

THE TRIBUNAL RESUMED ON THE 5TH MAY, 2006, AS FOLLOWS:

MR. HEALY: Mr. Donal Dempsey.

DONAL DEMPSEY, HAVING BEEN SWORN, WAS EXAMINED BY

MR. COUGHLAN AS FOLLOWS:

CHAIRMAN: Good morning, Mr. Dempsey. Thanks for attending.

Q. MR. COUGHLAN: Mr. Dempsey, I think you have furnished a memorandum of proposed evidence to the Tribunal arising out of various queries that were put to you by the Tribunal; isn't that correct?

A. I have.

Q. And have you got that there with you in the witness box?

A. I have.

Q. And what I intend doing is leading you through it and then coming back to clarify a few matters and ask you some few questions, if that's all right?

A. Very good.

Q. And just so that everybody knows, Mr. Dempsey's memorandum is in Book 77, Section B.

I think, Mr. Dempsey, you have informed the Tribunal that your name is Donal Dempsey, and you reside at 53, Knockaire, Knocklyon, Dublin 16. You were Finance Director & Company Secretary of Roadstone Limited Roadstone from 1985 to 1997, when you became managing director of Roadstone. In 2003, you joined the Europe Materials Division of CRH plc as Managing Director of the Roadstone Wood and Northstone Group of companies, and that is your

present position; is that correct?

A. That's correct.

Q. And then you have set out your knowledge of the negotiations and purchase of lands at Glen Ding from the State in 1990 addressing the issues requested in the Tribunal's letter of the 11th April, 2006.

A. Mm-hmm.

Q. So, I'll first of all indicate the information which was sought from you by the Tribunal.

I think you were asked for details of when Roadstone's interest in purchasing the Glen Ding property was first canvassed at a meeting of the board of CRH, or alternatively at a meeting of the board of Roadstone; and you were also asked for your details of when the actual decision to pursue the purchase of the property was made by the Board of CRH, or alternatively by the Board of Roadstone.

And you have responded to the Tribunal that CRH plc operates in a federal manner developing responsibility for strategy and profitability to the management teams in its operating companies and combining with this clear accountability and communication. The relevance of this information to the Tribunal is that the management team at Roadstone was responsible for the development of its own business strategy and generation of profit. The team, and particularly the Managing Director, Mr. MacAodha, had a responsibility to keep CRH informed of significant

developments or investments. A threshold applied to investments, and where large investments arose, they required the approval of the CRH Board. Communications would have taken place in an easy, informal manner at intervals, but also through periodic Roadstone Board meetings. Therefore, in relation to its strategy and management of extractable sand and gravel reserves, the management team of Roadstone would have monitored the depletion of existing reserves and judged when replacement action was necessary.

In the case of its sand and gravel reserves, you participated in many discussions between 1985 and 1990 which considered the depletion rate at Blessington, the need for replacement, and alternative course of action.

The need to handle this issue was clearly understood and accepted by the Roadstone management team to be their responsibility.

You then inform the Tribunal that you requested extracts from the minute book of Roadstone relevant to this purchase of lands, and you have put them onto a page or two, and you have furnished that to the Tribunal. And if we just put that document up. It's at Divider Number 1 behind your memorandum. And I think the extracts from the Board minutes record:

On the 12th December 1988, in a discussion on pits and quarries, it was noted that land purchase would be necessary in the near future at Blessington and Callery.

The Chairman asked for a statement on pit and quarry reserves.

On the 23rd May 1990, in a discussion of remaining extractable reserves, it was noted that reserves are adequate, Dorans Pit having its lowest reserve at ten-year current production. Additional property adjacent to Doran's, Blessington, is being sold by Coillte. Dorans Pit is the adjacent pit?

A. Yeah, that was the common name for it, yeah.

Q. In a subsequent discussion at the same meeting, your colleague, Mr. MacAodha, said: "Coillte may accept a private tender to this property at Blessington. Dialogue with Coillte has commenced. Mr. Furlong, non-executive director, went on to comment that this would be a very expensive proposition.

The 28th August 1990: In discussing matters arising from the minutes of the previous meeting, your colleague, Mr. MacAodha, informed the meeting that the Department of Energy had indicated their intention to sell 150 acres adjacent to your property at Blessington. Following discussions, "It was agreed to make an offer." By discussing business strategy, it was minuted that "The need to secure long-term reserve was paramount, especially sand and gravel."

Then on the 12th December 1990, the meeting was informed by Mr. MacAodha that "The purchase of lands and timber at Blessington from the Department of Energy had been agreed

subject to Ministerial and CRH main Board approval. Total cost is expected to be €1.25 million."

Then 2nd May 1991, the issue was mentioned again, and the meeting informed: "Contract now signed with the Department of Energy. Expect close in June."

And you have informed the Tribunal that the above minute demonstrates that the replacement of depleting sand, gravel rock reserves was a periodic topic for discussion by management, and in that context, it was predictable that Roadstone would have been interested in an adjoining property which was known to have a significant sand and gravel layer underlying. The interest of the management team would have been sharpened by the announcement in 1987 of the State's intention to dispose of surplus lands in order to raise funds and reduce national debt. The team would have been conscious of the likely interest of other competitors and would have been keen to ensure that Roadstone was informed as early as possible of any disposal plans for the property.

You have informed the Tribunal that you have also requested from the Secretary of CRH plc extracts from the minute books for the same period. The only reference occurs in the minute of a meeting of the Acquisition Committee of the Board of CRH plc on the 18th December 1990, and it was as follows, Appendix 2: "Purchase of lands at Blessington, Roadstone Limited. Mr. Barry introduced the proposal dated 13 December 1990 previously circulated. Mr. MacAodha

highlighted key points. A general discussion took place, inter alia, the following:

" planning permission
competitive spacious
downside risk.

"The proposal was unanimously approved."

A copy of the proposed document presented at the meeting you attach at Appendix 3, and that is on the monitor at the moment. And I'll come back to deal with that in due course. We'll just run through that document; I just want to indicate that it's there, for the moment.

That was a document, just which was prepared by you, I think; isn't that correct?

A. Yes, in collaboration in the other members of the team.

Q. In collaboration with your colleagues for presentation to the CRH Board, or the Acquisitions Committee in the first instance?

A. To inform the Acquisitions Committee of the strategy and intention of the transaction, yeah.

Q. You received the approval of the Acquisitions Committee, and then I think the process was that it went to the main Board of CRH subsequent to that; isn't that right? That would be

A. Subsequently the main Board would have noted that decision.

The decision on the 18th December by the Acquisitions Committee was an approval of the Board.

Q. That was an approval?

A. Yes.

CHAIRMAN: I think there was some mention, Mr. Dempsey, in the evidence of the civil servants too, it having been mentioned that you had informally liaised with the Board before it formally went to the main CRH Board. Was there anything in that that you recall?

A. Well, as I said in my evidence earlier, there would have been informal communication going on within the executive members of Roadstone Dublin informing their executive members, or executive superiors within CRH.

Q. MR. COUGHLAN: I think you just deal with that, you say Mr. Quirke and Mr. Barry. Mr. Barry was the Chief Executive of CRH?

A. Mr. Barry was the Chief Executive, yeah.

Q. They'd have been periodically informed or briefed

A. Absolutely.

Q. of how things were progressing by executives in Roadstone?

A. That's right. But I think, to make the important distinction that the non-executive members of the CRH Board would not have been aware of this transaction, I believe, at this time.

Q. Right. And it's something I just want to come back to in due course on the question of as negotiations proceeded, but you were involved in negotiations, but when they were at the level of €1.1 million conditional, there was a subsequent meeting, and the conditionality had moved to

1.25 million unconditional. I am just wondering whether the removal of the conditionality that's the conditionality in relation to planning permission is something that would have required CRH Board approval?

A. No, it would not. I mean, the practice at the time was to develop a proposition to a very well-developed stage, an almost final stage, and present that to the CRH Board.

Q. That was the procedure?

A. That was the procedure. So, we would not have stopped in the course of negotiations to seek approval. That decision to go from 1.1 to 1.25 and so on and drop the planning condition would have been a decision of the negotiating team, which were the executives of Roadstone.

Q. At Roadstone level?

A. Yes.

Q. Now, I think you have then addressed Issue Number 3, which was a query addressed to you by the Tribunal, which was you were asked for your role in the negotiation for the purchase of the property.

And you have informed the Tribunal that you comprehensively dealt with your colleague Mr. MacAodha prior to and during the negotiations; you advised Mr. MacAodha on the financial aspect of the proposed purchase. You particularly pointed out the extraordinary funding cost that would be involved in purchasing an asset now for use in over ten years' time.

Just to clarify: The point is, this was something that you foresaw or the view was that it would be needed in ten

years' time; is that correct?

A. That's right. We already had extractable reserves within our existing land holdings in Blessington. So it was clear that you know, while the opportunity was presenting itself in 1990 to perhaps purchase this property, we had sufficient reserves in hand to carry us through ten years. So we would have to buy that property in 1990 and carry the funding cost until we began extraction from the new property.

Q. And this was

A. That was a huge cost. I believe interest rates were of the order of 10% at the time. And so we were looking at perhaps 2 million funding cost to carry this for ten years. So that was it was a very significant issue on our mind at the time.

Q. Could I ask you this: In 1990, was it 1.25 million a lot of money?

A. Absolutely. I mean, we honestly felt, I believe, in discussions among the team, that at 1 million, we could make a reasonable proposition out of this. And anything above 1 million was making it really, really difficult because of the other costs involved in bringing this piece of land into use. The funding cost, the planning and development cost and so on, we saw going above 1 million for the purchase as being really, really difficult.

Q. I'll come back to it, because when you presented the matter to the Acquisitions Committee at CRH, you had a proposition

of going to 1.45 million including expenses. You just might clarify the question of expenses when we get to that stage.

A. Okay.

Q. So the first thing that you drew Mr. MacAodha's attention to was the extraordinary funding cost that would be involved in purchasing it; the potential huge cost of making a planning application, involving an Environmental Impact Statement; additionally, it was anticipated that there would be significant cost involved in complying with planning conditions; and the development cost of the land, including forestry removal, overburden removal and storage and relocation of walking trails.

Taken together with the purchase costs, the above items would add up to a very large investment by the company, possibly of the order of 5 million; and whilst strategically the purchase seemed like the correct option, it had to be seen as a very large expenditure with significant attendant risk.

You further advised of the risk that planning permission could significantly restrict the extractive area and consequently the recoverable tonnage, thereby reducing the potential financial burden. And apart from advising Mr. MacAodha during the negotiations, you accompanied him to the meeting with officials of the then Department of Energy on December 5th, 1990, at which meeting you explained the additional cost which Roadstone would face in

developing the lands and the difficulty of making an economic proposition out of a purchase at a price above 1.15 million. This is where you were at 1.15 million conditionally and then unconditionally.

At a break in discussion you advised Mr. MacAodha that it was your belief from what had been said by the officials at the meeting that the Department were unlikely to sell below $\frac{1}{2}$ 1.3 million; however, an offer of $\frac{1}{2}$ 1.25 million from a substantial party like yourselves just might make a deal.

You discussed your offer for some time, and you and Mr. MacAodha decided to stretch it to $\frac{1}{2}$ 1.25 million.

Mr. MacAodha offered to purchase the lands for $\frac{1}{2}$ 1.25 million without planning permission, but subject to CRH main Board approval. The offer was accepted by the Department side on the basis that it would be recommended to the Minister and the Department of Finance for approval. There was some further discussions on matters of detail, particularly the issue of a felling licence, but at this stage you believed that you had a deal to purchase the lands.

I think you were then asked for the background details as to the reasons why Roadstone were interested in purchasing the Glen Ding property, and you have informed the Tribunal that "Roadstone's business is based upon extracting and processing sand, gravel and rock. A crucial element of Roadstone's business strategy is the acquisition and management of extractable reserves over a very long time

frames. It is a feature of the business that it takes many years to identify, acquire planning permission and develop suitable lands for replacing existing depleting reserves.

The need to acquire replacement sand and gravel reserves for your depleting deposits in Blessington was discussed frequently by Roadstone's management team during the period 1985 to 1990. In 1987 the State adopted a policy of disposing of surplus State assets with the objective of reducing the national debt. This gave rise to rumours that Coillte would dispose of sand and gravel bearing lands in Blessington. Roadstone's management team determined to keep in contact with Coillte in order to ensure that you were made aware of any sale by Coillte. The Glen Ding lands were of particular interest to Roadstone because:

"A) although based on limited information, it was your assessment that they contained worthwhile deposits of sand and gravel.

"B) the Glen Ding lands were immediately adjacent to the existing Roadstone properties, which meant that existing entrances and infrastructure could be used.

"C) the acquisition of the Glen Ding lands could provide long-term continuity for the existing Roadstone operations at Blessington.

"D) it was considered that securing additional reserves for your Blessington operation would confer a competitive advantage in the downstream Dublin/Cork concrete business.

New reserves would underpin the company's cost base and

ensure continued high-quality achievement in concrete products".

I think you were then asked for details of the role of the CRH Acquisitions Committee, which was run by Mr. Desmond Traynor, and its role in the eventual purchase of that property.

And you have informed the Tribunal that the CRH Board has established five permanent committees to assist it with its responsibilities. One of these is the Acquisitions Committee. The role of the Acquisitions Committee is to approve acquisitions and capital expenditure projects within limits agreed by the Board. The membership of the Acquisitions Committee during the relevant period was from February 1986: Mr. J Dargan; Mr. J P Cullitan; JJ Hayes; W Murray; D M Roche; J D Traynor, Chairman. And from February 1987, A D Barry. From February 1988 to May 1991: J D Traynor, Chairman; A D Barry; J P Cullitan; JJ Hayes; HB Sheridan; R P Willis.

