

THE HIGH COURT

[2014 No. 490 JR]

**IN THE MATTER OF SECTION 50 OF THE PLANNING
AND DEVELOPMENT ACTS 2000–2014**

BETWEEN

MICHAEL RYAN

APPLICANT

– AND –

MEATH COUNTY COUNCIL

RESPONDENT

– AND –

JOSEPH CONNOLLY

NOTICE PARTY

JUDGMENT of Mr Justice Max Barrett delivered on 21st December, 2016.

I. Background

1. The Meath County Development Plan 2013-2019 informed the process for the adoption of the East Meath Local Area Plan (LAP) 2014-2020 and contained, as mandated by s.10 of the Planning and Development Act 2000, as amended (the 'Act of 2000'), an overall strategy for the proper planning and sustainable development of County Meath, including a Core Strategy showing that the development objectives were consistent with national and regional development objectives, as set out in the National Spatial Strategy and Regional Planning Guidelines. In accordance with the requirements of the Regional Planning Guidelines, the Council in adopting its Development Plan, ensured that it made provision for sufficient lands to meet the residential needs of County Meath for the ensuing six years, being the six-year lifespan of the Development Plan and an additional three years' 'headroom'. This capacity was distributed across the entirety of County Meath in accordance with the county's Urban Settlement Hierarchy, as detailed in the Development Plan, ranging from large growth towns to moderate sustainable growth towns, small towns and villages. The 2013-2019 Development Plan did not set out to identify the development objectives applicable to specific landholdings. Instead it provided that existing landholdings would be revisited in the context of either LAPs for specified centres within County Meath or variations to the Development Plan dealing with specific geographical areas of County Meath. Mr Ryan brings the within proceedings for the purpose, *inter alia*, of quashing part of the East Meath LAP insofar as the same relates to a land use zoning objective of certain lands at Donacorney Little in Mornington, County Meath. Mr Ryan further seeks an order remitting that part of the East Meath LAP, which relates to the zoning objective of the lands, to the Council for its consideration and, in particular, with the intention that the lands might be zoned for residential development.

II. Mr Ryan's Initial Planning Permission

2. Mr Ryan is the owner of approximately 20 hectares of land at Doneycorney Little, Mornington, County Meath, that were zoned for residential purposes in the East Meath LAP 2005. Mr Connolly is the owner of adjacent lands, including Donacorney House, a protected structure. Under the East Meath LAP 2005, Mr Ryan's lands were subject to a land use zoning that allowed for residential development. In or about 2007, he sought planning permission for a residential development on the lands. This development was to proceed by way of four separate phases. By order dated 5th March, 2008, An Bord Pleanála granted planning permission in respect of Phases 1 and 2 of the proposed development consisting of some 345 residential units and key pieces of infrastructure required for the entire site. The grant of planning permission did not include the residential development in Phases 3 and 4 but the infrastructure that was permitted was in respect of the entire site. Thus Condition 2 stated as follows: "2. *This permission is in respect of Phase 1 and Phase 2 of the proposed development...and in respect of the provisions of the main drainage and water supply infrastructure and of the full length of the main distributor loop road in the remainder of the site. The housing in Phases 3 and 4, as also the local housing access roads in those phases, shall not be developed on foot of this permission*". At the time of writing, it is Mr Ryan's intention to build the same number of units for which he has permission, but over the entire of his land-holding. Consistent with this objective, he lodged a planning application for 109 units on Phases 3 and 4 of his lands on 9th July, 2014. This last application was refused by the Council, the said refusal being upheld by An Bord Pleanála on 8th April, 2015.

III. The Adoption of the East Meath LAP

(i) A Summary Chronology of the Process Arising

3. The process that led to the adoption of the East Meath LAP can be summarised as follows: (i) in September, 2013, a non-statutory strategic issues paper was published by Meath County Council for the purpose of raising awareness of the nature of both a LAP and the statutory process to be followed in adopting a LAP. In this paper, the public were invited to make submissions in respect of what they considered should be included in the LAP; (ii) a draft East Meath Local Area Plan (the 'draft LAP') was published by the Council on 13th December, 2013; (iii) in response to the publication of the draft LAP, submissions were received, these included a submission dated 3rd February, 2014, from Mr Joseph Connolly, the notice party; (iv) a Manager's report on the draft LAP was prepared by the County Manager of the County Council in March, 2014; (v) the elected members of the Council, following consideration of the County Manager's report, decided that the draft LAP should be altered at a meeting of the elected members on 23rd April, 2014; (vi) notice of material alterations to the draft LAP was published on 13th May, 2014; (vii) a submission on behalf of Mr Ryan regarding the proposed material alterations to the draft LAP issued to the Council on 10th June, 2014; (viii) the Chief Executive of the Council (formerly the County Manager) prepared a report on the material alterations to the draft LAP and the submission made by Mr Ryan in July, 2014; and (ix) the East Meath LAP was made by the elected members of the Council on 7th July, 2014, and came into effect on 3rd August,

