVELOPMENT PLAN:

At a meeting of the County Council on 21st March, 1991, a motion was passed providing for the re-zoning of c-36 ha. between Jamestown Road and St. Margaret's Road from 'B' Agriculture to A1 Residential and 'E' Industry. It was also agreed to insert a paragraph (now paragraph 3.2.8) into the Draft Plan as follows:

"It is agreed in principle that the lands north of the City Boundary and between it and the Northern Cross Motorway from Santry (Swords Road) to Finglas (North Road) should be made available for development if and when the necessary drainage services are provided. At that stage the lands will be the subject of an Area Action Plan and/or variation to the Development Plan to determine the zoning and the nature of development in the area."

In addition, many of the subject lands are within the restricted development area, which is necessary for the safe operation of Dublin Airport, as detailed in Appendix D of the Development Plan. Representation No. 000333 is within the red approach area and Representations Nos. 000762, 000166 and 000370 are within the area encompassed by the 35 N.N.I. contour as shown on Map 1A of the Development Plan. [App. 1.4]

PLANNING OFFICER'S REPORT:

Paragraph 3.2.8 of the Draft Plan provides for the principle of development for lands south of the Northern Cross Route: -

"The lack of drainage facilities remains the major constraint and it is unlikely to be resolved until the proposed drainage scheme for the North City Fringe is put in place. In the absence of firm proposals to drain the lands, zoning for additional development would not be appropriate.

It is recommended that the Draft Plan should not be changed."

The motion to rezone the lands in Lot 1, south of the M.50., was put and was passed by 37 votes for, 12 against and 1 abstention.

For: Councillors S. Barrett, S. Brock, L. Butler, B. Cass, R. Conroy, L.T. Cosgrave, M.J. Cosgrave, A. Devitt, M. Elliott, M. Farrell, T. Fox, C. Gallagher, S. Gilbride, T. Hand, F. Hanrahan, C. Keane, M. Kennedy, J. Larkin, L. Lohan, D. Lydon, M. McGennis, C. McGrath, D. Marren, T. Matthews, O. Mitchell, T. Morrissey, M. Muldoon, C. O'Connor, J. O'Halloran, A. Ormonde, N. Owen, C. Quinn, T. Ridge, N. Ryan, S. Terry, C. Tyndall, G.V. Wright.

Against: Councillors M. Billane, F. Buckley, L. Gordon, D. Healy, J. Higgins, T. Kelleher, S. Misteil, D. O'Callaghan, G. O'Connell, S. Ryan, D. Tipping, E. Walsh.

Abstentions: Councillor S. Laing."

This decision of the members was put on public display for the statutory one-month period - "*the second public display*" - as a proposed amendment (Change 7 Map 11). The proposed amendment was again considered at a meeting of the Council on 7th October, 1993, when the Manager recommended that the amendment be deleted. It was proposed by Councillor D. Healy, seconded by Councillor T. Sargent "*that Change 7 on Map 11 be deleted.*" The motion was defeated on a show of hands with 6 members voting in favour of the motion, 41 against and 2 abstentions. The proposed amendment was then confirmed and the site was zoned for industry in the 1993 Development Plan. Motions relating to the Bovale lands at Jamestown and Poppintree (ref no. 12(2)(A)(iii) and 12 (2)(A)(ii) were also passed at this meeting and are dealt with later in relation to Lots 2 and 3.

Of the 8 representations which were to be considered at the Council meeting on the 19th March 1993, only two - representation No. 000166 relating to the Bovale Development lands (totalling approx. 80 acres at Charlestown, Jamestown and Poppintree) and representation No. 000249 on behalf of Mr & Mrs J. McCourt, Charlestown (totalling approximately 55 acres) - were dealt with at that meeting.

Consideration of the remaining 6 representations (Item 12)(2) lands south of the Northern Cross Route) resumed under Reference C/222-93 at the special Council Meeting held on the 29th March 1993. The same report and recommendation from the Manager, which had been circulated to the Councillors prior to their consideration of the representation from Garth May on behalf of Bovale and the representation on behalf of Mr & Mrs McCourt, were again considered. This report made reference to the location of the lands in relation to the restricted development area necessary for the safe operation of Dublin Airport, the lack of drainage facilities, the Planning Officer's recommendation that zoning for additional development would not be appropriate and recommended that the draft plan should not be changed. (Page 286 of minutes).

As indicated at pg.286 of the Minutes of the Meeting "*The Manager's Report in Respect of Items at (C), (D), (E), (F) above was NOTED.*" This meant that Representation No. 000173 - (Item C) - T. Gammell, Representation No. 000128 (Item D), - P.H. Ross Limited Jamestown, Representation No. 000646 (Item E) - G.K.R. Developments Limited all of which supported the draft plan "A1" zoning of their respective lands were approved by the Council but a Representation No. 000762 (Item F) - from Mr & Mrs Fitzpatrick which proposed rezoning of lands (9ha) at Meakestown from "F" to "A1" and "E" was not the subject of any motion by any Councillor and accordingly was not acceded to. (The "F" zoning is a zoning to preserve and provide for open space and recreational amenities). The first motion proposed at the meeting of the 29th March 1993 in relation to the representations referred to above was Item 12(2)(G) which related to representation No. 000370 on behalf of H. Byrne, Ballymun. A motion in the names of Councillors Ann Devitt and Cyril Gallagher resolving to rezone the land at Old Ballymun Road, Ballymun shown outlined in red on attached map as objective "E" - "*to provide for industry and related uses*" was passed by 45 votes to 6 with 2 abstentions. The next motion put was in the names of Councillor Ann Devitt and Cyril Gallagher and related to Item 12(2)(H) representation No. 000333- A. O' Boyle, Woodford House, Turnapin. The motion was proposed by Cllr. Devitt, seconded by Cllr. Owen and was passed by 45 votes to 6 with 2 abstentions.

Following the passing of the motions outlined above, the decisions of the members were put on public display for the statutory 1 month period from the 1st day of July 1993 to the 4th day of August 1993 - "*the second public display*" - as proposed amendments to the draft Development Plan. (Change 4 Map 11 (Byrne)) and change 9 Map 11 (O'Boyle) (also change 8 Map 10). The proposed amendment in respect of Byrne's lands at Ballymun (item 12(2)(G) was considered at a meeting of the Council on the 7th October 1993 when the Manager recommended that the amendment be deleted. It was proposed by Councillor D. Healy seconded by Councillor Trevor Sergeant in relation to Byrne's lands at Ballymun that "*change 4 on Map 11 be deleted.*" This motion was defeated in a roll-call vote with 8 members voting in favour of the motion, 46 members voting against with 0 abstentions. The proposed amendment was then confirmed and the land was zoned for industry in the 1993 Development Plan. The proposed amendment in respect of the McCourt lands at Charlestown, (Change 6 Map 11) item 12.2.B - was also considered on the 7th October 1993, when a motion proposed by Councillor Healy and seconded by Councillor Sargent to delete the amendment was defeated on a show of hands, 6 in favour, 41 against and 2 abstentions. The proposed

amendment in respect of the O'Boyle lands at Woodford House, Turnapin Little, item 12(2)(H) (map 10 change 8) was considered on the 6th October 1993 (see pages 1195-1197 of Minutes), when a motion to delete this change proposed by Councillor Healy, seconded by Councillor Sergeant, was defeated by 14 votes in favour, 35 against and 4 abstentions. The site was zoned industrial in the 1993 Development Plan.

Paragraph A.2(c)(iii) of the Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of applications for planning permission (including any involving a material contravention of the Development Plan)

Material contraventions

No planning permission was granted which materially contravened the zoning of these lands.

Planning permissions

There were no applications for planning permission in the period the 8th June 1989 to the 4th November 1997.

Paragraph A.3. Resolutions, Application or Requests. Paragraph A.3(a) – (g) of the Terms of Reference. Whether the lands South of the M.50 in Lot 1 were the subject of any of the resolutions, applications or requests referred to in paragraph A.3(a) – (g) of the Terms of Reference

A.3 (a)-whether the lands were subject to rezoning resolutions

This has already been dealt with at paragraph A.2. (c)(ii) above.

A.3(b)-whether the lands were the subject of resolutions for material contravention of the relevant Development Plan

This has already been dealt with at paragraph A.2.(c)(iii) above.

A.3(c)- whether the lands were the subject of an application for special tax designation status pursuant to the Finance Acts

This site was not the subject of any special tax designation status pursuant to the Finance Acts.

A.3(d)-whether the lands were the subject matter of applications for planning permission.

This has already been dealt with this at paragraph A.2.(c)(iii) above.

A.3(e) – whether changes were made or requested to be made with regard to the servicing of the lands for development

No changes were made or requested to be made with regard to the servicing of the lands.

A.3(f)- whether applications were made for the granting of building byelaw approval in respect of buildings constructed on the lands

There were no such applications.

A.3(g)- whether applications were made for fire safety certificates

There were no applications for fire safety certificates.

Paragraph A.3.(i). of the Amended Terms of Reference namely to ascertain the identity of any persons or companies (and if companies, the identity of the beneficial owners of such companies) who had a material interest in the said lands or who had a material involvement in the matters aforesaid;

The identity of the Beneficial Owners of the property as of 8th June 1989 together with changes in the Beneficial Ownership between then and the development of the lands has been established at paragraph

A.1. above. The Beneficial Ownership as of the 8th June 1989 as defined in the Tribunals interpretation of its terms of reference on the 21st October 1998 rested with Mr. Joseph Murphy Senior.