The committee at its meeting on the 18th December 1990 considered the proposal from Roadstone to purchase lands at Blessington. A certified extract from the minute of the meeting is attached at Appendix 2. Your colleague, Mr. Martin MacAodha, attended the meeting for the duration of this topic in order to add any clarification required.

You have checked with the office of CRH plc Company Secretary, who has confirmed that this was the only discussion at which the Acquisitions Committee is recorded

to have discussed the transaction.

The proposal document considered by the Acquisitions Committee is included in Appendix 3 in redacted form.

That's the document we'll come to look at in a moment.

You were then asked for details of Mr. Traynor's role in the eventual purchase of the property, and you informed the Tribunal the negotiation on purchase of these lands was carried out by Mr. MacAodha, Mr. Breathnach, and yourself on behalf of Roadstone. Mr. Traynor, as non-executive Chairman of CRH plc, would have had no role in operating company matters and had no role in the negotiation of this purchase. No request was made by the Roadstone management team for any assistance from any higher level in the organisation.

Also in your dealings with the Department team you saw no evidence of interference. Mr. Traynor's first contact with this transaction would have been when he received the proposal document some days prior to the Acquisition Committee meeting on the 18th December. At that stage a deal, subject to CRH main Board approval, had already been agreed by both sides. Mr. Traynor took no part in the negotiation of this purchase, and his only role would have been to chair the discussion on the 18th December which approved a previously negotiated deal.

I think you were then asked about whether Roadstone had any knowledge of other people having an interest in the property. And you have informed the Tribunal that the

Roadstone management team were conscious that it was likely that some of its competitors would be interested in acquiring the Glen Ding lands. You were not aware of the interest of any specific competitor. Furthermore, you never heard any of your colleagues discuss the specific interests of any particular competitor. You therefore believed that the Roadstone team had no knowledge of the other interested parties.

Just dealing with that last point first. I take it yourself, Mr. MacAodha and Mr. Breathnach, who was the man on the the Roadstone man on the ground in Blessington, would have been conscious that other people would have been interested, in general, in acquiring the property?

A. Yes. Blessington is and its environs are the source of sand and gravel for the Dublin construction market. So most building material suppliers who are supplying into that market would have had an interest.

Q. And is it the point you are making here, you wouldn't have had a knowledge of any specific person?

A. No. No. We never came in contact with any other specific competitor, or any discussion of the interest of any other specific competitor.

Q. Now, before I come to consider the document, or the case that was being made to the Acquisition Committee, could I just go back. Am I correct in understanding your evidence that each company in the group stands alone and conducts its own business? Is that

A. That's very true. That's a feature of CRH, and it's been one of the features that has facilitated its growth to the size that it is today. Clearly its scale today, holding perhaps something of the order of 8 hundred companies, it would be impossible to run such a business in a centralized fashion. So the business works on the basis that there are good management, strong management teams put in place in each of the companies, and they are charged with running the business.

Q. And each company is responsible for running its own business, generating its own profit, and reporting ultimately to the Board of CRH; is that it?

A. Yes, through the Chief Executive.

Q. Of each company?

A. Well, through the Chief Executive of each company through a regional structure and in to the Chief Executive of the CRH Group, who in turn is a full Board member, yeah.

Q. Now, Roadstone had been operating what's described as Dorans Pit, I think, the lands your own lands at Blessington from the early 1970s; isn't that correct?

A. Yes, or before.

Q. Perhaps before?

A. Before that.

Q. And I think Mr. Breathnach was the man in charge on the ground there; isn't that correct?

A. That's right.

Q. And he will be giving evidence?

A. Yes.

Q. I think Roadstone would always have been conscious that there were adjacent lands which contained sand and gravel?

A. Yes, we would have known from working our own deposits that the likelihood was that those deposits extended. It was also possible to walk across the Department lands, because there were walking trails across them; there was public access. And you could also see that the Department themselves were operating a small sand pit on the site.

Q. For forestry?

A. For forestry roads, etc. So you could see that the likelihood was that this property held a significant deposit of sand and gravel.

Q. And can I take it it's something that was always in the mind of Roadstone, that if lands became available, you would be interested?

A. Absolutely. I think that would have been true from certainly from back in the late seventies, early eighties, that thought would have been around, yeah, that if that property became available, that we would be very interested, yeah.

Q. Now, I think in due course Mr. Breathnach will be giving evidence about communications that he had with Coillte/the Department once it had been indicated that they were going to dispose of or that the State were going to dispose of lands for the purpose of reducing the national debt.

Roadstone always kept an expression of interest, isn't that

correct, in the property?

A. That's right, yes.

Q. And I think Roadstone would have been receiving a response which was a standard type of response at the time, that if and when any land came on the market, that it would be disposed of by way of tender; I think that was the sort of information that was being

A. That was the sort of information, yeah.

Q. Not unusual information, I suppose?

A. No. That would be expected.

Q. Now, we know that how matters evolved here, it ended up in negotiations by way of a private treaty between yourselves and the Department; isn't that correct?

A. Mm-hmm.

Q. Did Roadstone, to your knowledge, do anything to bring that situation about?

A. No. I think that was a decision taken by the Department, and I think the Department are placed to explain why they came to that view.

Q. Now, there can be no suggestion that there was anything wrong of Roadstone doing something, but to your knowledge, this is something that came from the Department rather than from Roadstone?

A. Absolutely.

Q. You took the opportunity, of course

A. We were proactive. We made offers, and we made expressions of interest, and we sought information on the property and

so on, and which ultimately led into a negotiation. But we were not party to what the Department were thinking.

Q. The policy shift?

A. No, no.

Q. Now, at the meeting you attended, or you accompanied Mr. MacAodha to, the negotiation with the Department officials, I think Mr. Sean Fitzgerald, Assistant Secretary, led on the Department side, and yourself and Mr. MacAodha were the senior executives present from the Roadstone side?

A. That's right, yeah.

Q. And we have a Department document which is a record of that particular meeting, or it may be just a general record, but it's a record of that particular meeting. And just an impression, and I want to ask you, it's an impression which seems to have been formed by the civil servants, and that's why I asked you earlier on about whether the CRH Board would have had any knowledge of moving from a conditional to an unconditional when it was at $\frac{1}{2}$ 1.1 million; this was before you got to 1.25 million. It was an impression if I can just get I think it's Tab 81, Book 75.

The second-last paragraph, the last sentence of that. This is a discussion about the 1.1 "Their Board is aware of the offer of $\frac{1}{2}$ 1.1 million although it had not been formally approved."

Now, that seems to be an impression that the officials got, anyway. Now, I just want to ask you, would the Roadstone

Board be aware of what was going on?

A. Well, I think that would have arisen from my sense of how that meeting ran.

Q. Right.

A. We would have been saying, "Look, we will make an offer of 1.1 million subject to the CRH main Board approval", and the Department would have been expressing some concern as to whether there would be any difficulty in achieving that approval. So although I don't have specific recollection of what was said, but I think the process would have been that we would have said to them that through the proper channels of communication, we had been keeping our Regional Director and he in turn would have been keeping the Chief Executive of CRH informed, so therefore, we did not expect to have any difficulty with achieving that approval. I think the Department would have been seeing it as a possible source of risk, or likely delay, and were looking for some reassurance on that.

Q. Just yes, and that probably explains the point. But could I just ask you this: On the reporting procedures as you have described, going up the line from your Chief Executive to Regional, at a Regional level, up to main Board or Chief Executive level. Would it, in your view, if it was something that would never have been considered up at top level, been something that would have been nipped in the bud before you went any further?

A. I am not sure I understand your question, Mr. Coughlan.

Q. Let me put it this way. If as you said, i.e. 1.25 million was an awful lot of money at the time?

A. Yeah.

Q. It was something that you didn't need for another ten years, so it was a significant expenditure, as you have described. If it was something, and or, sorry, Mr. MacAodha had been keeping Mr. Barry informed as matters went along, informally, or perhaps sort of formally, and the view was being taken by Mr. Barry, or up at that level, that "We are never going to run with this"; would you have been told at an early stage, or would you have been permitted to continue negotiations, seeing how things went, and then be let down at the end? I am trying to understand

A. I understand now, yeah. No, I think that's clear, that if we were putting up a proposition, that the Regional Manager or the CRH Chief Executive didn't believe in, I think it would have been nipped in the bud, as you describe it. We would have been told, "Look, that's not going to work; you are wasting your time; drop it".

CHAIRMAN: At the final stage, Mr. Dempsey, when you upped your offer to 1.25, I think Mr. Carroll said there was a feeling on both sides that you had a deal, and there may in fact have been handshakes exchanged in the course of the meeting.

A. Mm-hmm.

CHAIRMAN: And I think Mr. Loughrey, the Department

Secretary General, to summarise his evidence, he said that whilst legally there may have been an out on both sides, your main Board approval, his Minister's approval, also the Department of Finance, it was highly unlikely that it was going to be vetoed by either principal; there was the feeling there was a deal. And would it be fair to say there would probably have been some embarrassment or egg on faces if one side hadn't delivered the requisite approval?

A. I think that's absolutely true. It had been a long negotiation. It had gone through various stages. We had both got to understand our respective positions, and we had done a deal at what we considered to be a very high and very expensive level. And I certainly I believe our team would have been highly embarrassed if it had failed at that stage.

Q. MR. COUGHLAN: If we could just turn to your document now, Appendix D, which was the document which was submitted this was your submission, the capital expenditure application, and it's at Appendix 3 of B Tab 3 of B in Book 77.

You described the location as being Dorans Pit, Blessington, County Wicklow.

"Proposal: To purchase additional sand and gravel reserves for the company's operation at Blessington.

"Background: Roadstone (Dublin) Limited have operated a major sand extraction and processing plant at Dorans Pit, Blessington, County Wicklow for over 30 years. Sand

reserves were last replenished in 1971, when 84 acres was purchased. Total reserves at Blessington are now the equivalent of approximately 10 years' extraction at current rates.

"The Forest Service of the Department of Energy have indicated that they are willing to sell 145 acres of land adjoining the Roadstone Limited property which has excellent sand and gravel deposits underlying.

"Purpose of purchase: The additional reserves are required to provide Roadstone with suitable raw material reserves for concrete and concrete products production up to the year 2015.

"Cost: 1.45 million including expenses.

"Projected date of purchase: December 1990.

"Budget status: Budgeted at a lower cost. Before any details of the extent of the property being offered for sale at Blessington were available, a provision of 0.2 million was made in the 1990 budget."

Could I just stop there for a moment and ask about that.

What was the status of that was being carried in Roadstone's books, is that right, 0.2 million as a potential

A. No, that was a budget number. I mean, we prepare around September, October time of each year, we prepare a financial budget for the subsequent year. So in September, October 1989 we would have prepared a budget for the year 1990. And at that time we would have recognised the need

for replacement reserves in Blessington, and we would have we had no knowledge of what size of property the Department might put up for sale. It could be big or it could be small. Obviously, at .2 million, we were expecting something much smaller, so we would have put an indication in our budget that we wished to spend 0.2 million on the acquisition of land at Blessington. It's a further indication that we were considering this land back in 1989.

Q. Just for clarification: You weren't actually at the Acquisition Committee meeting, were you?

A. I wasn't, no.

Q. You prepared the papers?

A. I prepared the paper with the input of Mr. MacAodha and Mr. Breathnach, and Mr. MacAodha attended the Acquisitions meeting for this topic.

Q. You then went on:

"Technical evaluation: The location of the sand pit at Blessington is ideal, being the only site of any scale within 18 miles from the city centre and 13 miles from Belgard Quarry, where major concrete production and ready-mixed concrete plants are operated.

"Natural sand and gravel is an essential requirement for the manufacture of ready-mixed concrete and high-quality concrete products, and Blessington is the best deposit in the Greater Dublin region, having a particularly suitable grading and shape.

"The property has been surveyed and is estimated to contain 15 million tonnes of saleable material equivalent to 15 years' reserve at current extraction rate.

"The property will be bought without planning permission, and application for same will be made as soon as possible after purchase.

"Strategic benefits: In addition to washed sand being a profitable product in its own right, controlling the only large working sand deposit in the Dublin area confers a strategic advantage, particularly in the ready-mixed concrete market, where it is available to Roadstone to compete effectively on quality and price.

"If this reserve is bought by one of the existing concrete or concrete product manufacturers or by a new entrant to the market, the Roadstone current market position and profitability would be seriously affected. It would provide an excellent entry point for a new competitor or expansion/profit improvement opportunity for an existing operator. Its value is enhanced by the fact that all of the basic raw materials are available on this site to manufacture high-quality concrete and concrete products without incurring the cost of importing aggregates.

"The composition of the reserve allows very competitive production costs, as overburden levels are low and waste material quantities are small."

I think it was worth significantly sorry, it was worth a significant sum to your company because of your existing

position and what you had at Dorans Pit?

A. That's right. We had a developed infrastructure in our existing land holding, and we had processing plant and equipment in place, so by acquiring this land, we would provide for the long-term continuity of that business in Blessington.

Q. And of course to anyone looking from the outside, like an expert valuer or the Department themselves, that sort of thing would have been fairly obvious to them as well, that you had a position there?

A. I would have thought so, yes, very obvious.

Q. You say that "The composition of the reserve levels has very competitive production costs as overburden levels are low and waste material quantities are small".

Then you discuss alternatives: "A systematic search for suitable reserves within reach of Dublin City has been conducted and no suitable alternative has been identified.

You then go on to financial evaluation, and you have edited sensitive commercial information here, I think, with the agreement of the Tribunal; isn't that correct?

A. Yeah.

Q. "Historically Dorans Pit has been a significant contributor to Roadstone (Dublin) Limited profits, and this purchase can extend its life by at least 15 years and generate a return on investment of" and you give your view.

"Contribution for 1990 is forecast to reach" and you give a figure "and the contribution in recent years has

been followed".