(ii) A More Detailed Consideration of the Process Arising

4. The process for the preparation of the draft East Meath LAP commenced in September 2013, with the Council publishing a notice of its intention to prepare a new LAP on 23rd September, 2013. At the same time, a period of pre-draft public consultation was undertaken between 23rd September, 2013, and 18th October, 2013. A non-statutory strategic issues paper was publicly displayed and an information session was held at Bettystown on 10th October, 2013, for the purpose of raising general awareness of the nature of the LAP and the LAP process.

5. In preparing a draft LAP, the Council is required, pursuant to s.19(2) of the Act of 2000, to ensure that it is consistent with the objectives of the County Development Plan and its Core Strategy. The Core Strategy required that only sufficient lands to meet the needs of residential development during the life of the plan (plus some 'headroom') could be zoned for development. The Development Plan further required that an evidence-based rationale be applied to identify the most suitable land to accommodate the residential units allocated in the County Development Plan for the area the subject of the LAP. The County Development Plan recognised the entitlement of landowners who had existing or live planning permissions on their properties to utilise those planning permissions; consequently their lands retained their development zoning in the draft LAP.

6. In the preparation of the draft LAP, published in December, 2013, Mr Ryan's lands were not subjected to an evaluation process. As a consequence, all four phases of Mr Ryan's lands at Donacorney Little were treated as if permission had been obtained for all four phases, whereas in fact it will be recalled that Condition 2 of the planning permission that issued from An Bord Pleanála had expressly stated that *"The housing in Phases 3 and 4, as also the local housing access roads in those phases, shall not be developed on foot of this permission..."*. Proceeding from this erroneous start, in the preparation of the draft LAP the Council referenced all of the lands that had been the subject of Mr Ryan's initial application without taking into account the just-quoted restrictions as set out in the permission. This error was drawn to the Council's attention as a consequence of submissions made by Mr Connolly in the course of the public consultation process regarding the draft LAP.

7. As part of the LAP adoption process, in March, 2014, the County Manager prepared a report and associated recommendations for the elected members of the Council. The purpose of the report was to respond to such issues and observations as had been made during the public consultation process, and to make appropriate recommendations as to changes to the draft LAP. This report outlined the legislative background to its production and the requirements of s.20(3)(c) of the Act of 2000, as amended, requiring that the manager give an opinion on the submissions received. In the report, the County Manager recommended that as Phases 3 and 4 of Mr Ryan's lands did not have the benefit of an extant planning permission, they should be brought through the residential land evaluation process. Having carried out this evaluation, other lands in the area of the LAP were identified as being more suitable for the development of the 20 available residential units. As a consequence, it was proposed that Phases 3 and 4 of Mr Ryan's lands should no longer be zoned for residential development. On 23rd April, 2014, the elected members of Meath County Council, after consideration of the Manager's report, made a decision that the draft LAP should be altered and that Phases 3 and 4 of Mr Ryan's lands should no longer be zoned for residential development. This amendment was deemed to be a material alteration within the meaning of s.20 of the Act of 2000, as amended; as a consequence, notice of the proposed material alteration to the draft LAP was published on 13th May, 2014.

8. Following publication of the last-mentioned notice, a submission made on behalf of Mr Ryan was received by the County Council on 10th June, 2014. This submission related to the material alteration of the draft LAP and the removal of the zoning objective on Phases 3 and 4 of Mr Ryan's lands. In the submission it was argued that the Phase 3 and Phase 4 lands should be retained with a residential zoning in the new LAP. Arising out of this submission, and in accordance with s.20 of the Act of 2000, as amended, a report was prepared by the Chief Executive (formerly the County Manager). In this report, the Chief Executive considered and addressed all aspects of Mr Ryan's submissions. The report confirmed that the Chief Executive of the Council was satisfied that the evaluation process that had been carried out was appropriate, robust and transparent, and that the conclusions previously arrived at were correct. The report went on to state as follows in its closing paragraph:

"With regard to the suggestion on behalf of the landowners [for which read Mr Ryan] that the entire of their lands be allocated residential zoning it is pointed out that this would not accord with the evaluation process set out in the County Development Plan and would offend the provisions of section 20(3)(q)(ii) of the Planning and Development Acts 2000-2014 which prohibits on the consideration of proposed material alterations of the Draft Plan any increase in the area of land zoned [s.20(3) is considered in some detail later below]".