Paragraph A. 3. (ii) of the Amended Terms of Reference namely to ascertain the identity of any members of the Oireachtas, past or present, and/or members of the relevant local authorities who were involved directly or indirectly in any of the foregoing matters whether by the making of representations to a planning authority or to any person in the authority in a position to make relevant decisions or by the proposing of or by voting in favour or against or by abstaining from any such resolutions or by absenting themselves when such votes were taken or by attempting to influence in any manner whatsoever the outcome of any such applications, or who received payments from any of the persons or companies referred to at (i) above

Other than the members of the Oireachtas and the Local Authorities referred to above the Tribunal at this time is unable to pronounce further on this term of reference.

Paragraph A. 3. (iv) of the Amended Terms of Reference namely to ascertain and report on the outcome of all such applications, resolutions and votes in relation to such applications in the relevant local authority;

The outcome of all applications, resolutions and votes are detailed above under paragraph A. 2 (c) (i) to (iii) inclusive and A 3 (a) to (g) inclusive.

LANDS NORTH OF THE M.50 BEING PART OF THE LANDS COMPRISED IN FOLIO 19360

The lands at Baleskin, Finglas, north of the M.50 which form part of the land described as Lot 1 in the Schedule to the Terms of Reference and have an area of 26.5 ha (65.7 acres) as shown on the map attached to Folio 19360. It should be noted that the area in question is stated in the Folio to be 33.645 ha. (83 acres) but that stated area of 33.645 ha includes approximately 7 ha which now forms part of the M50 Motorway.

Paragraph A.2 (a) of the Terms of Reference namely the planning status of these lands in the Development Plan of the Dublin Local Authorities current at the 8th June 1989

The Development Plan current as of the 8th June 1989 was the 1983 Development Plan for the County of Dublin wherein these lands were zoned "B" "to protect and provide for the development of agriculture." In the 1972 Dublin County Development Plan, the lands at Baleskin were zoned "P" "to provide for the further development of agriculture". In the proposed 1990 Draft Development Plan (as proposed by Manager), it was proposed that the lands would be retained with a "B" zoning. In the 1991 Draft Plan which was approved by the elected members and put on public display for two months, the lands were shown with a proposed "B" zoning – that is "to protect and provide for the development of agriculture." In the 1993 Dublin County Development Plan, which was adopted in December 1993, the lands in question north of the M50 Motorway comprising 24.64 hectares (61.1 acres) were zoned "B" (to protect and provide for the development of agriculture). The 1998 Draft Development Plan for Fingal proposed that the lands in question north of the M50 Motorway be re-zoned to M. U. I. Zoning – that is "to provide for an appropriate and compatible mixture of uses in accordance with approved action plans and subject to the provision of the necessary infrastructure." In the 1999 Fingal County Development Plan, the lands north of the M50 were zoned "B" (agriculture) with the local objective to carry out a major study of long-term development of this area.

Paragraph A.2 (b) of the Terms of Reference. The position with regard to the servicing of the lands for development as of 8th June 1989

Foul sewer

There were no foul sewers available to service this land within the Dublin County area at the above date. The nearest foul sewer facilities was located within the Dublin Corporation Area and there was no agreement with that Authority to accept drainage from these lands.

Surface water

A number of streams traverse these lands and these streams drain into the Dublin Corporation Area. Before any proposal for the development of these lands could be lodged consultation would have to have taken place with the Dublin Corporation Drainage Division. Any upgrading of the surface water system within the Corporation Area would have to be carried out by the Corporation Drainage Division at the proposers' prior expense.

Water supply

Water Supply would have been available to a limited extent, this supply is sourced from a boosted 150 mm water main within the North Road. This system serves the North West County and extensive development for these lands would have been refused.

Paragraph A2 (c)(i) of the Terms of Reference. Changes made or proposed to be made to the 8th June 1989 planning status of the lands by way of proposals put forward by Dublin Local Authority officials pursuant to a review of Development Plans or otherwise

There were no proposals put forward by any Dublin Local Authority Officials to change the 8th of June 1989 planning status of the lands. This area was included in a proposed M. U. 1 Zone in the 1998 Draft Fingal County Development Plan but the plan, when adopted in 1999, provided that these lands should retain their agricultural zoning as set out above, pending a major study of the area.

Paragraph A.2 (c)(ii) of the Terms of Reference. Changes made or proposed to be made to the 8th June 1989 planning status of the lands by way of motions by elected members of the Dublin Local Authorities proposing re-zoning

No such motions have been submitted or proposed by elected Members of Dublin County Council or Fingal County Council in respect of that portion of the lands north of the M50 Motorway.

Paragraph A 2(c)(iii) of Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of applications of planning permission (including any involving a material contravention of the Development Plan)

Material contraventions

No planning permission was granted which materially contravened the zoning of these lands.

Planning permissions

The Planning Register and such files as are available for lands at Baleskin held in the Council reveal the following planning history on these lands.

Planning Application Register Ref. A 894

The history of planning applications in relation to the site as appears from the planning register, commences in 1968 when, by Manager's Order no. P1309/68 dated 30th August 1968, outline planning permission was refused for a housing and shopping development at Baleskin for the following reasons:

"The proposed development would be premature by reason of the said existing deficiency in the provision of water and sewerage facilities and the period within which such deficiency may reasonably be expected to be made good."

The application was made by Jones & Kelly on behalf of Mr B. Carr of 10 South Leinster Street, Dublin 2. However, as the file is not available, the exact location of the lands cannot be ascertained and they may or may not relate to some or all of the lands in question.

Planning Application Register Ref. B 310

Outline Permission for a proposed factory at Baleskin by Order No. P 639/69 dated the 6th of May, 1969 was refused for the following four reasons: -

1. There are no public sewerage facilities available to serve the proposal.
2. The public water supply pressure is insufficient to enable supply to be made available to serve the proposal.

3. The proposed development would be premature by reason of the said existing deficiency in the provision of sewerage facilities and the period within such deficiency may reasonably be expected to be made good.
4. The proposed development would be premature because a road layout for the area or part thereto has not been indicated in the Draft Development Plan or has not been approved of by the Planning Authority or by the Minister on appeal.

The application was made by Gleeson & Byrne, Architects, on behalf of Messrs A. Noyek & Sons Limited. The file is not available.

Planning Application Register Ref. B 738

Outline Permission for a proposed warehouse at Baleskin by Order No. P 1184/69 dated 18th July, 1969, was refused for the same four reasons as in application ref. B 310. The application was made by Gleeson & Byrne, Architects on behalf of Messrs. A. Noyek and Sons Limited

Planning Application Register Ref. H 795

On the 16th April 1975 an application for Planning Permission (Reg. Ref. No. H795) was submitted by Conroy, Ferguson & Associates 38, Wellington Road, Dublin 4 on behalf of Finglas Industrial Estates Limited, 11 South Anne Street, Dublin 2 to Dublin County Council seeking planning permission for light industrial development on a site at Baleskin stated to be 117.5 acres.

A decision to refuse permission for light industrial development on the lands in question was made by Order No. P1666/75 dated 12th June 1975 for the following 5 reasons:

1. The proposed development is contrary to the proper planning and development of the area as it is in conflict with the Development Plan zoning objective for the area, which is "To provide for the further development of agriculture." The proposed development would further militate against the preservation of the rural environment.
2. The proposed development is premature as an action plan for this area has not been finalised and road patterns have not been firmly established. The site is affected by reservation lines for the proposed motorway and inter-change and for the widening of the National Primary Route (N2).
3. The proposed development would endanger public safety by reason of traffic hazard due to the generation of additional traffic from such a large development onto a county road network, which is completely inadequate in width and alignment to cope safely with the additional traffic.
4. The proposed development is unacceptable because a satisfactory means of disposal of sewage and surface water has not been submitted. There is no Council sewer in the area and no proposal for one, and the proposal to pump surface water is not acceptable.
5. The proposed development is premature by reason of the said deficiency in the availability of public sewers and the period within which such deficiency may reasonably be expected to be made good.

The applicants appealed to the Minister for Local Government against the refusal. On the 17th of February 1977, the then Minister for Local Government *granted permission* subject to the following condition:-

"The developers shall pay a sum of money to the Dublin County Council and or to Dublin Corporation as may be appropriate as a contribution towards the provision of a public water supply and piped sewerage facilities in the area. The amount to be paid and the time and method of payment shall be agreed between the developers and the said Council and/or Corporation before the development is commenced, or failing agreement, shall be as determined by the Minister for Local Government."

On 23rd of December 1980, An Bord Pleanála determined that the contribution to be made by the developers must be £1,500 per acre and that it was to be payable forthwith to the sanitary authority for the area. The Council refused to accept the contribution of £180,750 whereupon Finglas Industrial Estates Limited sought an Order of Mandamus to compel the Council to accept the contribution as fixed by the Board. In proceedings entitled *The State (Finglas Industrial Estates Limited) v. Dublin Co. Co.* (1981/166ss, Supreme Court, 17th February 1983 (228/1981), The Supreme Court discharged the Order of Mandamus made by the High Court, and no development took place on foot of that ministerial permission.