And you set them out from 1984 to 1990 inclusive; that's to October of that year.

Then you furnish to the Acquisitions Committee a financial history.

"For the purpose of financial evaluation, it has been assumed that the average contribution level achieved over the last seven years is representative of the returns that can be realised from the extraction of the new reserve commencing in ten years' time."

And you set out a table. Again you have edited sensitive commercial information. But you say the usage volume in hundred thousand tonnes; is that right?

A. In thousands of tonnes.

Q. I beg your pardon, thousands of tonnes.

In 1984, 795 and you set out the whole scale right down, and your forecast for 1990 was 1,250,000 and you give an average of 7 years. You say: "The contribution for 1984 to 1989 are inflated in this table and are shown in the 1990 terms".

You say "The Roadstone Board has recently decided to increase the amortisation rate for sand, and to provide for future reinstatement costs. From 1991 this will cost an additional 9 pence per tonne, and this is representative of the level of amortisation and reinstatement provision required for this new reserve. Consequently a contribution of" blank "per tonne has been used in subsequent

calculations.

"The purchase will generate an annual average return on investment of" blank "percent calculated".

You set out the investment, the purchase of the land plus expenses, interest at 10 percent per annum from 1990 to 2000. Projected plant written down, and the working capital. And you have an accumulated investment to Year 2000 of 5.1 million.

A. Mm-hmm.

Q. Then you deal with the projected annual contribution 2002.

"Customer base for sand has been expanded significantly in recent years by contributing supplies to major concrete and concrete product producers. Therefore a projected annual volume of 1 million tonnes is assumed in 2001."

You then set out information, again which you have edited because it is sensitive commercial information.

Then you say: "The production cost assumed will adequately cover the cost of planning application and normal compliance expenditure.

"Return on investment", and you give that. And again you have edited that particular information as being commercially sensitive. When I say "commercially sensitive", this is because you are in a competitive market; isn't that right?

A. Yes. Our business is very fragmented and very competitive, and I think it would be remiss of us to give our competitors a view into how we look at investments and what

returns we seek.

Q. Then you say that this was prepared by you and that it was reviewed by you, and it's been recommended by Mr. MacAodha.

Now, that's the document that Mr. MacAodha took to the meeting and briefed the meeting from that document?

A. Yes.

Q. And from his own knowledge of attending the negotiations?

A. Yes.

Q. And the Acquisition Committee approved the capital expenditure?

A. Yes.

Q. Now, just in that particular if you go to I think it's the second page of your document, "Technical Evaluation", you say the third paragraph: "The property has been surveyed and is estimated to contain 15 million tonnes of saleable material equivalent to 15 years' reserve at current extraction rate."

Would you have received that information from Mr. Breathnach?

A. Yes.

Q. And it was your view I don't know whether it was right or wrong, because it hasn't been extracted, so we don't know exactly what's there but it was your view that it contained 15 million tonnes of extractable material?

A. Our view on tonnage at that stage was quite vague. We had we knew that there was a very worthwhile deposit there, but we didn't have a borehole survey. We had a walk-over

survey by Mr. Breathnach and his team, and based on their experience from working the adjoining property, they made these estimates. But I have to say, our quantification was based on very, very limited information. So consequently, the 15 million tonnes is, I would say, was indicative, rather than, you know, exact.

Q. Yes, but as you say, you were working the area?

A. Yes.

Q. Mr. Breathnach had been on the ground; he was a qualified engineer also?

A. That's right, yeah.

Q. Had been on the ground for a long time?

A. Mm-hmm.

Q. And had walked that land, to the best of your knowledge, on many occasions?

A. Oh, yeah.

Q. You have made a number planning applications over the years?

A. We have.

Q. Maybe you can't deal with this at the moment, but I was just wondering, would you have any knowledge as to what you have indicated in the various planning applications is the extractable deposit, and what you would envisage as being the annual yield from the site? Maybe you can't.

A. Well, I can answer to a certain degree. I mean, perhaps it's better discussed by Mr. MacAodha or perhaps maybe Mr. Breathnach. But we made planning application I think

in 1997 for an 80-acre area, and it's my belief that that area would have we expressed an opinion at that time that it contained that 80 acres contained about 6 million tonnes. We made an application in 1999 for a 15-acre area which, I think, had about 1 million tonnes estimate, estimated recoverable reserve. And subsequently, I think in 2004, we made a further the 1997 application was granted by Wicklow County Council but overturned by An Bord Pleanála; the 1999 application was granted by Wicklow, and we are extracting that area. But then in 2004, further application for 40 acres, and I think our estimate for that area was about 4 million tonnes.

Q. Sorry, yes, Mr. Healy just wants me to clarify: Do you know if the 80 acres and the 15 and the 40 acres, are they all the same land?

A. No.

Q. They are different areas?

A. Well, the 15 acres is in the northernmost corner of the site. The 40 acres and the 80 acres to some degree overlap, and they are in the area closest to Blessington Town.

Q. Now, the reason we are here, Mr. Dempsey, is because Mr. Des Traynor, who was the non-executive Chairman of CRH, was conducting a banking business from the Chairman's office of CRH, and also was the financial adviser to Mr. Charles Haughey. I think we all understand why this inquiry is taking place. Could I ask you, did you know

Mr. Desmond Traynor yourself?

A. I would have met Mr. Traynor once annually, on a social basis, so to that extent I knew him. But I never transacted any business with him whatsoever.

Q. You never transacted any business?

A. No.

Q. Can I take it did you have any awareness that he was conducting any other business

A. No.

Q. at this time?

A. No.

Q. I think you would have been aware that Mr. Traynor had a background in accounting and banking?

A. Yes, I think so.

Q. But you yourself had no knowledge of what Mr. Traynor was doing, other than in his role as Chairman of CRH?

A. Absolutely not.

Q. And you say that all negotiations in relation to this particular property would have been conducted by executives of Roadstone; that the identification of the need to acquire such property would also have taken place at Roadstone level?

A. Mm-hmm.

Q. And that it is only when matters had reached, effectively, a conclusion, that it would have gone to CRH Board level?

A. Yes.

Q. Although the senior executives, or the Chief Executive of

CRH, would have been briefed as to how matters were progressing whilst Roadstone were conducting their negotiations?

A. Yes.

Q. As far as you were aware, did anyone from CRH ask you or Mr. MacAodha if you needed any assistance in the conducting of this particular negotiation?

A. That never happened, no.

Q. Did you or Mr. MacAodha ask anyone at CRH for any help?

A. We did not.

Q. Did anyone, to your knowledge, in Roadstone seek any political assistance in negotiation of this particular property?

A. To my knowledge, no.

Q. And just to cover everything, to your knowledge, did anyone in Roadstone or CRH make any political contributions or donations connected with the purchase of this property?

A. Absolutely not.

Q. Now, I think, just so that perhaps you can assist the Tribunal, and perhaps you cannot. I think you were present yesterday afternoon when Mr. Johnston was giving evidence?

A. I was, for at least part of his evidence, yeah.

Q. I don't know whether you heard him express the view, and it's his view, he was a man involved in the business as well, that at $\text{€}800,000$, at $\text{€}1.1$ million, or $\text{€}1.3$ million, or $\text{€}1.5$ million, I think the various numbers were mentioned at various times, that he would have slapped down his

€1,280,000 cheque and said "Deal done; it was a steal at that money." Can you be of any assistance to the Tribunal on the question of whether, at the sort of money the Department were discussing, that this was a steal?

A. Based on my experience in the business, which goes back over 30 years, I would say that's absolutely ridiculous.

Q. Do you still stand over the case you made to the Acquisitions Committee in respect of this particular property?

A. I do.

Q. And the reservations you have expressed about or the advice you gave to Mr. MacAodha at the time, that this was a large sum of money, even for a company of your size, in respect of an asset that would not be brought into use for a period of time?

A. I think those concerns have been proved to be justified, but having said that, as I pointed out earlier in this business, one becomes accustomed to dealing with these matters over very, very long periods of time. So I think, you know, we still await our return from Blessington.

Q. I don't know, it's perhaps something for Mr. Breathnach to deal with. I don't know if you heard Mr. Johnston then saying, yesterday, that once you removed the sand and gravel, you were down to rock, and you could drill down to that and crush that, and that would enhance the value of the site considerably?

A. We never saw it as a viable quarrying proposition. First

of all, it would take so long to remove the sand and gravel that any such activity would be so far out into the future, that its current value would be very, very small.

Secondly, the removal of rock, it's very doubtful if the Wicklow planners would allow such an activity, because it would involve blasting activities very close to the town of Blessington. So, we certainly did not see that as a credible proposition.

Q. It's not something you put forward in your case

A. No, you can see that in our proposal to the CRH Acquisitions Committee, we didn't consider such an activity.

Q. Thank you very much, Mr. Dempsey.

CHAIRMAN: It's something, Mr. Dempsey, that's more particularly addressed by your colleague, Mr. MacAodha, in his statement; but what's your own recollection of how much information you got from the Department in the various interchanges about the quality or extent of the deposits in the projected site?

A. We got no specific information from the Department in relation to the quality or the quantity of the sand and gravel. They assured us that there was a significant deposit there. We requested from them we had known that they had conducted a survey, a borehole survey. We requested that information, and it was refused to us.

CHAIRMAN: Thanks.

Q. MR. COUGHLAN: Just before it's something Mr. Johnston

was given, according to the notes, information of somewhere in the region of 8 to 10 million tonnes. Do you know if Roadstone were given the same information?

A. We were not given that information.

Q. Thank you, sir.

CHAIRMAN: There may be a few questions by other practitioners, Mr. Dempsey.

We'll revert to the usual procedural order. Ms. Leyden, anything you want to raise?

MS. LEYDEN: No questions.

CHAIRMAN: You'd be next, then, Mr. Regan.

THE WITNESS WAS EXAMINED BY MR. REGAN AS FOLLOWS:

Q. MR. REGAN: If I may just ask one question, and that is, you spoke in response to a question from the Chairman about embarrassment if the deal or agreement of the 5th December did not go ahead. But there is no ambiguity about the subject nature of that agreement; it was subject to Board approval, and it was subject to Ministerial approval. In fact, you had a week to confirm it in writing as well, so it wasn't even in writing; isn't that correct?

A. That's very clear. It was €1.25 million subject to CRH main Board approval and subject to the Minister's approval.

Q. So any embarrassment would work both ways?

A. Absolutely.

Q. Thank you.

CHAIRMAN: Mr. Barniville.

MR. BARNIVILLE: Yes, Chairman I just have a few questions

for Mr. Dempsey.

THE WITNESS WAS EXAMINED BY MR. BARNIVILLE AS FOLLOWS:

Q. MR. BARNIVILLE: Mr. Dempsey, insofar as you were involved in the negotiations yourself, and insofar as Mr. MacAodha was being advised by you in relation to those negotiations, would you describe the negotiations as hard-fought and tough negotiations with the Department?

A. I would describe our negotiations with the Department, and I would characterise their response or the manner in which they dealt with the negotiation, as courteous, professional. They kept their cards very close to their chest, and they drove a very hard bargain.

Q. And do you believe they extracted from you the top price that Roadstone was prepared to pay for these lands?

A. They did. We believed that something of the order of €1,000,000 gave us the opportunity to make a financial proposition of this property, and anything above that we saw as very, very difficult. And I think the €1.25 million, we believed, was a significant stretch for us.

Q. Now, you said in your evidence that and you confirmed to Mr. Coughlan that you and your colleagues in Roadstone weren't aware of any specific competitor who had an interest in these lands; isn't that correct?

A. That's right.

Q. And I take it, therefore, you weren't aware that the Department was, at the same time, talking to any other

competitor or to any other person who might have had an interest in these lands; isn't that right?

A. We had no such specific information. The Department, to my recollection and bear in mind I was only at the final meeting with them they did say to us in the course of that meeting, to my recollection, that they had other interest. But no more than that. So we were certainly not aware of Mr. Johnston, no.

Q. If you had been actually aware of another specific person or of another competitor who was talking to the Department in relation to the lands, would that in any way have affected the way in which you went about the negotiations, or ultimately the price that you were prepared to pay to acquire the lands?

A. I don't think it would have affected the way we went about the negotiations. I mean, the negotiation was controlled by the Department, remember. It was the Department set the process, and we participated in that process. In regard to the ultimate price paid, I think we would have determined that based on what we thought we could make an economic proposition out of. And whether there was another interested party or not, I think we would have had a break point where we would have said to ourselves, "We cannot make money at that level, so we must stop at a certain point". And I believe at the $\frac{1}{2}$ 1.25 million we were at or about that point.

Q. Can I just ask you, do you believe that Roadstone was

afforded a preferential treatment either in relation to the negotiations or the ultimate deal reached with the Department to acquire the lands?

A. Well, "preferential" implies that perhaps we knew of somebody else involved. We didn't know anybody else was bidding on this property. But, as I said earlier, my view was the Department kept their cards very close to their chest. They moved in a measured fashion through the process, and you know, gave us very, very limited information. I mean, the key information, like the survey, the Geological Survey, they refused to give us. So my sense was, far from getting any preferential treatment, that it was quite a tough and difficult negotiation.

Q. Can I just move on to a slightly different area, and can I ask you just to confirm I think you did deal with this in response to Mr. Coughlan's questions, but just a couple of other questions.

Can you confirm that there was no representation made by or on behalf of Roadstone to any Minister or to any politician in relation to the purchase of these lands?

A. To my knowledge there was absolutely no representation made to any politician or minister. This transaction was dealt with the negotiation team from Roadstone Dublin, which was Mairtin MacAodha, Seamus Breathnach and myself, and we dealt with the Department officials, the names are known to the Tribunal from previous evidence, and we did not canvass anybody else.

Q. And I take it you can confirm, then, to the Chairman that Roadstone, its representatives, and I take it representatives of CRH, didn't meet with the Minister or didn't meet with any politician in relation to the purchase of the lands?