9. At a meeting of 7th July, 2014, the elected members of Meath County Council considered the proposed material alteration to the draft LAP, together with the Chief Executive's report on the submissions received and the recommendations arising. A detailed slide presentation on the LAP was also provided and there appear also to have been related workshops held with the elected members. Those members resolved to adopt the East Meath LAP, incorporating the proposed material alterations. The Agenda and Minutes of the meeting make for interesting reading. Thus, under the heading *"Statutory Business"*, the items for business are stated to include:

"5.1.3 To consider the proposed material alteration of the Draft Local Area Plan for East Meath...2014-2020 together with the Chief Executive's report...and, if thought fit, to resolve to make the LAP or amend, as appropriate, with all, some, or none of the material alterations as published pursuant to section 20 of the Planning and Development Act 2000-2014". (Emphasis added).

10. Why has the court emphasised some of the above-quoted text? Because it is entirely clear from the highlighted text in the Agenda that the Council members were free to adopt, as they saw fit, all, some or none of the material alterations proposed. Yes, they had the above-quoted advice from the Chief Executive as to her view regarding the legal implications of s.20(3)(q)(ii), but again it is entirely clear from the highlighted text that so far as passing a resolution was concerned, the Council members were free to proceed as they sought fit. Would they have been unwise to proceed otherwise than in accordance with the Chief Executive's advice? Certainly it would seem sensible for them to have had regard to such expert input. But members might have had their own views as to the purport of s.20(3)(q)(ii), or they might have had no view, or they might not have even noticed the Chief Executive's comments in all the material that was before them for the meeting. All we know is that the Agenda made clear that Council members were free to adopt, as they saw fit, all, some or none of the material alterations. And insofar as the minutes treat with the portion of the meeting at which those material alterations were considered, there is nothing to suggest that anything untoward occurred or that anything improper motivated the elected members in their consideration of the Chief Executive's report and her recommendation, on planning grounds, that the material alteration be approved. Thus, at the relevant segment of the minutes, the above-quoted agenda item is re-stated, the minutes then continuing as follows:

"Fiona Redmond, Senior Executive Planner, made the presentation and provided an overview of the process for the preparation of the Plan including details of the public consultation phase and workshops held with Councillors.

It was resolved to make the Local Area Plan for East Meath...2014-2020 on the proposal of Councillor Wayne Harding and seconded by Councillor Eimear Ferguson.

Councillor Sharon Tolan proposed, seconded by Councillor Sharon Keogan, to defer the making of the Local Area Plan in order to review the submissions in more detail.

Following a discussion on the matter and clarification from Kevin Stewart, Director of Services, a short recess was requested by Councillor Brian Fitzgerald, seconded by Councillor Gerry O'Connor.

Following the recess, Councillor Sharon Tolan advised that she was supporting the proposal to adopt the Local Area Plan for East Meath.

The Plan was then duly adopted."

11. This element of the meeting completed, the elected members then proceeded to the next agenda item. The court considers later below whether the Chief Executive was correct in her understanding as to the meaning and effect of s.20(3)(q)(ii) was correct (she was); suffice it for the court to note at this juncture that to suggest that the elected council members were somehow fettered in their freedom of action in approaching their consideration of the material alterations, or that the evidence suggests them to have acted unlawfully or pursuant to some particular motivation, sits entirely at variance with the evidence before the court.

IV. Section 20 of the Act of 2000

(i) Overview

12. Section 20 of the Act of 2000 makes provision as regards the consultation process in respect of, and also the adoption of LAPs. Section 20(3)(c) provides for the making and submission by the county manager of the report referred to at point (iv) of the court's summary chronology above. Section 20(3)(e) addresses the situation to which the court referred at point (v) of its summary chronology above, providing, *inter alia*, that "*Where, following consideration of the manager's report, it appears to the members of the authority that the draft local area plan should be altered, and the proposed alteration would, if made be a material alteration of the draft local area plan concerned...the planning authority shall...publish notice of the proposed alteration in one or more newspapers circulating in its area*" (this is the notice referred to at point (vi) of the court's summary chronology above). Section 20(3)(k) provides for the making of a further report by the county manager; this was the report prepared by the Chief Executive (formerly the County Manager), as referred to at point (viii) of the court's summary chronology above. It was this report that contained the advice as to the substance and import of s.20(3)(q).