Planning Application Register Ref. 92A/1952

In 1992, Castle Heights Limited of 59 Fitzwilliam Square, Dublin 2 applied through its agent, G.F. Murphy & Associates, 19 Hermitage Grove, Rathfarnham, Dublin 16 for permission to carry out landfill works on part of the lands at Baleskin. By Order No.P1700/93 dated 19th May 1993, Dublin County Council granted permission for the carrying out of landfill works, subject to 12 conditions. A permit was subsequently issued under the European Communities (Waste) Regulations 1979 to operate a landfill for a period of 1 year commencing on the 25th August, 1993 and ending the 24th August 1994. The permit expired and was not renewed.

Planning Application Register Ref. 92A/1953

On the 14th December 1992, Castle Heights Limited, c/o Crean Salley Architects, 20 Upper Baggot Street, Dublin 4, applied for planning permission for a two-storey hotel with a new vehicular entrance and septic tank on lands at Baleskin on portion of the lands comprised in Lot 1 in that townland. By Order No. P/0365/93 of the 12th of February 1993, Dublin County Council decided to refuse planning permission for the proposed development for the following 6 reasons:-

- "1. The site is located in an area zoned in the 1983 County Development Plan " to protect and provide for the development of agriculture." The proposed development would contravene a development objective indicated in the 1983 Dublin County Development Plan for the use primarily of this area for agricultural purposes and so would be contrary to the proper planning and development of the area.
2. The traffic turning movements generated by the proposed development onto or off the National Primary Route would endanger public safety by reason of traffic hazard.
3. The proposed development by itself, and by the precedent which the grant of permission for it would set for other relevant development, would adversely affect the safety and capacity of the heavily trafficked national route. This would be contrary to Government policy as expressed in the Department of Environment report "*Policy and Planning Framework for Roads*" (January 1985).
4. The proposed development in an agricultural zone on the rural side of the proposed motorway without the necessary public services with direct access onto the National Primary Route would be contrary to the proper planning and development of the area and the provisions of the Development Plan and would lead to demands for the uneconomic extension of public services.
5. The development as proposed makes inadequate and unsatisfactory proposals for foul and surface water drainage. The proposal would thus be prejudicial to public health.
6. The development by reason of its scale and two storey design and intensive commercial nature would injure the visual amenities and character of this rural area."

There was a subsequent appeal by the applicant against the decision of Dublin County Council. On 24th June 1993 the Applicant notified the An Bord Pleanála of the withdrawal of the appeal and on 30th June 1993 the Board declared the appeal withdrawn.

Planning Application Register Ref. F97A/0468

On 30th May 1997, Castle Heights Limited of Colcommon, Batterstown, Co. Meath applied to Fingal County Council for Planning Permission for a two-storey hotel comprising 82 No. bedrooms, lounge bar, dining facilities and function rooms, new vehicular access and septic tank on portion of the lands at Baleskin. The site, the subject of this application was the same as the site the subject of the application reg. Ref. 92A/1953 above. By letter dated 20th October 1997, the application was withdrawn and no decision was made by Fingal County Council in relation to the application.

Planning Application Register Ref. F97A/0812

On the 18th September 1997, McCrossan O'Rourke Architects, 12 Richmond Row, Portobello Harbour, Dublin 8 applied for Planning Permission on behalf of Castle Heights Limited, "Colcommon", Batterstown, Co. Meath for "*completion of landfill works and provision of four football pitches and car parking*", on that portion of the said lands at Baleskin which was the subject of planning application reg. Ref. 92A/1952 above. On the 17th November 1997, Fingal County Council refused permission for the proposed development for the following five reasons:-

- "1. The site is located in an area zoned with the objective "to protect and provide for the development of agriculture" in the Development Plan. The proposed landfill works would contravene materially condition no. 7 of a previous permission granted on the 7/4/93 on the site. Reg.Ref. 92A/1952, which states that the development "shall be completed and the land reinstated

for agricultural use within 24 months of grant of permission." The proposed development would also, therefore, contravene materially this zoning objective and earlier permission and as such would not be in accordance with the proper planning and development of the area.

2. The proposed development is not acceptable due to insufficient information in respect of surface water drainage. In the absence of such information the proposal is prejudicial to public health and contrary to the proper planning and development of the area.

3. The proposed development is not acceptable due to insufficient information in respect of proposed entrance and access road. In the absence of such information the proposal is sub standard and would seriously injure the amenities of the area. The proposed development would be contrary to the proper planning and development of the area.

4. It is considered that the proposed football-pitches would be prominent and visually obtrusive on this exposed and elevated site. The proposed development would therefore be seriously injurious to the visual amenity of this open rural landscape and as such would be contrary to the proper planning and development of the area.

5. It is considered by the Planning Authority that the further continuation of filling works in this prominent rural site is undesirable, unnecessary and would be seriously injurious to the residential and visual amenities of the area and contrary to the proper planning and development of the area.

Planning Application Register Ref. F97A/0880

This was an application by Castle Heights Limited seeking permission for revisions to the hotel, the subject of a planning application reg. ref. F97A/0468 for the enlargement of the site of the proposed hotel northwards and eastwards, together with the relocation of the hotel northwards or realignment of the hotel with the motorway and relocation of the car parking to the side and rear of the hotel. However, this application and application F97A/0468 were subsequently withdrawn.

Paragraph A.3. Resolutions, Applications or Requests. Paragraph A.3 (a) – (g) of the Terms of Reference. Whether the lands North of the M.50 in Lot 1 were the subject of any of the resolutions, applications or requests referred to in paragraph A.3 (a) – (g) of the Terms of Reference

A.3 (a)- whether the lands were subject to rezoning resolution

This has already been dealt with same at paragraph A.2. (c)(ii) above.

A.3.(b) whether the lands were the subject of resolutions for material contravention of the relevant Development Plan

This has already been dealt with same at paragraph A.2.(c)(iii) above.

A.3.(c) whether the lands were the subject of an application for special tax designation status pursuant to the Finance Acts

This site was not the subject of any special tax designation status pursuant to the Finance Acts.

A.3.(d) whether the lands were the subject matter of applications for planning permission

This has already been dealt with this at paragraph A.2.(c)(iii) above.

A.3.(e) whether the lands were the subject of changes made or requested to be made with regard to the servicing of the lands for development

No changes were made or requested to be made with regard to the servicing of the lands.

A.3.(f) whether the lands were the subject of applications for building By-law approval in respect of buildings constructed on the lands

The only application for building By-Law approval was one submitted on behalf of Finglas Industrial Estates Limited by Conroy Manahan, Maryland House, 20/21 South William Street, Dublin 2 on 14th July, 1981 register No. H795-BBL/3955/1981. On the 11th September 1981 Dublin County Council refused to grant Building By-Law permission for Light Industrial Estate at Baleskin for the following reasons:

1. Foul Sewer facility unavailable due to lack of capacity in Corporation foul sewerage system into which it is proposed to discharge the foul sewer from this site. Further, the site is outside the drainage agreement area.
2. Water supply is unavailable as water mains are already fully committed in this area.
3. Surface water sewer facility unavailable.

A.3.(g) whether the lands were the subject of applications for fire safety certificates.

There were no applications for fire safety certificates.

Paragraph A.3.(i). of the Amended Terms of Reference namely to ascertain the identity of any persons or companies (and if companies, the identity of the beneficial owners of such companies) who had a material interest in the said lands or who had a material involvement in the matters aforesaid;

The identity of the Beneficial Owners of the property as of 8th June 1989 together with changes in the Beneficial Ownership between then and the development of the lands has been established at paragraph A.1. above. The Beneficial Ownership as of the 8th June 1989 as defined in the Tribunals interpretation of its terms of reference on the 21st October 1998 rested with Mr. Joseph Murphy Senior.

Paragraph A. 3. (ii) of the Amended Terms of Reference namely to ascertain the identity of any members of the Oireachtas, past or present, and/or members of the relevant local authorities who were involved directly or indirectly in any of the foregoing matters whether by the making of representations to a planning authority or to any person in the authority in a position to make relevant decisions or by the proposing of or by voting in favour or against or by abstaining from any such resolutions or by absenting themselves when such votes were taken or by attempting to influence in any manner whatsoever the outcome of any such applications, or who received payments from any of the persons or companies referred to at (i) above

Other than the members of the Oireachtas and the Local Authorities referred to above the Tribunal at this time is unable to pronounce further on this term of reference.

Paragraph A. 3. (iv) of the Amended Terms of Reference namely to ascertain and report on the outcome of all such applications, resolutions and votes in relation to such applications in the relevant local authority;

The outcome of all applications, resolutions and votes are detailed above under paragraph A. 2 (c) (i) to (iii) inclusive and A 3 (a) to (g) inclusive.

LOT 2.

PARAGRAPH A. 1.

IDENTIFICATION AND OWNERSHIP

12 acres (approx.) at Jamestown Road, Finglas

Identification as of 8th June 1989

(a) Lands comprised in Folio 18462 of the Register County of Dublin situate in the Townland of Jamestown Little, Barony of Castleknock and County of Dublin, comprising 0.827 hectares or 2.043517 acres.