A. That's correct.

Q. And can you confirm, therefore, that to your knowledge, there was no element of political influence or any political involvement in either the negotiations leading to the purchase and in the deal to purchase the lands?

A. There was no evidence of political interference in the negotiation process or the ultimate conclusion of a sale in this transaction. I think we would have picked up a sense of it, either internally or in negotiations with the Department, but we saw none.

Q. If we just deal with the position of Mr. Traynor. I think you can confirm that Mr. Traynor had no involvement whatsoever in identifying or locating the lands in question; isn't that right?

A. I doubt if Mr. Traynor ever visited Blessington, our sand pit in Blessington, in his life.

Q. And I take it he had no involvement in the negotiations at all?

A. He had absolutely no involvement in this transaction, other than he chaired the meeting on the 18th December of the Acquisitions Committee of the CRH Board.

Q. He didn't give any assistance or advice in relation to the

price to be paid or in relation to the structure of the offer, whether it would be with a planning condition or without a planning condition; is that right?

A. No. Any structure or deliberations in relation to price were dealt with by the Roadstone negotiation team.

Q. Now, Mr. Coughlan asked you a couple of questions about the subsequent planning history of the lands, and am I right in saying that the position is that of the 145 acres of land purchased, you have planning permission for some 15 been able to obtain planning permission for some 15 acres of those lands; isn't that right?

A. That's right. We have a planning permit over 10% of the acreage and less than 10% of the potential recoverable reserve, I would say.

Q. And I think you have indicated and just to clarify the position, I think you have indicated that there were three planning applications made in the period since I think the first application was made in January 1997; isn't that right?

A. That's right.

Q. And that was an application which you succeeded in obtaining from Wicklow County Council, but that was overturned by An Bord Pleanala; isn't that right?

A. That's right.

Q. And you made the second application in April 1999, and that was for the 15 acres, I think, and you obtained planning permission from Wicklow County Council, I think in October,

sometime late in 1999; isn't that correct?

A. That's right, yeah.

Q. And that's a subsisting planning permission; isn't that right?

A. That's right, we are working that area right now.

Q. You indicated you made a further application in October 2004 in respect of the I think it was approximately 40 acres of land; isn't that right?

A. I am sorry, it's somewhat less; it's nearer to 30 acres.

Q. I am sorry. And that was a permission that Wicklow granted, I think, again; isn't that right?

A. Wicklow granted permission in May 2005, with a lot of conditions, and that was subsequently appealed.

Q. And I think the position is An Bord Pleanala refused the permission on appeal; isn't that right?

A. That's right.

Q. I think it would be fair to say, then, that the lands have been even more difficult to work than you predicted at the time the proposal was put to the Acquisition Committee back in 1990?

A. We would have back in 1990, we would have seen a risk to planning as being pretty significant, but the planning position has turned out to be considerably more difficult than we would have anticipated in 1990.

Q. I take it that you don't agree with Mr. Johnston that there is some other way of working these lands other than planning permission?

A. I don't accept that.

Q. And presumably, you will continue to seek planning permission if and when appropriate to do so?

A. We will, of course.

Q. And you'll be advised appropriately in relation to that?

A. Of course.

Q. Thank you very much, Mr. Dempsey.

Thank you, Chairman.

CHAIRMAN: Thank you very much indeed, Mr. Dempsey.

THE WITNESS THEN WITHDREW.

MR. HEALY: Mr. MacAodha, please.

MAIRTIN MACAODHA, HAVING BEEN SWORN, WAS EXAMINED BY

MR. HEALY AS FOLLOWS:

Q. MR. HEALY: Thank you, Mr. MacAodha.

You were a Roadstone executive at the time of the events being canvassed in the Tribunal's hearings. You subsequently became an executive of CRH or of another CRH company, sorry and you retired from the CRH Group in November 2004?

A. That's correct.

Q. Do you retain any association with the company or any part of the Group?

A. Very limited.

Q. Do you have what I mean is, do you serve on any boards or anything else?

A. I serve on a subsidiary company Board.

Q. As of the last witness, what I'll propose to do is take you

through your statement a lot of your statement deals with matters that have been canvassed time and again in the course of the last few days, so we may not go into everything in detail.

You say: "I am Martin MacAodha of 33 Thorncliff

A. Sorry, if I may say it's Muirtin, it's as gaelige, if you don't mind.

Q. I am Muirtin MacAodha of 33 Thorncliff Park, Rathgar, Dublin 14 can say as follows:

"In April 1988 I was appointed as Managing Director of Roadstone (Dublin) Limited. Roadstone is a wholly owned subsidiary of CRH plc. As Managing Director I had the lead role in the negotiation with the Department of Energy, previously the Department of Tourism, Fisheries and Forestry, as this represented the largest company investment in the period 1988 to 1991. My colleagues Donal Dempsey, the then Company Secretary of Roadstone, and Seamus Breathnach, the then Pit and Quarry Production Director of Roadstone supported me in the negotiation. I held this position until early 1997, when I transferred to another company within the CRH Group of Companies. I retired from CRH in November, 2004. I have reviewed Roadstone's files in relation to the acquisition process of the Glen Ding lands".

Then you give your account, presumably, based on your review of the files and your recollection; is that right?

A. Yes, and I give a few general comments, then, at the end,

to try and complete the picture insofar as I can.

Q. "Detail of Negotiation Process" is the next heading in your statement, and you say: "This commentary, with appendices, is intended to clarify some of the main details of the negotiation process. I have appended a set of relevant documents extracted from the files. The strategy and interest in this particular acquisition is dealt with by my then colleague Donal Dempsey in his statement.

"Since 1987 Roadstone had been in correspondence with the Department expressing an interest in the acquisition of the lands. On the 28th August 1987, Seamus Breathnach wrote to the Department to inquire whether it intended to dispose of the Glen Ding lands".

I am not going to refer to the document, because we have already mentioned it time and again.

"On the 2nd September, a reply to Mr. Breathnach's letter was received by Roadstone from the Department indicating that our earlier letter was receiving attention. On the 2nd November 1987, Mr. Breathnach wrote again to the Department inquiring as to whether the Department had come to a conclusion concerning the possible sale of the lands.

There appears to be no reply to this letter. In April of 1988 I took over as Managing Director of Roadstone.

Mr. Breathnach reported to me and thereafter acted upon my instructions and directions.

"On the 14th March 1989, Mr. Breathnach wrote again to the Department to ascertain their proposals regarding the land

and indicating Roadstone's interest in purchasing them and enclosing an article from the local newspaper entitled "The News"; see Appendix 4. There appears to be no reply to this letter."

That article is contained in Appendix 4, or Tab 4 of Leaf A, and it's a reference in a local newspaper to long-term plans to preserve and develop Glen Ding Forest as a heritage park because of the brilliantly preserved ring fort located in its midst. I think that was a matter referred to by Mr. Breathnach in his letter.

I take it that you have exhibited that, or drawn that to the Tribunal's attention, to show the extent to which you were sensitive to matters which might affect this potential sand and gravel deposit on your doorstep?

A. I probably should explain that for a company like Roadstone, going back to its founder, Tom Roche, raw materials was its life blood. So watching raw materials and keeping a good reserve of raw materials was always critical. And sand and gravel was particularly important because within the Dublin region, there are quarries for stone, but there are limited sand and gravel deposits. So that's why there would have been particular interest in following up this.

Q. On the 6th June, Mr. Breathnach wrote to the Chief Executive of Coillte referring to prior correspondence and inquiring whether it was intended to put the property on the market within the following five years.

On the 7th June 1989, a reply was received from Coillte indicating that lands were in the ownership of the Department of Energy and advising us to contact Mr. Tom Smart at the Department and indicating that he had copied our letter of the 6th June to Mr. Smart. On the 12th June 1989, in view of the response from Coillte of the 7th June 1989, Mr. Breathnach wrote to the Forestry Service of the Department, again inquiring as to the current situation regarding Glen Ding and whether it was the intention to put the property on the market within the next five years, as Roadstone was at that time updating its options on gravel deposit acquisitions over that time span.

On the 12th June 1989, you received a letter from Mr. Smart referring to our earlier letter to Coillte and indicating that the Department intended to sell the land in the next few years, and indicating that the intention was to sell the land by tender. On the 12th June 1990, Mr. Breathnach wrote to Mr. Smart referring to the prior correspondence and seeking to ascertain the current situation, and specifically inquiring whether the property would be offered for sale during 1990, as Roadstone was planning its expenditure requirements for 1990.

On the 16th February 1990, a reply was received from Mr. Smart indicating that while every effort was being made to put the property on the market, it could not be guaranteed that all the preparatory work would be completed to enable the Department to advertise it in 1990.

Roadstone was subsequently advised that Mr. Philip Carroll of the Department would be the person involved in the sale of land. You say that you are unable to say who advised you of this.

On the 10th May, at a meeting in the offices of the Department, attended by John Gillespie, Philip Carroll and Tom Smart, yourself and Seamus Breathnach were advised that 50 to 55 hectares would be offered for sale probably in the course of the year, and the method of sale, while not finalised, was likely to be by public tender. It was also indicated that a private treaty offer from Roadstone might be considered, and you attach a copy of some rough personal notes you made of that meeting at Tab 12.

I'll come back to that note later on, I think.

By compliment slip dated 6th June 1996, signed and sent by Mr. Smart, Roadstone received a map showing the approximate area of the lands. And you exhibit that at Appendix 13, or Tab 13.

On the 14th July 1990, Mr. Breathnach had a telephone conversation with Mr. Smart regarding planning permission.

And you exhibit a note of that telephone conversation.

In July 1990 a map was received from Coillte. And that's exhibited at Appendix 15; it's in Tab 15.

On the 12th July 1990, you started the process of a preliminary assessment of issues that would affect the valuation to be placed on the lands, which included, inter alia, an assessment of the effect of the period of time

over which Roadstone could hope to exploit the reserves.

You considered at that time a then Net Present Value of 13 pence per tonne to be appropriate. You also established the purchase costs of other reserves by Group companies in the recent past which showed that one purchase in the southeast was equivalent to 10 pence per tonne of rock, and another at 10,000 per acre in the south. At that time, very few purchases of raw material were being made by the Group in Ireland.

On the 1st August 1990, you held your second meeting with the Department, and you are unable to say who attended the meeting other than Mr. Carroll. You have a rough note of some of the key issues which were discussed. It was clear to you the Department were anxious to achieve a sale which was not subject to the purchasers obtaining planning permission, but you were of the view that you could pursue this issue further in negotiations. And you refer to your note.

On the 21st August 1990, you received a memo from Seamus Breathnach advising you of some of the historic issues relating to the site including inter alia, rights of way and so on.

On the 23rd August 1990, you received from Philip Carroll of the Department a letter with enclosures setting out the basis of the Department's valuation of the timber, the average timber prices used at the date of the valuation, and a general note of the method of valuation of forest

crops.

On the 13th September 1990, you considered a number of issues relating to your estimation of a possible offer.

On the 26th September 1990, you held your third meeting with the Department, and you are unable you were unable to say who attended for the Department apart from Mr. Carroll.

On the 27th September 1990, you wrote up some rough notes on the key issues discussed at that meeting. You offered $\text{€}1.1$ million, made up of an offer of 0.7 million with an additional 0.4 million to be paid upon achieving a satisfactory grant of planning permission, and it was agreed that the Department would revert to you with their response. They also requested that you set out your offer in writing.

On a date which you can not recall, Peter Fagan of Irish Woodland was engaged by Roadstone to provide brief advices on the value of the timber on the land. Based on his advice, your assessment was you should value the timber at approximately $\text{€}100,000$.

On the 28th September 1990, your colleague Donal Dempsey wrote to your general solicitors, Gerard, Scallan & O'Brien, seeking advices on the drafting of a confirmation letter of your offer. On the 1st October 1990, your colleague Donal Dempsey prepared some rough notes about the issues to be considered in relation to the letter of offer.

On the 4th October 1990, a letter of offer was sent by you

to Mr. Carroll of the Department. Your notes which you have made at the foot of that letter indicate a telephone call with Mr. Carroll in which he confirmed that he had received your letter, that the contents were clear, that the process was complex, that he would have to involve the Department of Finance, and that he would revert to you in three or four weeks' time to let Roadstone know the status.

On the 23rd November 1990, you held your fourth meeting with the Department, but you have no note of that meeting, and you are unable to recall who attended from the Department, apart again from Mr. Carroll. At that meeting, while your offer was discussed, your recollection is that the meeting was inconclusive but that the parties agreed to continue the negotiations, and both would endeavour to finalise the matter relatively quickly.

On the 27th November 1990, you received from the Department a letter written by Mr. Smart enclosing a copy of the map and inventory of the timber to assist you in arriving at a valuation of the timber.

On the 5th December 1990, you held your fifth meeting with the Department, and according to Donal Dempsey's notes, which you refer to at Tab 28, was attended by the Assistant Secretary of the Department, Mr. Sean Fitzgerald, Mr. Philip Carroll and Mr. Tom Smart. According to your notes, you reached agreement to acquire the lands at $\frac{1}{2}$ 1.25 million. This offer was made against the background of your assessment of a viable project at 1.15 million

based on your investment return criteria, with significant attendant planning risks and additional costs which Roadstone would incur relating to planning, development and interest costs. It was made clear that your offer was subject to securing the approval of the CRH Board. Notes of your colleague Donal Dempsey, who attended the meeting, are, as you have already said, at Appendix 28.

On the 5th December 1990, your colleague requested your then solicitors, Messrs Gerard, Scallan & O'Brien's assistance with regard to the drafting of an appropriate letter of offer.

On the 7th December you sent to Mr. Carroll of the Department a formal offer which is stated to be subject to the approval of the CRH Board.