(b) Lands comprised in Folio 6952 of the Register County of Dublin situate in the Townland of Jamestown Little, Barony of Castleknock and Barony of Dublin, comprising 5.418 hectares or 13.38788 acres.

Beneficial ownership as of 8th June 1989

Folio 18462 of the Register County of Dublin

The full registered owner of the lands comprised in Folio 18462 of the Register County of Dublin was Grafton Construction Company Limited, having its registered office at Stephen Court, 18-21 St. Stephen's Green, in the City of Dublin. There was nothing on the folio by way of inhibition or caution.

Folio 6952 of the Register County of Dublin

The full registered owner of the lands comprised in Folio 6952 of the Register County of Dublin is Grafton Construction Company Limited, having its registered office at Stephen Court, 18-21 St. Stephen's Green, in the City of Dublin. There was nothing on the folio by way of inhibition or caution.

Changes in Beneficial Ownership since the 8th June 1989 up to date of Development

The Grafton Construction Company Limited was a party to the Composite Indenture referred to above (i.e. it had agreed on 15th December 1989 to sell the land to its parent Lajos and assured the land by sub-sale to Bovale in the Indenture of 12th September 1991). Bovale Developments Limited acquired the lands comprised in Folios 18462 and 6952 of the Register County of Dublin on foot of the Composite Indenture. There has been no change in the ownership in the lands comprised in Folios 18462 and 6952 of the Register County of Dublin since the said lands were acquired by Bovale Developments Limited, up to the date of their development. On the 26th of February 1992, the full registered owner of the lands comprised in Folio 18462 of the Register County of Dublin was Bovale Developments Limited, having its registered office at 59 Fitzwilliam Square, in the City of Dublin, subject only to a collateral charge in favour of the Governor and Company of the Bank of Ireland referred to at Lot 1 above. That charge, insofar as it affected Folio 18462, was cancelled on 26th November 1997. On the 26th of February 1992, the full registered owner of the lands comprised in Folio 6952 of the Register County of Dublin was Bovale Developments Limited, having its registered office at 59 Fitzwilliam Square, in the City of Dublin, subject only to a collateral charge in favour of the Governor and Company of the Bank of Ireland referred to at Lot 1 above. This charge insofar as it affected Folio 6952 was also cancelled on 26th November 1997. An examination of the folios for the period after the acquisition of same by Bovale Developments Limited does not reveal any caution or inhibition. A development known as "Mygan Business Park" has taken place on Lot 2.

PARAGRAPH A.2.

PLANNING HISTORY

The lands are comprised in two folios 18462 and 6952 and have a total area of 6.25 ha or 15.4 acres approximately. The lands are rectangular in shape and the only road frontage, in 1989, was onto Jamestown Road, Finglas.

Paragraph A.2 (a) of the Terms of Reference namely the planning status of these lands in the Development Plan of the Dublin Local Authorities current at the 8th June 1989

The Development Plan current as of the 8th June 1989 was the 1983 Development Plan for the County of Dublin wherein these lands were zoned "B" "to protect and provide for the development of agriculture." In the 1972 County Development Plan, the lands in this Folio were zoned "P" - that is "to provide for the further development of agriculture." In the proposed 1990 Draft Development Plan (as proposed by Manager), it was proposed that the lands would retain "B" zoning - that is "to protect and provide for the development of agriculture."

In the 1991 Draft Development Plan which was approved by the elected members and put on public display for three months, the lands were shown with a proposed "E" zoning - that is "to provide for industry and related uses." In the 1993 Development Plan which was adopted by the elected members in December 1993, the lands were zoned "E" - that is "to provide for industrial and related uses." In the 1999 Fingal County Development Plan, the lands are zoned "E" - that is "to facilitate opportunities for general industrial employment and related uses in established industrial areas"

Paragraph A.2 (b) of Terms of Reference. The position with regard to the servicing of the Jamestown Road lands for development as at the 8th June 1989

Foul sewer

There were no foul sewers available within the Dublin County Council Area, this land would only drain to the Dublin Corporation system for which there was no agreement. In the absence of any agreement between a prospective developer and the Corporation, any proposal to develop this land would have been given a recommendation for refusal.

Surface water

This land lies within the catchment of a stream discharging into the Corporation area, no development could take place within these lands pending a favourable report from the Drainage Division of Dublin Corporation stipulating that Authorities requirements.

Water supply

A limited water supply sourced from the Dublin Corporation system and subject to any condition imposed by that Authority would be available.

Paragraph A.2(c)(i) of Terms of Reference. Changes made or proposed to be made to the 8th June 1989 planning status of the lands by way of proposals put forward by Dublin Local Authority officials pursuant to a review of Development Plans or otherwise

There were no proposals put forward by Dublin Local Authority Officials to change the 8th June 1989 planning status of the lands.

Paragraph A.2(c)(ii) of Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of Motions by elected Members of the Dublin Local Authorities proposing re-zoning

In January 1991 Garth May, a planning consultant, made an application to Dublin County Council for the re-zoning of lands at Finglas/Poppintree on behalf of Bovale Developments Limited ("Bovale"). This application related to three parcels of land - one being east of the North Road at Charlestown, Finglas, the

second at Jamestown Road and the third located south of the revised route for the Northern Cross Motorway at Poppintree. This application was given the number 000166. Three plans accompanied the application (plan 1, plan 2 and plan 3) the location of the three sites being shown on plan/drg. No. 76/03 entitled "application for re-zoning Finglas/Poppintree for Bovale Developments."

On the map Mr. May indicated that approximately 20 acres of Bovale lands were affected by the Northern Cross Motorway and that the land, the subject of the application for re-zoning, was approximately 75 acres. By letter dated 18th November 1991 Mr. May on behalf of Bovale, requested that his submission made in January 1991 be accepted as an objection/representation to the 1991 Draft Development Plan (then on public display) together with supplemental information contained in his letter of 18th November. This representation was given the Ref. No. 000166. At a meeting of Dublin County Council held on 21st March 1991, the following motion was proposed by Councillor Cyril Gallagher and seconded by Councillor John Gilbride:

"That Dublin County Council hereby resolves that the lands at Meakstown, Charlestown and Jamestown in the townland of Jamestown Little coloured in Red and Green on the attached map comprising about 90 acres and which has been signed for identification purposes by the proposer and seconder of this motion, be zoned for residential A1 and industrial E in the draft review of the County Dublin Development Plan (ref. N8)."

The map in question which had been prepared by Kieran O'Malley & Co. Limited, Civil Engineering and Town Planning Consultants and bore the reference drawing no. 89.1.420.3. The 90 acres referred to in the motion included lands at Meakstown and a small triangle north of the proposed Northern Cross Motorway Route which would be severed by the route – and later acquired by the Council. The following report by the Manager was read at the meeting:

"There is a considerable amount of agricultural zoned land between the City Boundary and the Northern Cross Route Motorway between Santry and North Road, Finglas. There are no drainage facilities available to serve these lands and there are no proposals in hand to provide services due to the limitations in the sewerage network along the North City fringe.

It is accepted that these lands would be appropriate for development if services were available. It is therefore proposed that it be indicated in the Development Plan that planning permission would be forthcoming in principle for these lands if services can be provided. For the time being it is recommended that the zoning remain agricultural. Zoning for development would impose on the Council the obligation to service the lands and in the circumstances such a commitment could not be justified. This Review has established that there is a more than adequate amount of zoned serviced lands both residential and industrial to meet the needs of the County for the foreseeable future.

It is proposed to include the following paragraph in the Written Statement.

"It is agreed in principle that the lands north of the City Boundary and between it and the Northern Cross Motorway from Santry (Swords Road) to Finglas (North Road) should be made available for development, if and when the necessary drainage services are provided. At that stage the lands will be the subject of an Area Action Plan and/or variation to the Development Plan to determine the zoning and the nature of development in the area."

Following discussion the motion was put and on a division the voting resulted as follows:

For: 24 (twenty-four)
Against: 6 (six)
Abstention: 1 (one)

For: Councillors J. Barry, C. Boland, T. Boland, S. Brock, L. Creaven, J. Daly, A. Devitt, P. Dunne, C. Gallagher, J. Gilbride, O. Hammond, F. Hanrahan, W. J. Harvey, P. Hickey, G. Kieran, J. Larkin, L. Lawlor, M. McGennis, C. McGrath, L. Mulvihill, J. Murphy, A. Ormonde, S. Riney and N. Ryan. (24)

Against: Councillors F. Buckley, B. Cass, E. Fitzgerald, J. Maher, M. Muldoon and M. Sheehan. (6)

Abstentions: Councillor S. Laing. (1)

The Chairman then declared the motion carried. The officials of the Council had proposed that the lands at Jamestown Road – Lot 2 – would continue to be zoned “B” – that is “to protect and provide for the development of agriculture.” However, the effect of the Council passing the motion in question at the meeting on the 21st March 1991 was to change the proposed zoning of the lands – Lot 2 – to “E” (to provide for industrial and related uses) and the lands were shown as zoned for industrial use in the 1991 Draft Development Plan which was subsequently put on public display. At a special meeting of Dublin County Council on the 19th March 1993, the following motion signed by Cllrs. Cyril Gallagher, John Gilbride and Ann Devitt was proposed by Cllr. Gallagher, seconded by Cllr. Devitt and was passed by 37 votes in favour with 13 votes against: -

“Dublin County Council hereby resolves that the lands at Jamestown Little, Finglas outlined in red on the attached map comprising about 16.27 acres and which has been signed for identification purposes by the proposer and seconder of this motion, be zoned for Industrial (E) in the draft review of the County Dublin Development Plan.”