On the 18th December, 1990, you attended a meeting of the Acquisitions Committee of the CRH Board. A document entitled "Capital Expenditure Application", prepared by your colleague Donal Dempsey, was presented at the meeting.

The matters discussed included planning permission, competitive situation and downside risk. There followed a general discussion, and the proposal was unanimously approved. This is confirmed by the minute of that meeting.

You should explain that the Acquisitions Committee of the Board of CRH has the authority to approve, on behalf of the Board, acquisitions at this level. The Acquisitions Committee advised the Board of its decision.

On the 18th December 1990, you wrote to the Department

confirming that the offer had been accepted and was now unconditional.

Then you make some general comments.

Once the Department confirmed their negotiation team, all our discussions and negotiations were exclusively with the designated team. They supplied all essential information for the transaction, but no more. Several requests for the deposits survey information were refused. The CRH Group companies operate in a decentralised manner in which you and your colleagues were empowered with the responsibility for managing and progressing Roadstone's activities. There were some uncertainties surrounding the purchase, especially relating to planning, rights of way and reserve quantities. There were also very substantial development and funding costs over an extended period.

"I considered this to be a very straightforward but hard-fought negotiation where we were stretched to offer a sum that appeared to meet the seller's expectation and which was very significant in terms of the company's cash flow and profits at that time. I had no express knowledge of the interest of any other party in the purchase of the Glen Ding lands."

You have a clarification note: "As these lands are in the townland of Deerpark in our files, they are normally referred to as the Glen Ding lands."

I understand that point, but through the all the controversy that arose, they have been called "Glen Ding

lands".

A. Unfortunately.

Q. I think I may have said they are normally referred to in your files as "the Glen Ding lands". They are normally referred to in your files as "the Deerpark files".

Could I just ask you for a moment to turn to Tab 11 in the book, Book 77.

A. Yeah.

Q. Which equates with Appendix 11 of your own statement, if you only have a copy of your statement.

This is a note that was made, it seems, in relation to a meeting that you were to have with the Forest Service, and I think it must have been your am I right in saying it would have been your it was your first main meeting, I think, with the Department?

A. Well, unfortunately it has no date, as you can see. The reason for including it is it was in the files, and consequently I included it. My belief is that you are correct in that the typed section of it refers to the meeting on the 10th May. My belief also is that the rest of it refers to a conversation after the meeting on the 10th May.

Q. Yeah, with Mr. Carroll?

A. Yes. That's my belief. Because there is some in Exhibit 14, and it may relate to this, I am not certain, but in that exhibit there is a discussion between Seamus Breathnach and Tom Smart regarding the question as to

whether the Department already has planning, and Tom Smart appears to have informed us that the purchaser to get planning.

Q. I can approach it from another point of view. I have just been looking for a document just to be sure that I am right in approaching it from this point of view.

The note says "Tuesday", and it says I presume that should be "Muirtin"; it says: "Philip Carroll of the Department telephoned him looking for a meeting with him and John Gillespie at their offices in the Forest Service, Leeson Lane, at 11.30am on Thursday"?

A. Yeah.

Q. And the meeting of the 10th May was a Thursday, as we see from Tab 71.

A. That's right.

Q. Your note of is that a note, do you think, of the meeting, or is it the note of a telephone call?

A. I would expect that that refers and that's, Mr. Healy, what I was my belief is that it is probably connected to the 4th July conversation.

Q. I see.

A. And this is where there seems to be an indication there that Philip Carroll and myself should have a discussion around the forestry, and that is where he appears to be telling me that they would prefer not to have an interest in the lands for the future, therefore they want to sell the trees, and that Blessington was a priority within the

Department.

Q. I think he has the last point is, "If an offer they cannot refuse"; could you read the next bit?

A. Well, it seems to say "back to planning or process".

Q. "Otherwise back on planning", or something like that?

A. Yeah, exactly.

Q. In other words, that if you made them an offer they couldn't refuse, they'd look at it; otherwise they might be forced to look at the planning issue again?

A. Yeah, well, that's likely. I mean, what I take out of that note is the two points. One is that they definitely want to sell the trees. And secondly, that it is a priority for them. They are the clear things that I would take out of that.

Q. In Tab 12 of your book, which is the next tab, or if you like, Tab 71 also of Book 75, whichever people are working from, you have what I take is a memo of the meeting of the 10th May in your own hand; is that right?

A. I would not describe it as a memo. If I could just explain that in 1990, Roadstone had just come through a very traumatic period where we had laid off half our people; we were just about in the black, and we were a very lean, busy place. I was involved in a serious negotiation, so I needed some aide-memoire in terms of what I considered at the time to be critical issues. So I simply noted for my own purpose, and not for any other purpose, and certainly never expected it to appear ever again, but I noted for my

own purpose so that I would be when I'd go to the next meeting, that would have some key points that I considered to be key. So that's purely the intention here.

Q. I'm not going to go through the entire document. You simply refer to who was present at the meeting: John Gillespie, Philip Carroll, Tom Smart.

You go on: "JG is" that looks like "management now."

A. Yeah. Effectively, I wanted to know what was I playing against. And one of them was a management guy. Philip Carroll was clearly the lead negotiator, and Tom Smart was the link with the past; he was there to connect with he had been involved in Blessington before, and he was to link to the past. And that's really I just wanted to know who the team were and what positions they were playing in.

Q. Right. If I could just go through the wording, just to be clear in my own mind.

"JG is management man (Principal Officer). PC is to operate deal, TS is link to past exercises."

I just want to establish where you would have got that information. Would it have been at the meeting, or from somebody else?

A. Yeah, at the meeting would have been indicated that Tom Smart was the man who had some history of the place, and he would provide continuity.

Q. Well, as we know from the file, in any case, he was the man who went right back to the Coillte days and came right forward to the Department of Energy days.

A. Yeah. And I mean, that would have been normal in terms of our negotiation style to find out you know, who we were playing against.

CHAIRMAN: Had you in fact noted or been aware of the mention of the matter in the Dail?

A. No, absolutely nothing. This was my Chairman, this was my first encounter on the issue, and I simply had this information.

Q. MR. HEALY: Could I ask you just to clarify one thing for me, Mr. MacAodha, and that's at Tab 15, there is a map, and it says, at the top it says: "With compliments, Peter.

Copy of map as agreed at the site." This is on a Coillte compliments slip. Then underneath that, "Donal"; is that Mr. Dempsey? That's probably a reference to Mr. Dempsey?

A. I mean, the only significance I have looked at this map, and it certainly wasn't a key document during the negotiation; that I can assure you.

Q. Yes, yes, I appreciate that. It's in fact a map of the lands which the Department envisaged retaining, and they sent copies to yourselves and to Mr. Johnston. But if you look at the handwritten note, it says: "Donal, Seamus has not got a copy of the drilling report and would like same. Can you arrange it, or will I? Tommy." Is that "Tommy", or "Johnny"?

A. I honestly don't know.

Q. And who would that be?

A. I have no idea. Other than that this appears to be a map

showing the Rath Turtle Moat.

Q. It's really a reference to the drilling report that has attracted my attention, in that somebody has appears to be conveying a message from Seamus, which is presumably Seamus Breathnach?

A. I honestly can't help you, Mr. Healy, on that. It's

Q. You don't think it's Seamus Breathnach?

A. I simply don't know. This was in the file, and I thought that it would be helpful to the Tribunal to have the documents that were in the file. And the only belief I have is that this shows the Rath Turtle Moat, and it's a larger scale than the other maps to show the detail in relation to the Rath Turtle map.

Q. Can I ask you to look at the bottom of the map; maybe you can help me on this. Look at the very bottom of it. It has a little code of a circle, and a cross within it, and it says "Drill holes". Do you see that?

A. Yes.

Q. And then if you look at the map, that shows a whole load of drill holes; do you see those?

A. Oh, yes.

Q. And the map is gridded off, if you follow me?

A. Yeah.

Q. And the drill holes are shown across the area.

A. My belief is that that was the survey that the Department had done. That would be my only but certainly we did no survey.

Q. I appreciate that, yeah. The message seems to be "Seamus has not got a copy of the drilling report and would like same. Can you arrange it, or will I ?"

Maybe at the lunchtime break, Mr. Dempsey might be able to help us, or somebody might be able to help us in relation to it.

A. I can say that we did look for the survey, and we were refused.

Q. More than once, you said?

A. Yes. Because clearly it was of interest to us.

Q. Well, Mr. Johnston was looking for it as well, several times, and he seems to have asked several times, and he didn't get it either.

A. Well, I understand, Mr. Healy, from the documentation that I scanned, that he was informed that there was 8 to 10 million, or some such numbers, whereas we weren't given that information. But I am not certain of that now, but

Q. Well, from the file it would appear that he was given two sets of figures, yes. Both indicative, and there appears to be a note on the file that Mr. and indeed there is a letter from Mr. Carroll to him indicating that that's just a sort of a rough indicative figure and that it's up to himself to make his own calculations. But you hadn't in any case, you hadn't received any information of any kind from the Department, other than possibly that map?

A. Well, that map is in relation to the Rath Turtle Moat. That doesn't relate to the survey.

Q. It surely does.

A. Excuse me, I beg your pardon, it shows it doesn't give any information from the survey.

Q. It just gives you the drilling

A. Pattern, yeah.

Q. Is that an important or a valuable piece of information?

A. It was of no value to us unless we got the results of the survey.

Q. I see. You say in your statement that in that year very few purchases of raw materials were being made by the Group. In fact, I think you say at some stage that between 1988 and 1990, you were making very little by way of new acquisitions in terms of raw material. Was that for the reasons you've stated earlier, that the company was slimming down in response to economic conditions, or

A. Well, just to maybe clarify two things there. First of all, the company that I was Managing Director of was Roadstone Dublin. And within the Group in Ireland, there would have been Roadstone Provinces would have been in the larger part of the country, then John A. Woods would have been in the south, and then there was also a company in the north. So we were one of four companies, and clearly raw materials, you may get a lot in one period and you get very few in another period. But certainly the recession would have affected things.

Q. You referred to a document of the 12th July at Appendix 16, Tab 16. Maybe you'd just explain to me what light the

document can throw on the issues that the Tribunal is examining. I see a list of names in the top left-hand corner, Wilson, Ballyhorsey, Ballyadams, O'Reilly, Blessington, Behans, Manelly". Perhaps you'd indicate what that list is about?

A. Well, they would have been other raw material Ballyhorsey, for example, where I say, for example my name is opposite that would have been a sand and gravel deposit in Wicklow which we would have bought some years earlier. So I would have been just making a note for myself that I ought to have a look at that and just see were there any lessons I could learn from that, or what sort of prices might have been paid, and that would have been a sort of a list of things of that sort.

Q. And then underneath that you have it looks like some sort of working calculations under the heading "Blessington"?

A. Yeah. Well, I suppose the first thing that I was looking at there was the 20 pence per tonne of royalty, which was the sort of sum that we considered to be a reasonable or a number that we could cope with, and because as my colleague Donal Dempsey

Q. When you say 20 pence per tonne of royalty, do you mean that that's what you'd be getting out of each tonne, is it?

A. Yeah

Q. It's just the use of the word "royalty" confuses me slightly.

A. Okay. In other words, that we could value the deposit at 20p per tonne.

Q. It's actual value?

A. Yeah. So in other words, if there was 1 million tonnes, it would be 20p multiplied by 1 million tonnes, which is $\frac{1}{2}200,000$, as a reasonable value to pay for that in the ground, all other things being equal.

Q. Today?

A. At that time. And that was because of the delay apologies for interrupting because of the delay in us extracting it, that in terms of a Net Present Value, it would be 13p. So this 1 million tonnes, we would now value at 130,000 at that time.

Q. So underneath that you have therefore at 10 P per tonne, if you were being asked to pay 10p per tonne, it would be very good value; if you were being asked to pay 14p per tonne, you'd say good value; and if you were being asked to pay 20p per tonne, what's that?

A. "Just okay." And then the 20p would refer back to a 13p per tonne. So effectively I was saying that 13p per tonne was just okay at that particular point in my deliberations.

Q. I can follow that. Do you know what you actually paid in the end per tonne, based on what you thought was in there?

A. Well, there was obviously, Mr. Coughlan and Mr. Dempsey discussed this, in the 15 million tonnes, and I think what I have there probably represents a reasonable statement of it; that we thought that there might be 10 million tonnes

there. 15 million tonnes, in my view, was a top side, and obviously that assumed you got planning for everything. It was a what-if situation.

When we went to the Board, as in all of these situations, you are involved in a slightly different exercise. You are trying to get somebody else to buy into it, and we would tend to be a bit more optimistic, because financial guys in CRH Central obviously tend to be fairly strict on us, so we would have pushed the number up a bit. So I think of the order of 10 million tonnes was our best guess at the time.

Q. Can you just help me to decipher this; I am not an accountant. You have "Current 10 by 10 to the power of 6", obviously 10 million tonnes. "Estimate". What I am trying to work out is, what were you at what were you valuing the cost of it at, if you were going to approach it at, say, $\frac{1}{2}$ 10 million per tonne?

Do you see what I'm getting at?

A. Of course. I'd just like to say, this was 12th July.

These were what might colloquially be referred to as doodles, and effectively it was sort of saying probably two things: One is that 13p per tonne seems to be just okay to pay for the thing, and the second thing it seems to be saying is that the current estimate is of the order of 10 million tonnes. And it's sort of a very preliminary stage, just trying to get some feel for what sort of parameters we might be talking about.

And obviously I'm also saying that subject to planning for

the entire deposit, because obviously that was a big issue for us, and that we needed to know about the timber. And I also, at that time, because we were going to have to bring CRH and the financial people on board, I was trying to see, you know, what sort of things other companies who had got approval from CRH might have paid, and that's where I got this 10p per tonne, which is sort of scribbled there amongst all these doodles, and also the $\frac{1}{2}$ 10,000 per acre. So I was really trying to get the broad parameters in terms of pence per tonne, approximate quantities, and what other CRH companies and this, remember, was 12th July. We only had one preliminary meeting.

Q. Right. What I am just trying to translate is the 10p per tonne NPV at 10 million tonnes estimate of the quantum reserves.

A. If you do the sum

Q. I was doing it's just over 1 million, dividing by 7, roughly. 1.4 million, is it?

A. Yeah, if you take 10 million at well, at 13, it's 1.3, actually. But I would like to explain to the Tribunal that these are simply very rough doodles that happened to be on the file; and as they were on the file, I thought it prudent to include them in the documentation.

Q. They are of some assistance to the Tribunal, because the Tribunal has to look at the question of value here to some extent as well.

The next note you have in Book 77 at Tab 17 is headed "1st

August 1990".

A. Yeah.

Q. And at that stage you have a figure for the total number of hectares, 58.68 hectares total. And there is a set of calculations on the right-hand side, giving a total of 53.3. I presume that's hectares, is it?

A. I expect so.

Q. Do you know what that's about, or have you any idea what they're about?

A. Well, looking at them now, I expect that that's the way the map was made up, and I was trying to double-check whether the 58.68 was right or not.

Q. I follow.

A. I'd just like to remind the Tribunal that obviously the meeting took place on the 1st August, so this is an aide-memoire that I did after this.

Q. This was a kind of a this was a meeting where you were seeking it's the Department note of the meeting is contained at Tab 77 of Book 75 and I am not going to go through it all in detail, but essentially, according to the Department note, the purpose of the meeting was to address four issues being raised by Roadstone: the precise area, and you have obviously referred to that in your note; a basis for calculating the value of the trees, and there is some reference to trees, do you see, a reference to a felling licence; the question of planning permission; and the question of felling licences.

You have a note which seems to summarise the main thing to come out of the meeting, which was the Department's saying subject to planning permission was not on.

Then underneath that, is that "Department" is it, or "Door"

A. No, "Door not closed completely on subject of planning permission."

Q. So you were saying that the Department had indicated that they weren't enthusiastic about the notion of receiving or entertaining an offer, but that judging from the note of the meeting, they would listen to an offer even if you put in an offer containing a condition subject to planning permission?

A. Yeah, mine, that was my view. They may not have held the same this was a negotiation where I was trying to push it in a way that suited me, and they were obviously trying to push it, and I just wanted to steel myself to continue and try and get the planning permission. Because obviously I was very concerned about the whole planning permission issue, and it was a big risk from our perspective, and we wanted to share that risk.

Q. I am really just seeking to pinpoint sort of parallel areas between your negotiations with the Department and Mr. Johnston's negotiations. He was raising some similar issues. He was looking for the information about the borehole results and so on. And the Department were telling him that they, as they were telling you, they were

not interested in applications that were subject to planning permission.

Eventually you reached agreement with the Department, on the 5th December 1990, at $\frac{1}{2}$ 1.25 million. You say in your statement that in relation to the role of the Acquisitions Committee of the Board of CRH, that the Acquisitions Committee of the Board of CRH had authority to approve on behalf of the Board acquisitions at the level of 1.25 without seeking full Board approval.

There was, in other words, a threshold above which, notwithstanding the approval of the Acquisitions Committee, a proposed acquisition would have to receive the formal approval of the full Board; is that right?

A. I believe rather the other way, that the Chief Executive had the authority to approve up to a certain level.

Q. The Chief Executive of?

A. Of CRH.

Q. I follow.

A. He would have had approval, and above that level, it went to the Acquisitions. But the Board, as I understand it, had the full authority the authority of the Board was delegated to the Acquisitions Committee, and their approval was effectively the Board approval, and it was simply a matter of noting that subsequently at a Board meeting.

Q. You have a note of either the meeting, taken at the meeting, or a note of what happened at the meeting. You can clarify that for me in a moment.

At Tab 28 Appendix 28, could you just turn to that for a moment.

A. Yeah. This is the 5th December meeting?

Q. Correct. It starts off with, on the first page, a note giving the date "5/12" then the people present

A. Sorry, I beg your pardon, Mr. Healy

MR. BARNIVILLE: I think that's Mr. Dempsey's note.

Q. MR. HEALY: I am sorry.

A. No, my note is 27.

Q. I am sorry, I follow.

If you just look at Mr. Dempsey's note for a minute, and if you could just go to the last page of it, it says:

"Intermediate offer of $\dot{\iota}_{\dot{\iota}}^{\dot{\iota}}1.1$ million without planning permission was firmly rejected by Department. Therefore Department bottom line is above $\dot{\iota}_{\dot{\iota}}^{\dot{\iota}}1.1$ million.

"Negotiations indicated that Department bottom line was about 1.3 to 1.4 million.

"1.25 is just sufficiently close to encourage them to conclude a deal. They feel comfortable dealing with a major company.

"Planning: 28 people employed in Doran's helps."

Do you remember any discussion at the meeting to the effect that the Department felt comfortable dealing with a major company?

A. No, I can't certainly I have no recall of any suggestion from their side. I think from our own side, you know, in terms of our general experience with people and in terms of

payment, particularly when it comes to large sums of monies

Q. Well, you were good for the money, absolutely no doubt about that?

A. Once we signed. So we felt that that would be certainly I felt that that would be an advantage. But

Q. But do you recall the Department saying anything which might have encouraged or might have warranted Mr. Dempsey making the note that "They feel comfortable dealing with a major company"?

A. No, I think, Mr. Healy, we were in a situation where we had done, before this meeting, quite a bit of financial work.

And I suppose one of the things that had changed since my notes in July, where I was looking at you know, simply royalties and things, that we had looked at it in a bit more detail, and we found that there was an additional over 2 million, between interest payments, planning and development. And this now formed a significant part of our investment, and that tended to like, affect the final decisions to a greater extent even than whether it was 9 million or whether it was 12 million, this plus 2 million thing. So it's certainly my clear recollection is that we were finding it difficult, once we went above a million.

We decided we had a viable project at 1.15, and we went into a meeting seeing if we could finalise it at around that figure. So we were definitely getting close to walk away once we went above $\frac{1}{2}$ 1.1 million. So I think that was

the frame of mind we were in during that discussion.

Q. Right. I just want to clarify one thing you said a moment ago, and I think you may not have been fair to yourself. I understood you to say obviously I misheard you and the transcriber got you right I thought you said you had a valuable project of 1.5?

A. I beg your pardon; it should be viable.

Q. 1.15 would be viable.

A. Sorry.

Q. No, I made the mistake, because the stenographer got it absolutely correct.

I suppose, from your point of view, leaving aside the actual value of the site in terms of how much money you could make out of it, the strategic issue here was that there was no other similar site within easy reach of Dublin, isn't that right, according to your paper?

A. Yeah, certainly there were no substantial in the area there would be a number of smaller deposits, and clearly we also had significant employment. We had been down there since I think late sixties or thereabouts, so we had been there, we had good people down there, so clearly we were very interested in continuing our operation there into the future.

Q. And would I be right in thinking that you would have been interested in securing with yourselves and making sure no competitor secured it?

A. Well, I suppose, as a company we are involved in a lot of

different activities: selling to builders, major contracts, selling to civil engineering on road and such things. And we also have a very clear commercial ethic in terms of how we operate. So we would have put values on things, and we were always prepared to walk away once we hit certain values. I mean, you can get a road job easily enough if you start changing your price equally well. We always had to live with whatever we paid for it, we had to show that we got a return on it. It didn't get swallowed up somewhere else within CRH. It was within our own company. So there were important strategic decisions, and we felt at that time this is back in 1990, when 1 million was a lot of money for our company. 100,000 was also a lot of money at that time; it's very, very different now. So moving even from 1.15 to 1.25, for Donal Dempsey and myself, you know, was a significant issue that morning in Clare Street.

Q. Does the land have any long-term residual value for you, either if you work it out or if you can't work it at all?

A. Well, at the time, and this was probably the structure of the 0.7 and the 0.4, at the time I put a rough value of $\frac{1}{2}$ 1,500 an acre on the lands, which gives you sort of 225,000 as a very rough number, and 100,000 on the timber. And that gave 325,000, and that sort of in my mind rounded up to a round 0.4 million. And that was at the time what I considered to be the sort of the bottom of the scale if we didn't extract material. And that was the basis.

Q. Was that the salvage value of the place, in other words, from your point of view?

A. Yeah.

Q. That if you had to flog it, that's what you'd get for it?

A. Well

Q. 400,000?

A. At the time, I didn't consider that we would be selling it, but in terms of the risk, the zero-risk option, as I considered at the time, was about 0.4 million, and once I went above that, I was taking some risk.

Q. I notice that in the paper you refer to the planning risk at least I think you refer to the planning risk in the paper; I presume you do.

A. Sorry, I beg your pardon?

Q. I think you refer to the planning risk in the paper in Mr. Dempsey's paper, I beg your pardon.

A. Yeah, I think if you look at all of my doodles and aide-memoires, the planning comes up each and every time.

Q. I may be wrong on this, but I had the impression that the planning risk was mentioned in Mr. Dempsey's paper, but I don't seem to see any reference to it.

If you look at page 2, the technical evaluation, you see where it refers to the location of the pit, that paragraph:

"The location of the sand pit at Blessington is ideal being the only site of any scale within 18 miles from the city centre and 13 miles from the Belgard Quarry where major concrete products and ready-mixed concrete plants are

operated". This is at Tab 3 of Mr. Dempsey's bundle of documents. It's at Leaf B.

A. So, you are reading the strategic benefits?

Q. Yes. Well, just above that there is a description, there is a technical evaluation; do you see that?

A. Yes.

Q. "The property has been surveyed and is estimated to contain 15 million tonnes of saleable material, equivalent to 15 years' reserve at current extraction rate.

"The property will be bought without planning permission. An application for same will be made as soon as possible after purchase."

Now, I appreciate the point you made earlier about the role that you had in approaching the Acquisitions Committee, and the fact that you were effectively putting a case to them or selling a proposition to them. But could I just ask you whether I am right in thinking that there is no major reference to any planning risk here?

A. Oh, in the document that went to the Board, no. No, but if you look at all of the pieces of paper which we have furnished from our own files, it's each and every occasion, and I think in my own general comments, Mr. Healy, I think

Q. I fully accept that; it's mentioned everywhere. It's just not mentioned here at all, and I wonder, is there some reason for that?

A. Clearly, we were putting the best face on this document

because we wished to get approval for this, so it was not in our interest to be highlighting downsides. We were more inclined to highlight the upside rather than the downside.

Q. Could I ask you just to look at the paragraph before that, where the paper states: "The property has been surveyed and is estimated to contain 15 million tonnes". That seems to be a rather formal statement of an estimate of what the property contains. It says it has been surveyed.

A. Yeah, I think there is probably a little bit of poetic licence in the use of the phrase there. I mean, factually, no survey was carried out. We would have reasonable knowledge of the area, and it was based on us surveying, our reasonable knowledge of the area, that we arrived at a figure which we inflated a little for the purpose of this.

Q. But comparing your view of the thing and the view expressed by Mr. Johnston yesterday in evidence, or the evidence given by Mr. Johnston of his view, he felt that he would eventually get planning permission that's what he said in evidence, in any case that he'd eventually get planning permission. Would this seem to suggest that you felt the same at the time, that it wouldn't be a major difficulty?

A. I certainly would not have envisaged the sort of difficulties that we have that were highlighted earlier. I certainly wouldn't have envisaged those difficulties.

Q. Just one, I think, final matter, and this is probably an omission on our part. The contract hasn't been put with

the documents, but the contract that was ultimately negotiated, and that took some considerable time to negotiate, involved splitting the purchase price, am I right, between the land and its sand and gravel deposit on the one hand, and the trees on the other hand?

A. I

Q. You're not aware of that?

A. Well, I may have been at the time, and it's not something I have refreshed my mind on in preparing for this.

Q. I appreciate that. And we'll have to get it on the record, but you'll recall that Mr. Johnston yesterday referred to the fact that the contract was conditional. Now, of course the contract contained conditions, and indeed contained a number of special conditions which may have been negotiated by you with respect to the question of the trees. I think one of the conditions, and you may remember this, was that you were to get a felling licence for the trees; isn't that right?

A. Yes, and in fact even in my notes there, I had emphasised to them the importance of us having the right felling licence at the right point in time so that we could extract the gravel as was required by our business, rather than what was required by the forestry side.

Q. But one of the conditions by which the Department was bound, in selling the land to you ultimately, was not necessarily to guarantee you'd get a licence, but I think it was to facilitate you in any efforts or in the efforts

you'd have to make to secure a felling licence; am I right in that? Is that a fair way of summarising

A. I expect that that's right. I have to say I didn't familiarise myself with the detail of that. But I know in terms of the negotiations and the spirit of the negotiations, we would have at all times explained to them that what was critical on the felling licence was that it would be determined by the sand and gravel requirements rather than by the forestry, and that would have been in the spirit of the discussions that we had with them.

MR. HEALY: There is one matter, sir, that we haven't taken up in any detail with either Mr. Dempsey or Mr. MacAodha, because in fairness, we haven't although it has been referred to in correspondence we haven't mentioned it in any detail. And it may be necessary to detain Mr. MacAodha for a short few minutes in the afternoon, but in order, as it were, to enable him to explore the area in advance of giving evidence, it might be helpful if we could adjourn at this point, because I want to refer to extraction rates in the various planning applications made in respect of the Glen Ding site and their impact or the implications they have for what Roadstone believed to be the full extent of the sand and gravel reserve. It's rather technical, and rather than delay everybody by going through the technicalities of it here, it would be easier if we could talk to the witnesses first.

CHAIRMAN: Two o'clock.