For: Councillors S. Barrett, S. Brock, L. Butler, B. Cass, R. Conroy, L. T. Cosgrave, M. J. Cosgrave, A. Devitt, M. Elliott, M. Farrell, T. Fox, C. Gallagher, S. Gilbride, T. Hand, F. Hanrahan, C. Keane, M. Kennedy, J. Larkin, L. Lohan, D. Lydon, M. McGennis C. McGrath, D. Marren, T. Matthews, O. Mitchell, T. Morrissey, M. Muldoon, C. O'Connor, J. O'Halloran, A. Ormonde, N. Owen C. Quinn, T. Ridge, N. Ryan, S. Terry, C. Tyndall, G.V. Wright.
Against: Councillors M. Billane, F. Buckley, L. Gordon, D. Healy J. Higgins, T. Kelleher, S. Laing, S. Misteil, D. O'Callaghan, G. O'Connell, S. Ryan, D. Tipping, E. Walsh.

The effect of this vote was to confirm the zoning for industry and the Lot 2 site was so zoned in the 1993 Development Plan.

Paragraph 2.A(c)(iii) of the Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of applications for planning permission (including any involving a material contravention of the Development Plan)

Material contraventions

No planning permission was granted which materially contravened the zoning of these lands.

Planning permission

In order for a full understanding of the planning applications which were made in respect of the lands at Lot 2, the Tribunal sets out hereunder details of all planning applications as disclosed on the planning register and the results of each such application.

Planning Application Register Ref. H 94

A decision to refuse Outline Permission to Lyon Group Ireland Limited was made by Order P.714/75 on the 13th March, 1975 for a warehouse at Jamestown Little, to the west of Jamestown Road, for the following four reasons:-

“The proposed development is contrary to the proper planning and development of the area as it is in conflict with the zoning objective incorporated in the County Development Plan for the area, i.e. “to provide for the further development of agriculture.” It is considered important to preserve this area for agricultural use only to ensure that the value of the public investment undertaken or to be undertaken in the provision of roads and services in those areas designated for industrial or commercial development is not reduced or vitiated by such development in nearby rural unserved areas.

The existing road is inadequate to serve the industrial traffic, which would be generated by the proposed development. The proposed development would therefore endanger public safety by reason of traffic hazard.

There are no public piped sewerage services in the area and the proposed development is not acceptable as inadequate information has been provided concerning the proposed sewage treatment plant.

The proposed development would be premature by reason of the said existing deficiency in the provision of sewerage facilities and the period within which such deficiency may reasonably be expected to be made good."

Outline Permission was refused by the Minister on appeal.

Planning Application Register Ref. F95A/0964

On the 22nd December 1995, a planning application was lodged seeking permission for development described as "5 No. Industrial Dry Goods Warehouse Units, with associated offices comprising 4 No. 4, 645 sq. m. and 1 No. 4, 181 sq. m. each of which are capable of being sub-divided with new access onto Jamestown Road, associated drainage works and demolition of existing inhabitable buildings." The application was submitted on behalf of Bovale Developments Limited, Coolcommon, Batterstown, Co. Meath by The Ambrose Kelly Group, (trading as Project Architects) Fleming Court, Fleming's Place, Dublin 4. By letter dated 13th February, 1996, the Architects in question withdrew the application.

Planning Application Register Ref. F96A/0072

On the 13th of February 1996, Project Architects, Fleming Court, Fleming Place, Ballsbridge applied for development on the lands described as Lot 2. The development was described as "5 No. Industrial Dry Goods Warehouse Units, with associated offices comprising 4 No. 4, 555 sq. m. and 1 No. 2, 775 sq. m. each of which is capable to be sub-divided with a new access onto Jamestown Road, and associated drainage works." The application was made on behalf of Bovale Developments Limited A decision to grant Permission subject to 14 conditions was made on the 31st July 1996 by Sean Carey, Principal Officer of Fingal County Council to whom the appropriate powers had been delegated. Condition 11 of the decision in question required the omission of Unit 1 from the development in order to protect the residential amenity of the adjoining house. This condition was the subject of an appeal to An Bord Pleanála by Bovale Limited on the 26th August 1996. There was no appeal against the decision of Fingal County Council to grant the permission sought. On the 24th December 1996, An Bord Pleanála (who signed the decision) exercised the powers conferred on it by sub-Section 1 of Section 15 of the Local Government (Planning & Development) 1992 and directed Fingal County Council to amend condition 11 so that it should be as follows for the reason set out hereunder: -

"Schedule

Block number one shall be constructed and located in accordance with revised plans S241-001A, S241-002A, S241-008A and S241-007A received by An Bord Pleanála on the 29th day of August, 1996. The planted buffer strip shall maintain a depth of 15 metres around the entire boundary to the bungalow.

Reason: In the interest of the amenities of the adjoining bungalow."

The grant of Planning Permission incorporating the amended Condition No. 11 issued on the 11th day of August 1997.

Planning Application Register Ref. F97A/1045

This was an application by Project Architects, on behalf of Bovale Developments Limited for permission for an electrical substation. The application was lodged on the 5th December 1997 and permission was granted on the 7th April 1998 subject to two conditions.

Planning Application Register Ref. F98A/0546

This was an application on behalf of "Thomas Curry & Sons Limited" for permission for the erection of two no. advertising signs to a previously approved warehouse unit (F96A/0072) Permission was granted on the 10th September 1998.

Planning Application Register Ref. F98A/0690

An application on behalf of Bovale Developments Limited was made by Project Architects for retention of alterations to layouts and elevation treatment previously approved under grant of permission 96A/0072. Permission was granted on 17th November 1998.

Planning Application Register Ref. F98A/1189

Application on behalf of Bovale Developments Limited by Project Architects for retention of alterations to previously approved block 4 and 5 (F96A/0072). The application was received on the 18th November 1998 and permission was granted on the 24th February 1999. The foregoing represents the position in the Planning Register maintained by Fingal County Council up to the 1st February 2000.

Paragraph A.3. Resolutions, Application or Requests. Paragraph A.3 (a) – (g) of the Terms of Reference. Whether these lands at Jamestown Road Finglas referred to in the letter dated the 8th June, 1989 were the subject of the following matters as set out in paragraph A.3 (a)-(g) of the Terms of Reference

A.3. (a) whether the lands were subject to rezoning resolutions

This has already been dealt with same at paragraph A.2.(c)(ii) above.

A.3(b) whether the lands were the subject of resolutions for material contravention of the relevant Development Plan

This has already been dealt with same at paragraph A.2. (c)(iii) above.

A.3(c) whether the lands were the subject of an application for special tax designation status

This site was not the subject of any special tax designation status pursuant to the Finance Acts.

A.3(d) whether the lands were the subject matter of applications for planning permission

This has already been dealt with this at paragraph A.2.(c)(iii) above.

A.3(e) whether the lands were subject to changes made or requested to be made with regard to the servicing of the lands for development

No changes were made or requested to be made in respect of this site.

A.3(f) whether the lands were subject to applications for building byelaw approval in respect of buildings constructed on the lands

There were no such applications.

A.3(g) whether the lands were subject to applications for fire safety certificates

Application Ref. 97/4178 – Block 1, Jamestown Road. Industrial Unit with ancillary Office accommodation.

Fire Safety Certificate granted to Bovale Limited on the 2nd September 1997.

Application Ref. 97/4182 – Block 2, Jamestown Road. Industrial Unit with ancillary office accommodation.

Fire Safety Certificate granted to Bovale Limited on the 24th September 1997.

Application Ref. 97/4186 – Block 3, Jamestown Road. Industrial Unit with ancillary office accommodation.

Fire Safety Certificate granted to Bovale Limited on the 24th September 1997.

Application Ref. 98/4241 – Block 4, Mygan Industrial Park by Project Architects for Bovale Limited.

Fire Safety Certificate granted to Bovale Limited on 22nd December 1998.

Application Ref. 98/4242 – Block 5, Mygan Industrial Park by Project Architects for Bovale Limited

Fire Safety Certificate granted to Bovale Limited on the 24th September 1997.

Paragraph A.3.(i). of the Amended Terms of Reference namely to ascertain the identity of any persons or companies (and if companies, the identity of the beneficial owners of such companies) who had a material interest in the said lands or who had a material involvement in the matters aforesaid;

The identity of the Beneficial Owners of the property as of 8th June 1989 together with changes in the Beneficial Ownership between then and the development of the lands has been established at paragraph

A.1. above. The Beneficial Ownership as of the 8th June 1989 as defined in the Tribunals interpretation of its terms of reference on the 21st October 1998 rested with Mr. Joseph Murphy Senior.