A. Chairman, there was one other issue that came up this morning just in terms of the relationship between the negotiation and CRH and Mr. Traynor

Q. MR. HEALY: I'll be coming to that, but you can talk about it now if you want.

A. Well, just if it suits the Inquiry, just to clarify that my role was Managing Director of Roadstone Dublin. I reported to Declan Doyle, who was responsible for the Irish companies, as I outlined earlier, plus the cement companies and other companies. He reported in turn to the Regional, Diarmuid Quirke, who reported in turn to Tony Barry. So I would have kept my immediate superior informed as to the stages of the negotiations and how we were progressing in a general sense. He would have had no involvement whatsoever in terms of the detail, because we were the experts and he was simply needed to be advised so that when it eventually came to CRH for approval, that he was fully conversant with the issues.

So that was the role. I had no contact with Mr. Traynor.

I was dealing several a few notches down the

Q. Food chain.

A. the order, and had no contact

Q. You are saying that he was remote from the dealings you were having day to day in relation to this?

A. Very, very remote, and even on social occasions like the AGM, which would be typically where you would meet the Chairman, issues of operational issues or anything like

that would not be discussed in any way.

Q. Well, that was one of the things I was exploring with you earlier. Maybe I'll just summarise to some extent what I feel comes from the documents, and you can agree or disagree with me.

This negotiation, from your point of view, went well?

A. Well, what I would say is that it was straightforward in that we asked for information, we got it, and we Seamus Breathnach, Donal Dempsey and myself looked at it, and we came back with what we thought were reasonable responses, and we eventually got to a point where we both felt we had done a deal which was appropriate for our organisations.

Q. I won't say you encountered obstacles, but issues arose from time to time. The first issue that arose that you ventilated that we ventilated a moment ago or canvassed a moment ago was the question of whether you could force the Department's hand or would be able to force their hand by confining your offers to conditional offers subject to planning condition.

Eventually you had to drop that, and you proceeded on to the next stage, which was pure money; is that right?

And then finally, the side issue, if I can put it that way, was the question of a felling licence. There was no point in you buying a forestry you had to be able to get rid of those trees eventually, and you resolved that by ordinary negotiation.

A. Yes.

Q. Thank you very much.

CHAIRMAN: We'll take up the balance at two o'clock, then.

THE TRIBUNAL ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AFTER LUNCH AS FOLLOWS:

CONTINUATION OF EXAMINATION OF MR. MACAODHA BY MR. HEALY:

Q. MR. HEALY: Thanks, Mr. MacAodha.

Now, there may be, as you probably know from speaking to your solicitor, a further matter which might require the Tribunal to detain you later on in the afternoon, but hopefully one of the other witnesses will be able to deal with the matter. But just before you leave the witness box, I want to draw one other matter to your attention in the light of the questions I was asking you about the map which contained the borehole location, which contained the borehole locations, and which contained, I think, a note asking Mr. Seamus Breathnach to see if he could get some more information.

Now, there is another document which the Tribunal identified over lunchtime which I think is only fair to draw to your attention, because you have probably forgotten it. It's on the monitor; can you see it there?

A. Yes.

Q. I'll just read it out. It's a letter from you to Mr. Philip Carroll dated the 18th December, 1996. It's in the Department files. It says: "Dear Philip, "Prior to selling the land at Deerpark, Blessington, to Roadstone in 1991/1992, your Department carried out a

series of Geological Survey boreholes via the GSI on these lands.

"Roadstone Dublin is currently preparing a planning application for submission to Wicklow County Council in early January 1997 to enable the company to extract sand and gravel from circa 90 acres of these lands. Roadstone (Dublin) Limited has carried out a Geological Survey as part of its EIS submission to the County Council. However, it would be very helpful if we have available to us the results of the GSI survey carried out for the Department of Energy (Forest Service).

"I would appreciate if your Department would make the data available to Roadstone. I would appreciate an early reply.

"PS: If you wish to discuss further by phone, please contact me. Regards, Muirtin."

Then on the right-hand side, in a note dated the 14/1/97, is in manuscript: "Mr. McGowan, can this report be given?

I would appreciate your advice as soon as possible.

Roadstone are ringing frequently looking for me."

Now, there is a reply to that letter, dated the 21st January, 1997, addressed to you: "Re: Lands at Deerpark, Blessington, County Wicklow.

"Dear Mr. MacAodha,

"I refer to your recent inquiry concerning the provision of the report of a survey of the land at Deerpark prepared by the Geological Survey of Ireland.

"I regret to inform you that the Department is unable to

release a copy of the report to you."

That's all I want to clarify. You may not have remembered that before now, but presumably you do remember it now?

A. Yes, yeah.

Q. Thanks very much.

A. Thank you.

CHAIRMAN: Just one or two other questions there may be.

Anything arising, Ms. Leyden?

MS. LEYDEN: No questions.

MR. REGAN: No questions.

MR. BARNIVILLE: Just a few questions.

THE WITNESS WAS EXAMINED BY MR. BARNIVILLE AS FOLLOWS:

Q. MR. BARNIVILLE: Mr. MacAodha, you heard me asking

Mr. Dempsey a number of questions by way of examination in relation to both the negotiations and the extent of any

alleged political influence in the transaction. I just

want to ask you to confirm a couple of things.

Do you agree that these were tough, courteous but

commercial negotiations?

A. Absolutely.

Q. That ultimately the Department succeeded in extracting the top price that Roadstone was prepared to pay for the lands?

A. Yeah. Certainly we were stretched to achieve that price.

Q. That there was no element of political influence or

interference in any way in the negotiations or in the

ultimate agreement?

A. Never even considered contacting any politician in relation

to this matter. We were informed that Philip Carroll was the person who would be doing the negotiation, and my contacts were with Philip Carroll.

Q. Your dealings and the dealings of your colleagues dealing with this matter in leading towards the ultimate agreement were all with the officials in the Department; isn't that right?

A. Yes, absolutely.

Q. And just there is another matter that arises in relation to Mr. Traynor. I think you have confirmed that Mr. Traynor was the Chairman of the Acquisitions Committee; isn't that right?

A. Yes.

Q. And you were present at the meeting of the Acquisitions Committee on the 18th December?

A. Yes.

Q. There is an extract from the minutes of that meeting, which I think is at Tab 32 of your statement, attached to your statement. And I think this arises out of one of the questions that Mr. Healy asked you. You will recall he took you through Mr. Dempsey's capital acquisitions application, and he pointed to the reference to planning permission, I think, on the second page of that document; you'll recall that?

A. Yes.

Q. And I think it's clear, is it not, from the extract from the minutes of the Acquisitions Committee meeting, that the

question of planning permission was one of the significant matters that appears to have been discussed at that meeting?

A. Yes.

Q. You see it mentioned there as one of the three items discussed; do you see that?

A. Yeah. This is the note from the Company Secretary; is that the one you are referring to?

Q. Just to make it clear, that's extracted from the minutes of the Acquisitions Committee, and the relevant meeting was on the 18th December, as we know, 18th December, 1990, and you'll see you are referred to as having highlighted certain key points, that there was a general discussion then taking place covering a number of matters, and they included the question of planning permission.

A. Yes.

Q. So does that suggest that planning permission was something that featured, certainly significantly, in the discussion that arose at that stage?

A. Yes, it certainly was.

Q. It was an important factor in your mind, I think, as well?

A. Absolutely, throughout the whole negotiations, including the discussion at the Acquisition Committee.

Q. Can you remember whether Mr. Traynor played any particular role or part in the discussions that took place at that meeting?

A. My recollection is that Mr. Jim Cullitan was the only

non-executive director at the time who had any views and had any knowledge of Blessington and what was going on in Blessington, and that Mr. Traynor was purely chairman of the meeting.

Q. And he didn't make any particular comments or have any particular input, then, into this proposal?

A. Not of sufficient significance that I can remember.

Q. Thanks very much, Mr. MacAodha.

CHAIRMAN: Thanks very much, Mr. MacAodha.

A. Thank you.

THE WITNESS THEN WITHDREW.

MR. COUGHLAN: Mr. Breathnach.

SEAMUS BREATHNACH, HAVING BEEN SWORN, WAS EXAMINED BY

MR. COUGHLAN AS FOLLOWS:

CHAIRMAN: Thanks Mr. Breathnach. Please sit down.

A. Thank you very much.

Q. MR. COUGHLAN: Mr. Breathnach, I think you furnished the Tribunal with a statement and disclosures.

A. I did indeed.

Q. I am just going to take you through that now.

A. Okay.

Q. I think you informed the Tribunal that you are Seamus Breathnach of 2 Dromarden Park, Dublin 14. And you have informed the Tribunal that since 1977 you held the position of General Manager of Quarry Products of Roadstone Limited. You were appointed to the position of Pits and Quarries Production Director of Roadstone (Dublin) Limited in the

early 1980s. The transport manager, the sand and gravel and sand pit manager and quarry management reported to you.

You remained in that position until the 30th April 1998,

when you retired from Roadstone?

A. That's correct.

Q. I think your responsibilities included, inter alia, ensuring that Roadstone had adequate reserves of sand and gravel and stone to cater for its needs in the medium-term future?

A. That is correct.

Q. In 1987 Roadstone's reserves of sand and gravel were depleting, and you felt it was time to secure an increase of those reserves. Among the options you looked at were the lands at Deerpark and Glen Ding Wood immediately adjacent to the deposit being extracted and processed by Roadstone at that time?

A. That is correct.

Q. From your observations, you had concluded that the quality of the sand and gravel deposits on the southern portion of Roadstone's lands were of good quality as of the sand and gravel in the southern portion of the adjacent pit operated by the Department of Tourism, Fisheries and Forestry, and subsequently the Department of Energy?

A. That is correct.

Q. On the 28th August, 1987, you wrote to the Department querying the possibility of purchasing the adjacent Deerpark lands, and you have included that particular

letter at Tab Number 1 with your statement. And if you would just have a look at that.

And I think it's addressed to Mr. Enda O'Connor, Estate Section, Department of Energy, (Forestry Service) Leeson Lane, Dublin 2. And you asked Mr. O'Connor I think that's dated the 28th August 1987.

"Dear Mr. O'Connor,

"As you are aware, Roadstone (Dublin) Limited operate a sand and gravel extraction and washing business at Blessington. We are currently working the deposit adjacent to your Deerpark lands. Roadstone (Dublin) Limited are anxious to purchase your lands if they are available for sale and if it is possible to come to a satisfactory arrangement on price, etc.

"I enclose a map showing the location of the lands in question."

And we just saw you had a map, and you had shaded in the Forestry Department lands and indicated your own lands?

A. That's correct.

Q. So you made contact with the Department in the first instance; this is before you had any inkling that they were putting those specific lands on the market?

A. That is correct.

Q. Now, I think you received a reply to that, dated the 2nd September, 1987, and that's at Tab Number 2. And it's from Mr. Ryan, and he says that he is directed by the Minister for Tourism, Fisheries and Forestry to acknowledge

receipt of your letter dated 28th August 1987 and to state that the matter is receiving attention.

And then there is a handwritten note at the bottom of that it's addressed to you there is a handwritten note:

"6/6/1990, rang Tom Smart" then there is a phone number

"Re map of forestry area excluded at Baltinglass, TS to forward map. Seamus Breathnach." That seems to be a note you put on at a later date.

A. That's a note I put on, that's correct. "TS" is "Tom Smart".

Q. That was a map to show the area that was excluded from sale?

A. That's right, that the Glen Ding Wood was being the Glen Ding Wood was being excluded, and I just wanted to see how much land, in addition to the Glen Ding Wood, was being excluded.

Q. Right. And you got that map?

A. I would imagine I must have got that map, I am sure.

Q. I wonder, is that the map you know the map that Mr. MacAodha had this morning showing the area excluded, but with borehole points and no report. Would it have been that map, do you think, you would have accepted?

A. It may have been.

Q. You see, I don't see any difficulty about this.

A. It may well have been, because the map that he was being queried on this morning does show precisely what I was looking for, anyway.

Q. And it also indicates borehole points, or spots?

A. Yeah, because the Department would have carried out a series of boreholes previously, and obviously they had photocopied that from the maps they used when they were doing the boreholing.

Q. I see your point, yes.

Now, there are also and just to clear this up there is a note that was referred to this morning. I take it you were very interested and you would love to have got the result from those borehole tests?

A. It would have been of infinite value to me, for the simple reason that the Department carried out an extensive survey, and I knew they were carrying it out, but I couldn't see anything in connection with it. And it would have been invaluable to me in putting a figure.

Q. And can I take it you would have inquired about it to try and get it?

A. Oh, but sure I am the person who rang the Department initially looking for it, and I was told I couldn't have it. And I rang, I think twice; I certainly rang once after everything was signed, sealed and delivered, when I returned to work. And the first occasion I was told that they'd check it out, and I heard nothing. So I think I am nearly sure, not certain, but I am nearly sure I rang a second time and that I got the same reply again, and I gave I abandoned the idea then.

Q. We see in the correspondence now which Mr. MacAodha

addressed to the Department in 1996, I think, when he was looking for the information again and it was refused?

A. That's right, yeah. That's right. But I didn't write. I just asked verbally on the phone, and I thought, when I made the phone call subsequent to the money being paid and everything being finalised

Q. That you might get it then?

A. That I thought I might get it. And even I was somewhat hopeful after the reply I got on the phone, which was, "Look, we'll check it out". But I heard no more.

Q. I just want to contrast and the Tribunal just wants to look at your dealings with the Department and Mr. Johnston's dealings with the Department. He wasn't given the survey the result either, but he was given it was communicated to him that in the region of 8 to 10 million as being indicative. Did you ever receive that information?

A. I received no information whatsoever.

Q. Now, you say that on the 2nd November, 1987, you wrote a further letter to the Department seeking to ascertain what the Department's position was regarding the possible sale of the lands. And that, you put at Tab Number 3 with your statement.

A. Yes.

Q. You write: "Dear sir/madam, "Further to my letter on the 28th August 1987 and your acknowledgment of the 2nd September 1987, I write to

ascertain whether you have come to a conclusion as to whether the lands in question are available for purchase or for letting for gravel extraction purposes.

"Yours sincerely, Seamus Breathnach."

A. That's correct.

Q. And you received no reply to that letter?

A. That's correct.

Q. Now, on the 14th March, 1989, and this is at Tab Number 4, you again wrote to the Department, having seen an article which appeared in the local Blessington paper entitled "The News" and incorporating Cill Dara News, Liffey Valley News, West Wicklow News, South Dublin News, and which indicated there was a long-term plan to preserve and develop Glen Ding Forest as a heritage park. You considered it necessary to seek clarification on the Department's plans, and you enclosed a copy of the newspaper cutting with your letter.

And if we just again look at the letter, it's addressed to the Chief Executive of Coillte.

"Dear sir,

"Further to my letter of the 14th March 1989 and earlier correspondence with the Department of Tourism, Fisheries and Forestry, I write to ascertain what the current situation is concerning your properties at Deerpark"

sorry, I beg your pardon, it's the previous one.

"Dear sir, madam,

"Further to our previous correspondence, I write to

ascertain what are your current proposals as regards your land at Deerpark, Blessington, County Wicklow. As you are aware, Roadstone (Dublin) Limited are anxious to purchase your lands if they are available for sale and if it is possible to come to a satisfactory arrangement on price , etc. I refer to my letters of the 28th August 1987 and the 7th November 1987 and the site meeting with your officials.

"A recent article on the local paper entitled "The News", incorporating Cill Dara News, Liffey Valley News, West Wicklow News, Southwest Dublin News, indicated that there is a long-term plan to preserve and develop Glen Ding Forest as a heritage park copy article enclosed.

"Does this proposed development mean that you do not intend to sell any portion of your lands at Deerpark as a potential sand and gravel deposit? I would appreciate an early reply so that we may update our own plans for the Blessington operation."

And I think we have seen the portion of the newspaper article when Mr. MacAodha gave evidence this morning.

Now, when you saw that article, I think you said you considered that it was possible that the land to which the article referred was the Glen Ding Wood only, and did not include the lands at Deerpark adjacent to the Roadstone property. The lands you were interested in acquiring for Roadstone as future reserves were the Deerpark lands. You didn't have any desire to acquire the Glen Ding Woods, as they had minimum reserves of sand and gravel and were

located immediately adjacent to the Blessington/Naas public roadway. And you received no reply to that letter; is that correct?

A. That's correct.

Q. Now, on the 6th June 1989, you wrote to the Chief Executive of Coillte, which you were aware had been established by the Government around this time to manage the State's forests. The purpose of your letter was to inquire whether it was intended to dispose of the lands and to inquire whether it would be put on the market within the next five years.

And I think we have that letter there. That is, in fact at Divider 4 rather than 5, I think. You just made that inquiry. I won't open that particular letter at the moment.

I think you received a reply, dated 7th June 1989, from Martin Lowry, Coillte Chief Executive, and he advised you to contact the Department and indicated that he had copied your letter to the Department.

Again, I just show the letter. There is no need to run through all of these; I am just putting them into the record for the moment.

On the 12th June 1989, following receipt of your reply from Coillte, you wrote to the Department. Once again the purpose of your letter was to establish whether the lands would be put up for sale within the next five years.

You received a letter dated 12th June 1989 from Mr. Tom

Smart of the Department in which he stated as follows:

"The position is that the Department intends to sell an area of land which contains a substantial quantity of sand and gravel at Deerpark in the next few years. Tenders will be invited by public tender competition which will be advertised in the public press." And that's at Divider Number 8.

Now, of course, that wouldn't have come as a surprise to you, when the State were disposing of property, that it might be that it would be by way of tender?

A. Correct. I was prepared for anything. Basically all along I was seeking to ascertain if it was coming on the market, Number 1, and if so, by what means.

Q. Now, I think you concluded from this reply that the Department's future decision would result in the Deerpark land being sold, and the Glen Ding land would not be put up for sale; that is, the wood?

A. And the Rath Turtle Moat and all that. Well, it was to me it was a logical conclusion to come to.

Q. Now, I think you say that on the 12th January 1990 you wrote a further letter to the Department, again to inquire about the possible disposal of the lands as Roadstone was at that time planning expenditure commitments for 1990.

And that's at Tab Number 9.

A. That's correct.

Q. And again that's addressed to Mr. Smart. And just very briefly:

"Dear Mr. Smart,

"Further to letter of mine dated 12/6/1989, I write to ascertain what the current situation is concerning your lands at Deerpark.

"Do you propose to offer the property for sale during 1990?

I ask this question on behalf of my company as we wish to make an offer for the property if and when it comes on the market. At present we are planning expenditure commitments for 1990."

On the 16th February, 1990, you received a reply from the Department, from Mr. Smart, and he refers to your letter, and he informs you that "While every effort has been made to put the property on the market this year" that's 1990

"we cannot guarantee that all the preparatory work will be completed so as to enable us to advertise it in 1990."

On the 10th May 1990, you attended with Mairtin MacAodha, the Managing Director of Roadstone, a meeting at the Department's Forest Service office at Leeson Lane to discuss the possible sale of the lands. John Gillespie, Philip Carroll and Tom Smart attended on behalf of the Department, and you have no record of that meeting. Do you remember the meeting, or do you have

A. I didn't, until I heard the previous evidence or the previous submissions rather than the previous evidence today. And then I did remember it. But unfortunately vaguely, but I remembered it.

Q. You remembered it?

A. Yeah. The main thing I remember, actually, is leaving the building after the meeting. I have very little recollection of the meeting itself.

Q. Very good. Now, you received a note dated the 6th June 1990 with a map from Tom Smart of the Department which showed the lands for sale. And that's at Tab 11.

A. That's correct, yes.

Q. And that's the land for sale.

A. Yeah.

Q. And on the 4th July 1990 you rang Tom Smart to inquire about the planning status of the land for sale. And you have a little handwritten note there: "Rang Tom Smart, no planning at Forestry. Purchaser to get planning."

A. That is correct.

Q. On the 1st August 1990 you attended with Mairtin MacAodha a meeting with Department officials John Gillespie and Philip Carroll. You were informed that 58.68 hectares, 145 acres approximately, would be for sale, and that 17.7 hectares, including Glen Ding Wood, would be excluded from the proposed sale. On the 23rd August, 1990, Philip Carroll of the Department wrote to Mairtin MacAodha setting out the basis of the Department's valuation on the timber site.

On the 26th September 1990, you attended with Mairtin MacAodha at a meeting with Department official John Gillespie, Philip Carroll and Tom Smart. As far as you can recollect, an offer was made of £0.7 million to purchase the land with a further £0.4 million payable upon receipt

of planning permission. On the 4th October 1990, Mairtin MacAodha confirmed the Roadstone offer in writing to the Department.

On the 23rd November 1990 you attended with Mairtin MacAodha at a further meeting with Sean Fitzgerald, Assistant Secretary; Philip Carroll, Assistant Principal; and Tom Smart of the Department to discuss the offer which had been made. The Department sought to have the condition relating to planning deleted from the Roadstone offer, but it was agreed that we would consider the request. And you say that on Sunday, 25th November 1990, you became indisposed, and you were absent from the concluding meetings and the final agreement.

A. That is correct.

Q. Can I take it that if you hadn't become indisposed at that time, you would have attended those

A. I got a coronary on the 25th November, and I had a treble bypass, and I spent it was five months later before I was allowed by my medical people to return to work. I would have been

Q. You would have been there?

A. Oh, I would have been involved.

Q. You were the man on the ground?

A. I was the man on the ground, yes.

Q. And you had been eyeing and pursuing these particular lands for an awful long time on behalf of Roadstone?

A. That is correct.

Q. Now, did you yourself know these lands?

A. Quite well, yes.

Q. And were you in the position to assist or advise Mr. MacAodha and Mr. Dempsey as to the likely yield from the particular lands?

A. I was, yes.

Q. Apart from the positions you've held, do you have any professional qualifications yourself?

A. Well, basically I am a civil engineer, and I have a Masters in Business Administration.

Q. And was it always your view that these, in the interest of your company, that these were lands that you would like to get hold of?

A. Oh, yes.

Q. From how far back?

A. Well, I first became involved in the sand and gravel part of the operation in November, 1977, and from that point obviously I had familiarized myself with what was happening for some time. But as I say, from mid-1978 I would have a reasonable feel for what our reserves were and what our requirements for the future might be.

Q. Now, did you personally make any approaches to and I use "approaches" now in terms of inappropriate approaches to either politicians or officials to obtain preferential treatment for Roadstone in relation to the purchase of these particular lands?

A. I made no representations to anybody. I felt that we would

compete to the best of our ability on price whenever the property came for sale, and by whatever method it was advertised or put forward for sale.

Q. Now, whilst you had been told and expected that the property would be sold by way of tender, it emerged that it was a sale by private treaty?

A. That is correct.

Q. To your knowledge, did you or Roadstone or anyone on your behalf do anything to bring about that particular situation?

A. I certainly didn't, and I am not aware of anybody else who did either.

Q. Where do you think it evolved that way? From which side?

A. Oh, well, I'm quite satisfied that it evolved from the Department.

Q. Did you have any dealings with any of the CRH people, if I could describe it that way, at executive or Board level?

A. No. I wouldn't have any direct contact with them at all.

Q. Were you aware of Mr. Traynor being Chairman of the company?

A. Oh, I was aware of him being Chairman of the company, yes.

Q. And I think you would have been aware that Mr. Chairman had a background in banking and accountancy?

A. I would indeed, yes.

Q. And would you have been aware that Mr. Traynor had a relationship with Mr. Haughey?

A. No, not at that time.

Q. Not at that time?

A. Not at that time.

Q. Did you yourself have any knowledge of what Mr. Traynor was doing other than as Chairman of CRH?

A. No, I hadn't.

Q. You yourself had no dealings with him?

A. Pardon?

Q. You yourself had no dealings

A. I had no dealings whatsoever with him. I didn't know the man well, I have to say I saw his photograph from time to time. I didn't know the man other than that at that time.

Q. So you were unaware if Mr. Traynor made any intervention on behalf of Roadstone sorry, I'll put it the other way:

You don't know if he did do that?

A. I'd be I don't know, Number One, and I'd be surprised if he did, Number Two, because I would that even in his activity as Chairman of CRH, the Deerpark lands would be a very small pie in the CRH stew.

Q. And as far as you were concerned, who had carriage of identifying and seeking information and ultimately purchasing these particular lands at Deerpark, or Glen Ding?

A. I don't quite get the question, but I'll answer it as best as I think I the question is phrased, and if I am not answering it correctly, then you can change the phraseology.

I would have as much responsibility as anybody for acquiring any property that Roadstone Dublin were seeking to purchase, and I would make the best evaluation I could, within the constraints allowable, to put a quantitative value on the contents of the particular property. And having done that, I would have passed it on to the financial director and the MD, the Managing Director. But I would be the I would be the John the Baptist in finding the way.

Q. Did you have any involvement in the purchase of Dorans Pit, in the 1970s purchase?

A. No, I wasn't involved at all at that time.

Q. Just perhaps I should ask you, what prompted you to write the first letter, in 1987, in August of 1987?

A. The reserves in the existing property were reducing, and we were you see, you have to blend sand, and we were taking sand from here, there and yonder within the current the property we then owned, and I was of the opinion that I would have less movement around the complex, which was fairly which is a pretty large complex if it were possible to acquire this particular property.

Q. You see and I bring it to your attention because were you aware that there had been a Parliamentary Question put down by Deputy Hussey?

A. No.

Q. Deputy Hussey had been the Government changed in 1987, and Deputy Hussey had been a Minister in the preceding

Government?

A. I am aware of that.

Q. And she was a Deputy for the constituency, I think, wasn't she?

A. That's right, yeah.

Q. And if you look at the question, it's fairly well crafted and pointed, the question, and it's certainly directed,

without identifying Roadstone, it's directed towards

Roadstone: Were the lands going to be disposed of by way

of tender, or were they going to be offered to the

neighbour?

A. Yeah.

Q. Do you know, had there been any difficulties or tensions or anything of that nature between your company and the

Government which preceded the Government that came in in

1987?

A. I am not aware of any difficulty. But perhaps this is

perhaps perhaps we weren't the only people making

inquiries at that time. I don't know. I wasn't aware of

anybody who were, I wasn't aware of anybody who weren't,

and it's quite possible that somebody else was seeking to

purchase as well as Roadstone. And the question may have

been spurred by them, or it may be just something she came

up with. I don't know.

Q. Right. Thank you very much indeed, Mr. Breathnach.

CHAIRMAN: Anything to ask, Ms Leyden?

MS. LEYDEN: No questions.

MR. REGAN: No questions.

CHAIRMAN: Mr. Barniville?

MR. BARNIVILLE: No, sir.

CHAIRMAN: Thank you very much for your assistance,

Mr. Breathnach.

A. Thank you very much.

THE WITNESS WITHDREW

CHAIRMAN: Does anything remain on that aspect

MR. HEALY: I am not going to deal with it with any of

these witnesses, because I think ultimately I'll delay the

Tribunal and the witnesses; and I have agreed with

Mr. Strahan that we'll approach it when the technical

witness is giving his evidence next week and we may get

another technical witness, or perhaps one of these

witnesses, I don't know yes, otherwise it would delay

matters too much.

CHAIRMAN: That concludes today's three witnesses; does

that mean Tuesday at eleven o'clock?

Thank you very much.

THE TRIBUNAL ADJOURNED UNTIL THE 9TH MAY 2006.