Paragraph A. 3. (ii) of the Amended Terms of Reference namely to ascertain the identity of any members of the Oireachtas, past or present, and/or members of the relevant local authorities who were involved directly or indirectly in any of the foregoing matters whether by the making of representations to a planning authority or to any person in the authority in a position to make relevant decisions or by the proposing of or by voting in favour or against or by abstaining from any such resolutions or by absenting themselves when such votes were taken or by attempting to influence in any manner whatsoever the outcome of any such applications, or who received payments from any of the persons or companies referred to at (i) above

Other than the members of the Oireachtas and the Local Authorities referred to above the Tribunal at this time is unable to pronounce further on this term of reference.

Paragraph A. 3. (iv) of the Amended Terms of Reference namely to ascertain and report on the outcome of all such applications, resolutions and votes in relation to such applications in the relevant local authority;

The outcome of all applications, resolutions and votes are detailed above under paragraph A. 2 (c) (i) to (iii) inclusive and A 3 (a) to (g) inclusive.

LOT 3.

PARAGRAPH A.1.

IDENTIFICATION AND OWNERSHIP

100 acres (approx.) at Poppintree, Ballymun

Identification as of 8th June 1989

(a) The lands comprised in Folio 6262F of the Register County of Dublin, which are lands situate in the Townland of Poppintree and Barony of Coolock, in the County of Dublin, comprising 1.619 hectares or 4.000549 acres.

(b) The lands comprised in Folio 577 of the Register County of Dublin, situate in the Townlands of Poppintree and Barony of Coolock, comprising 33.455 hectares or 82.66731 acres.

Beneficial Ownership as of 8th June 1989

Folio 6262F of the Register County of Dublin. (Poppintree House and 4 acres)

The full registered owner of the lands comprised in Folio 6262F of the Register County of Dublin was **O'Shea and Shanahan Limited** having its registered office at Quarry House, Ballygall Road East, in the City of Dublin. There was nothing on the folio by way of inhibition or caution.

Folio 577 of the Register County of Dublin. (Balance of Lot 3 – excluding Poppintree House & 4 acres – 83 acres)

The full registered owner of the lands comprised in Folio 577 of the Register County of Dublin as of the 8th of June 1989 was **The Grafton Construction Company Limited**, having its registered office at Stephen's Court, 18-21 St. Stephen's Green, in the City of Dublin. Grafton Construction Company Limited had been registered as owner on the 25th of November 1976. There is an entry on Folio 577 dated the 8th of June 1944 which inhibited dealings by the registered owner of the property until notice was served on the solicitor's office of the Royal Bank of Ireland Limited, Foster Place, in the City of Dublin (later The Governor and Company of the Bank of Ireland). This entry was cancelled on the 26th of February 1992. It does not appear that this inhibition could have referred to the ownership of The Grafton Construction Company Limited, which only became full registered owner of the property in 1976. Other than the inhibition referred to above, there is no caution or inhibition registered on Folio 577.

Change in Beneficial Ownership since 8th June 1989 and prior to their development.

Folio 6262F of the Register County of Dublin

(A) On the 25th of October 1989, **The Grafton Construction Company Limited** became registered owner of the lands comprised in Folio 6262F of the Register County of Dublin. (Poppintree house having been bought back from O'Shea and Shanahan). **Bovale Developments Limited** acquired the lands comprised in Folio 6262F of the Register County of Dublin and 577 of the Register County of Dublin on foot of the Composite Indenture referred to above, the Grafton Construction Company Limited being a party thereto as therein set out.

(B) On the 26th of February 1992, **Bovale Developments Limited** was registered as full owner of the lands comprised in Folio 6262F. The Land Certificate was issued to Alfred Thornton Solicitors, Bank of Ireland, 2 College Green, in the City of Dublin, on the 10th of March 1992. (Bovale accordingly remains owner of 6262F – Poppintree House and 4 acres)

Folio 577 of the Register County of Dublin. (the 83 acres)

From the 25th of November 1976 to the 26th of February 1992, **The Grafton Construction Company Limited** was the registered owner of the lands comprised in Folio 577 of the Register County of Dublin. From the 26th of November 1992 to the 17th of February 1994, **Bovale Developments Limited** was registered owner of all of the lands comprised in Folio 577 of the Register County of Dublin. On the 17th of February 1994, the **County Council of the County of Dublin** became registered as full owner of a portion of the lands previously comprised in Folio 577 of the Register County of Dublin, in relation to the construction of the **M50 motorway**. The lands thus compulsorily acquired by the County Council of the County of Dublin are now comprised in Folio 99886FF of the Register County of Dublin, as referred to in Lot 1 above.

The balance of the lands comprised in Folio 577 of the Register County of Dublin remains in the registered ownership of **Bovale Developments Limited**. Other than the construction of the M50 motorway on the lands acquired compulsorily by the County Council of the County of Dublin, there has been no development of the lands comprised in Folios 6262F and 577 of the Register County of Dublin. In respect of Lot 3, Messrs. Smith Foy & Partners solicitors have confirmed that the County Council agreed, as part of the transaction for the compulsory acquisition of portion of Folio 577, to transfer back to Bovale an area, marked green on the map attached to the correspondence. Fingal County Council has confirmed this to be the case also.

PARAGRAPH A. 2. PLANNING HISTORY

The land Registry map dated the 5th January 1998 attached to Folio 577 shows an area measuring approximately 25 hectares (61 acres approximately) lying south of the M50 Motorway while the area is stated on the Folio as 33.455 hectares (83 acres approximately). The Tribunal concluded that the stated area of 33.455 hectares (83 acres approximately) includes lands which were acquired by the County Council for the construction of the M50 Motorway and also includes lands to the north of the M50 Motorway and which are shown on the copy of the land registry map dated 18th August 1993 for Folio 577.

The site is divided by St. Margaret's Road, which runs through it in an east/west direction. The area north of St. Margaret's Road measuring 7.1 hectares (17.54 acres) has been in the administrative area of Fingal County Council since the 1st of January 1994. Prior to that date, it was in the administrative area of Dublin County Council. The area south of St. Margaret's Road measuring 17.4 hectares (42.9 acres) has been in the administrative area of Dublin Corporation since 1986. Of the 17.4 hectares (42.9 acres) which has been in the functional area of Dublin Corporation since 1986, 15.8 hectares (38.9 acres) are registered on Folio 577 and 1.6 hectares (4 acres) are registered on Folio 6262F. The Tribunal considered it expedient to deal with the planning history of Lot 3 in two parts:-

Lands in the functional area of Fingal County Council being lands **North** of St. Margaret's Road.
Lands in the functional area of Dublin Corporation being lands **South** of St. Margaret's Road.

LANDS IN THE FUNCTIONAL AREA OF FINGAL COUNTY COUNCIL BEING LANDS NORTH OF ST. MARGARET'S ROAD.

Paragraph A.2 (a) of the Terms of Reference namely the planning status of these lands in the Development Plan of the Dublin Local Authorities current at the 8th June 1989.

In the 1972 Dublin County Development Plan, these lands were zoned "P" (to provide for the further development of agriculture). In the 1983 Dublin County Development Plan, the lands were zoned "B" (to protect and provide for the development of agriculture). On the 8th June 1989, the lands were still zoned "B." In the 1990 Dublin County Draft Development Plan (as proposed by Manager), it was proposed that the lands north of the motorway would retain a "B" zoning - that is "to protect and provide for the development of agriculture" apart from a small portion in the eastern section of the site which was proposed to be zoned "F." The lands south of the motorway and north of St. Margaret's Road were proposed to be zoned "F" "to preserve and provide for open space and recreational amenities."

In the 1991 Draft Dublin County Development Plan, the lands north of the M50 were shown with a proposed "B" zoning and a small portion zoned "F" - "to preserve and provide for open space and recreational amenities." Lands south of the M50 and north of St. Margaret's Road were proposed as "F." In 1993, the elected members proposed an amendment to the 1991 County Draft Development Plan and proposed to change the zoning of the lands south of the M50 and north of St. Margaret's Road from "F" (to preserve and provide for open space and recreational amenities) to "E" (to provide for industrial and

related uses). In the 1993 Dublin County Development Plan which was adopted by the elected members in December 1993, the lands south of the M50 and north of St. Margaret's Road were zoned "E" (to provide for industrial and related uses). The lands north of the M50 remained zoned "B" (agricultural) and the small portion in the eastern corner remained zoned "F" – "to preserve and provide for open space and recreational amenities."

In VARIATION NO. 11 of the 1993 Development Plan made by Fingal County Council in March 1998, the lands south of the M50 and north of St. Margaret's Road were re-zoned from "E" (to provide for industrial and related uses) to "H" (to provide for creation and protection of enterprise and facilitate opportunities for employment creation). This variation was as a result of a designation of the lands pursuant to the 1997 Finance Act and to facilitate future development of the lands as envisaged by that Act.

In the 1998 Fingal County Council Draft Development Plan, it was proposed that the zoning of the lands south of the M50 and north of St. Margaret's Road be changed from "H" (to provide for creation and protection of enterprise and facilitate opportunities for employment creation) to "A1" (to provide for new residential communities in accordance with approved action area plans and subject to the provision of the necessary social and physical infrastructure) and the lands north of the M50 were proposed to be zoned M.U.1. (to provide for an appropriate and compatible mixture of uses in accordance with approved action plans and subject to the provision of the necessary infrastructure) and a small portion in the eastern section of the site was zoned "F" (to preserve and provide for open space and recreational amenities). In the 1999 Fingal County Development Plan adopted on the 19th day of October 1999 by the elected members of Fingal County Council, the lands south of the M50 and north of St. Margaret's Road were zoned "A1" and the lands north of the M50 were zoned "B" (agricultural) with an objective to carry out a major study of the long term development of the area outlined in grey and hatched and the small portion in the eastern corner were zoned "F" (to preserve and provide for open space and recreational amenities).

Paragraph A.2 (b) of the Terms of Reference. *The position regarding the servicing of that portion of Lot 3 north of St. Margaret's Road and in the administrative area of Dublin County Council at the 8th June 1989*

Foul sewer

The southeast boundary of these lands borders on to lands, which had been developed by Dublin Corporation for public housing purposes. The infrastructure was not designed to cater for upstream lands of the acreage under consideration. The outfall for the drainage is into Dublin Corporation's Ballymun system. There was no drainage agreement with Dublin Corporation to allow for the expansion of the drainage system to cater for these upstream private lands. Without an acceptable drainage agreement with the Dublin Corporation for the drainage of these lands a proposal for the development of these lands would have been recommended for refusal.

Surface water

These lands lie in the catchment of streams, which drain into Dublin Corporation area. Any proposal to drain these lands would have been subject to an assessment of the increased flows and the impact of these flows within the Dublin Corporation area. An adverse report from the Dublin Corporation drainage division would have resulted in a recommendation for refusal.

Water supply

The extent to which water would be available to these land would be subject to working pressures current at the time and the elevation of the site. The supply to the lands north of County boundary would be problematical. The position in relation to the servicing of the lands in question has remained unchanged although they are lands, which will be drained in due course when the Northern Fringe Sewer is commissioned in approximately 2002.

Paragraph A.2(c)(i) of the Terms of Reference. *Changes made or proposed to be made to the 8th June 1989 planning status of the lands by way of proposals put forward by Dublin Local Authority officials pursuant to a review of Development Plans or otherwise*

No such proposals were made by officials of Dublin County Council or Fingal County Council save the variation proposed post the passing of the Finance Act 1997 which is referred to hereunder and the change to residential zoning in the 1998 Fingal Development Plan. The lands remained zoned "E" (to provide for industrial and related uses) from December 1993. However, under the Finance Act 1977 certain tax relief was granted in respect of those lands, which were designated as an enterprise area – see 10th Schedule to the Act – which describes the lands as "Finglas Enterprise Area." Arising from this designation, the

Council was of the view that the "E" zoning of the lands was not appropriate for an enterprise area and the Council therefore decided to initiate a variation procedure to change the zoning from "E" (to provide for industrial and related uses) to a new zoning objective "H" (to provide for creation and protection of enterprise and facilitate opportunities for employment creation). This draft variation was on public display from the 15th October 1997 to the 16th January 1998 and was subsequently made at a meeting of Fingal County Council held on the 16th day of March 1998. In the 1998 Draft Fingal Development Plan, the zoning of the lands was proposed to be changed from "H" to "A1" (residential) and the residential zoning was confirmed by the members in the 1999 Development Plan.

A-94 Paragraph A.2(c)(ii) of the Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of motions by elected members of the Dublin Local Authorities proposing re-zoning

Motions by elected members of the Dublin Local Authorities proposing rezoning

In January 1991 Garth May, a planning consultant, made an application to Dublin County Council for the re-zoning of lands at Finglas/Poppintree on behalf of Bovale Developments Limited. This application related to three sites – one being east of the North Road at Charlestown, Finglas, the second at Jamestown Road, and the third located south of the revised route for the Northern Cross Motorway at Poppintree.

Three plans accompanied the application (plan 1, plan 2, plan 3) the location of the three sites being shown on plan job/drg. No. 76/03 entitled "application for re-zoning Finglas/Poppintree for Bovale Developments." On the said map Mr. May indicated that approximately 20 acres of Bovale lands were affected by the Northern Cross Motorway and that the land, the subject of the application for re-zoning, was approximately 75 acres.

By letter dated 18th November 1991 Mr. May requested that his submission made in January 1991 be accepted as an objection/representation to the 1991 Draft Development Plan (then on public display) together with supplementary information contained in his letter of the 18th November. This submission was given the reference number 000166.

At a special meeting of the Council on the 19th March 1993, held to consider representations received during the public display of the 1991 Draft Development Plan, a number of motions were proposed in relation to representation 000166 made on behalf of Bovale Developments Limited. The first motion - (ref 12 (2)(A)(i)) - related to lands at Charlestown and has been dealt with in relation to Lot 1 above.

A further motion - (ref 12(A)(iii)) - related to lands at Jamestown Little and has been dealt with in relation to Lot 2 above. The following motion (in relation to the part of Lot 3) between the M50 and St. Margaret's Road signed by Councillors Devitt, Gallagher and Gilbride was proposed by Councillor Gallagher seconded by Councillor Devitt (Ref. 12(2), (a), (ii)):-

"Dublin County Council hereby resolves that the lands at Poppintree, Finglas outlined in red on the attached map comprising about 19.69 acres and which has been signed for identification purposes by the proposer and seconder of this motion, be zoned industrial in the draft review of the County Dublin Development Plan."

The Manager's report quoted in relation to the site at Charlestown (Lot 1, Folio 7462) refers to this site also – Lot 3 - but part of it is quoted here again for ease of reference:-

"Paragraph 3.2.8 of the Draft Plan provides for the principle of development for lands south of the Northern Cross Route.

The lack of drainage facilities remains the major constraint and it is unlikely to be resolved until the proposed drainage scheme for the North City Fringe is put in place. In the absence of firm proposals to drain the lands, zoning for additional development would not be appropriate.

It is recommended that the Draft Plan should not be changed."

The motion was passed by 37 votes in favour and 13 against. The names voting for and against are as follows:-

For: Councillors S. Barrett, S. Brock, L. Butler, B. Cass, R. Conroy, L.T. Cosgrave, M.J. Cosgrave, A. Devitt, M. Elliott, M. Farrell, T. Fox, C. Gallagher, S. Gilbride, T. Hand, F. Hanrahan, C. Keane, M. Kennedy, J. Larkin, L. Lohan, D. Lydon, M. McGennis, C. McGrath, D.

Marren, T. Matthews, O. Mitchell, T. Morrissey, M. Muldoon, C. O'Connor, J. O'Halloran, A. Ormonde, N. Owen, C. Quinn, T. Ridge, M. Ryan, S. Terry, C. Tyndall, G.V. Wright.

Against: Councillors M. Billane, F. Buckley, L. Gordon, D. Healy, J. Higgins, T. Kelleher, S. Laing, S. Misteil, D. O'Callaghan, G. O'Connell, S. Ryan, D. Tipping, E. Walsh.

This decision of the members to amend the draft plan to zone the lands to industrial zoning was put on public display for the statutory one-month period as a proposed amendment to the Draft Plan (Change 5, Map 11).

On the 7th October 1993 the proposed amendment was considered at a meeting of the Council when the Manager recommended that the amendment be deleted.

It was proposed by Councillor Healy, seconded by Councillor Sargent "That Change 5 on Map 11 be deleted." The effect of this motion, if passed, would be to retain the "B" (agricultural) zoning of the northern portion of Lot 3 in the functional area of Fingal County Council. The motion was put and on a show of hands the voting was 13 in favour, 34 against and 1 abstention. The proposed amendment was then confirmed and the site between the M50 and St. Margaret's Road was zoned for industry in the 1993 Dublin County Development Plan.

Paragraph A.2(c)(iii) of the Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of applications for planning permission (including any involving a material contravention of the Development Plan);

Material contraventions

No planning permission was granted which materially contravened the zoning of these lands.

Planning permissions

There were no such applications.

Paragraph A.3. Resolutions, Applications or Requests. Paragraph A.3 (a) – (g) of the Terms of Reference. Whether the lands in Lot 3 in the functional area of Fingal County Council being the lands North of St. Margaret's Road were the subject of any of the resolutions, applications or requests referred to in paragraph A.3 (a) – (g) of the Terms of Reference

A.3 (a)-whether the lands were subject to rezoning resolutions

The Tribunal has already dealt with this at paragraph A.2. (c)(ii) above.

A.3.(b) whether the lands were the subject of resolutions for material contravention of the relevant Development Plan

The Tribunal has dealt with this at paragraph A.2.(c)(iii) above.

A.3.(c) whether the lands were the subject of an application for special tax designation status pursuant to the Finance Acts

Designated as the Fingal Enterprise Area in the 10th Schedule to the Finance Act 1997. The termination date for the area designated under the Act was changed from 30th June 2000 to the 31st December 1999 except where there was a genuine delay due to planning or other reasons when an extra year was allowed for all projects at a significant stage of the development as of the 31st December 1999. The lands, despite their zoning and tax designation, were not developed because of a serious drainage problem which relied for its solution on the construction of the North Fringe Sewer, due to be finalised in 2001

A.3.(d) whether the lands were the subject matter of applications for planning permission

The Tribunal has dealt with this at paragraph A.2.(c)(iii) above.

A.3.(e) changes made or requested to be made with regard to the servicing of the lands for development

No changes were made or requested to be made in respect of this site.

A.3.(f) Applications for building bye-law approval in respect of buildings constructed on the lands

There were no such applications.

A.3.(g) Applications for fire safety certificates

There were no applications for fire safety certificates.

Paragraph A.3.(i). of the Amended Terms of Reference namely to ascertain the identity of any persons or companies (and if companies, the identity of the beneficial owners of such companies) who had a material interest in the said lands or who had a material involvement in the matters aforesaid;

The identity of the Beneficial Owners of the property as of 8th June 1989 together with changes in the Beneficial Ownership between then and the development of the lands has been established at paragraph A.1. above. The Beneficial Ownership as of the 8th June 1989 as defined in the Tribunals interpretation of its terms of reference on the 21st October 1998 rested with Mr. Joseph Murphy Senior.

Paragraph A. 3. (ii) of the Amended Terms of Reference namely to ascertain the identity of any members of the Oireachtas, past or present, and/or members of the relevant local authorities who were involved directly or indirectly in any of the foregoing matters whether by the making of representations to a planning authority or to any person in the authority in a position to make relevant decisions or by the proposing of or by voting in favour or against or by abstaining from any such resolutions or by absenting themselves when such votes were taken or by attempting to influence in any manner whatsoever the outcome of any such applications, or who received payments from any of the persons or companies referred to at (i) above

Other than the members of the Oireachtas and the Local Authorities referred to above the Tribunal at this time is unable to pronounce further on this term of reference.

Paragraph A. 3. (iv) of the Amended Terms of Reference namely to ascertain and report on the outcome of all such applications, resolutions and votes in relation to such applications in the relevant local authority;

The outcome of all applications, resolutions and votes are detailed above under paragraph A. 2 (c) (i) to (iii) inclusive and A 3 (a) to (g) inclusive.

LANDS IN THE FUNCTIONAL AREA OF DUBLIN CORPORATION BEING LANDS SOUTH OF ST. MARGARET'S ROAD

The southern portion of Lot 3 measures 17.4 hectares (42.9 acres) approximately. These lands are comprised in Folio 577 and Folio 6262F, the latter being Poppintree House. It should be noted that this part of Lot 3 was in the functional area of Dublin County Council until 1985 when it was transferred to the functional area of Dublin Corporation.

Paragraph A.2 (a) of the Terms of Reference namely the planning status of these lands in the Development Plan of the Dublin Local Authorities current at the 8th June 1989

In the 1972 Dublin County Development Plan, part of the lands were zoned "R" (to preserve open space amenity) and part was zoned "P" (to provide for the further development of agriculture). In the 1983 Dublin County Development Plan part of the lands were zoned "F" (to preserve and provide for open space and recreational amenity) and part was zoned "B" (agriculture). In the 1987 Draft Dublin City Development Plan it was proposed that the bulk of the lands would be zoned "L" (to protect and provide for agricultural development) and that a small portion at the southern boundary of the site would be zoned "G" (to provide for general industrial use). On the 8th of June 1989, the zoning of the 1983 Dublin County Development Plan still applied. The lands were zoned partly "F" (open space) and partly "B" (agriculture).

In the 1991 Dublin City Development Plan the bulk of the lands was zoned "L" (agriculture) and a small portion at the southern boundary of the lands was zoned "G" (general industrial use). Following the

designation of the lands in Lot 3 under the provisions of the 1997 Finance Act, the zoning of a major portion of the lands "(i.e. the part of the lands which had been zoned "L" (Agriculture))" was changed by Dublin Corporation from the zoning shown in the 1991 Dublin City Development Plan to an "E1" zoning (to provide for the creation and protection of enterprise and facilitate opportunities for employment creation). This change was made by a 1998 variation (No. 3) to the 1991 Dublin City Development Plan and was made on the 5th January 1998. The variation was made for the same reasons as the variation initiated by Fingal County Council as referred to above. The balance of the lands, being a small portion to the south-east of the site, remained zoned "G" (general industrial use). In the 1999 Dublin City Development Plan, the zoning of the major portion of the site was changed from "E1" and "G" to "Z1" (to protect, provide and improve residential amenities) and a small portion at the eastern side of the site was zoned "Z15" to provide for institutional and community uses.

Paragraph A.2 (b) of the Terms of Reference. The position regarding the servicing of the lands for development as at the 8th June 1989

Foul sewer, surface water and water supply

No services have been provided by the Water Division to this site. No written correspondence was received by the Council in relation to the Poppintree site. There may have been verbal inquiries about this site over the years, however, the relevant division of the Council would have advised in such cases that the land in question fell outside the area currently drained by the North Dublin Drainage Area and, no additional capacity existed in the Corporation drainage system. Any proposed development of this site, or indeed any lands in the North Fringe Area, would be dependent on the provision of new sewerage infrastructure.

Paragraph A.2(c)(i) of the Terms of Reference. Changes made or proposed to be made to the 8th June 1989 planning status of the lands by way of proposals put forward by Dublin Local Authority officials pursuant to a review of Development Plans or otherwise

No such proposals were made by officials of Dublin Corporation. However, under the Finance Act 1977, certain tax relief was granted in respect of those lands which were designated as an enterprise area – See 10th Schedule to the Act – which describes the lands as "Finglas Enterprise Area." Arising from this designation, Dublin Corporation were of the view that the zoning of the lands was not appropriate for an enterprise area and Dublin Corporation therefore decided to initiate a variation procedure to change the zoning to an "E1" zoning (to provide for the creation and protection of enterprise and to facilitate opportunities for employment creation). This change was made by a 1998 variation (No.3) to the 1991 Dublin City Development Plan and was made on the 5th of January 1998. This new zoning affected a major portion of the lands in the functional area of Dublin Corporation being primarily the lands, which had previously been, zoned "L" (agriculture). The balance of the lands, being a small portion to the south east of the site remained zoned "G." (General Industrial use).

Paragraph A.2(c)(ii) of the Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of motions by elected members of the Dublin Local Authorities proposing re-zoning

No such motions were proposed.

Paragraph A.2(c)(iii) of the Terms of Reference. Changes made or proposed to be made to the 8th of June 1989 planning status of the lands by way of applications for planning permission (including any involving a material contravention of the Development Plan)

Material contraventions

No planning permission was granted which materially contravened the zoning of these lands, and no such permission was granted while the area was within the functional area of Dublin County Council.

Planning applications

While the site was within the functional area of Dublin County Council, the following application was made: -

Planning Application Register Ref: T/224

This application was submitted by Sean Cleary, Parkview, Kilkenny, on behalf of Charles Gallagher Limited, Inisfree, Nashville Park, Howth for permission for 12 no. houses. Permission was granted on 19th of May, 1980 subject to 12 no. conditions.

A-104 Paragraph A.3. Resolutions, Applications or Requests. Paragraph A.3(a) – (g) of the Terms of Reference. Whether the lands in Lot 3 in the functional area of Dublin Corporation being the lands south of St. Margaret's Road were the subject of any of the resolutions, applications or requests referred to in paragraph A.3(a) – (g) of the Terms of Reference

A.3(a)- whether the lands were subject to rezoning resolutions

This has already been dealt with same at paragraph A.2.(c)(ii) above.

A.3.(b) whether the lands were the subject of resolutions for material contravention of the relevant Development Plan

This has already been dealt with at paragraph A.2.(c)(iii) above.

A.3.(c) whether the lands were the subject of an application for special tax designation status

These lands were designated as the Fingal Enterprise Area in the 10th Schedule to the Finance Act 1997. The termination date for the area designated under the Act was changed from 30th June 2000 to the 31st December 1999 except where there was a genuine delay due to planning or other reasons when an extra year was allowed for all projects at a significant stage of the development as of the 31st December 1999. The lands, despite their zoning and tax designation, were not developed because of a serious drainage problem which relied for its solution on the construction of the North Fringe Sewer, due to be finalised in 2001.

Paragraph A.3.(i). of the Amended Terms of Reference namely to ascertain the identity of any persons or companies (and if companies, the identity of the beneficial owners of such companies) who had a material interest in the said lands or who had a material involvement in the matters aforesaid;

The identity of the Beneficial Owners of the property as of 8th June 1989 together with changes in the Beneficial Ownership between then and the development of the lands has been established at paragraph A.1. above. The Beneficial Ownership as of the 8th June 1989 as defined in the Tribunals interpretation of its terms of reference on the 21st October 1998 rested with Mr. Joseph Murphy Senior.

Paragraph A. 3. (ii) of the Amended Terms of Reference namely to ascertain the identity of any members of the Oireachtas, past or present, and/or members of the relevant local authorities who were involved directly or indirectly in any of the foregoing matters whether by the making of representations to a planning authority or to any person in the authority in a position to make relevant decisions or by the proposing of or by voting in favour or against or by abstaining from any such resolutions or by absenting themselves when such votes were taken or by attempting to influence in any manner whatsoever the outcome of any such applications, or who received payments from any of the persons or companies referred to at (i) above

Other than the members of the Oireachtas and the Local Authorities referred to above the Tribunal at this time is unable to pronounce further on this term of reference.

Paragraph A. 3. (iv) of the Amended Terms of Reference namely to ascertain and report on the outcome of all such applications, resolutions and votes in relation to such applications in the relevant local authority;

The outcome of all applications, resolutions and votes are detailed above under paragraph A. 2 (c) (i) to (iii) inclusive and A 3 (a) to (g) inclusive.