13. It is the process from s.20(3)(m) onwards that has been a particular focus of the within proceedings. Section 20(3)(m) provides, un-controversially, that "*The members of the authority shall consider the proposed material alteration of the draft local area plan and the report of the manager under paragraph (k)*". Section 20(3)(n) makes provision for what is to occur following this consideration, stating that "*Following consideration of the manager's report under paragraph (m), the local area plan shall be made or amended as appropriate by the planning authority...with all, some or none of the material alterations as published in accordance with paragraph (e) or (h) as the case may be*". Section 20(3)(o) then provides, *inter alia*, that "*Where [as here] the planning authority decides to make or amend the local area plan or change the material alteration of the plan...paragraph (q) shall apply in relation to any change to the material alteration proposed*". Section 20(3)(q) provides, *inter alia*, that "*A further modification to the material alteration... (ii) shall not be made where it refers to... (I) an increase in the area of the land zoned for any purpose...* ".

14. The principal elements of Mr Ryan's case in the within application are as follows: (1) the Council erred in law in concluding that s.20(3)(q) of the Act of 2000 prohibited it from making any amendment to the land use zoning objective for the lands proposed in the material alterations; and (2) the Council acted in breach of fair procedures and unlawfully fettered its discretion in failing and/or refusing (if in fact the Council so failed or refused) to consider making the LAP without the material alteration.

(ii) What does Section 20(3)(q)(ii)(I) mean?

15. Section 20(3)(q) provides, *inter alia*, that "*A further modification to the material alteration... (ii) shall not be made where it refers to... (I) an increase in the area of the land zoned for any purpose...* ". Mr Ryan contends that the correct interpretation of this text is that it prohibits an increase in the area of land zoned for one purpose from that actually zoned for that purpose in the preceding LAP. However, this contention ignores the fact that the entire focus of s.20, from sub-section (e) onwards, is the proposed material alteration to a LAP, every other part of which has, in reality, been considered by this stage of the process, with the only matter left for consideration by the elected members being the proposed material alteration. In other words the focus of the provision has long moved on from the preceding LAP. Moreover, if Mr Ryan's proposed modification to the material alteration, i.e. to apply an altered housing density to all four phases of his lands, had been accepted, this would have left the LAP in breach of s. 19(2) of the Act of 2000, as amended, which requires that LAPs be consistent with the objectives of the applicable Development Plan and the Core Strategy. Legislation must, where possible, be given a rational meaning and, were one to adopt the reading of s. 20(3)(q)(ii)(I) espoused by Mr Ryan, an absurd scenario would arise whereby a LAP could be amended to reflect the same amount of residentially zoned land as provided for in an existing local area plan which was itself in breach of the core strategy, thereby undermining all efforts to address previous over-zoning of land.

16. What then of the decision in *Tesco Ireland Ltd. v. Cork County Council* [2013] IEHC 493? That was a case in which certain lands had been zoned residential in a previous LAP. However, when it came to the next proposed LAP, the Council resolved by way of further modification to the material alteration that a part of the land be zoned residential and another part given zoning that allowed for certain commercial development. No matter what way one looked at matters in that case, whether by reference to the existing LAP or the draft LAP, there was going to be an increase in the lands that were zoned other than residential, and so a breach of s.20(3)(q)(ii)(I). However, Mr Ryan is wrong to assert that Peart J. unabashedly used the previous LAP as the comparator when determining whether there was an increase, in breach of s.20(3)(q)(ii)(I). Peart J. states as follows, at para. 55 of his judgment:

"It is also argued by the applicant that the decision of the 25th July 2011 is in breach also of section 20(3)(q)(ii). Without going into that argument in detail and Counsel's submissions, I should say that in the circumstances of this case I agree with the applicant's submissions. [1] The decision of the 25th July 2011 does 'result in an increase in the area of land

zoned for any purpose'. [2] *The 2005-2011 LAP zoned this entire area residential.* [3] *The material alteration proposed by the elected members on the 30th March 2011 was to retain that zoning for the entire of the applicant's site.* [4] *However, the further modification sought to zone 1.4 hectares differently [allowing for certain commercial development] ...[5] Such a zoning increases the amount of land to be reserved for retailing by re-zoning some land previously zoned residential."*

17. It is useful to parse Peart J.'s observations closely. At [1], he says there is an increase. At [2] he points to the historical zoning. At [3] he refers to the material alteration. At [4] he points out that the further modification represents a re-zoning (he does not say whether he means by reference to the historical zoning or the material alteration). At [5] he notes that the effect of the further proposed modification will increase the land reserved for retailing (he does not say whether he means by reference to the historical zoning or the material alteration). Looked at so, it is not entirely clear what comparator Peart J. was using to determine that the requisite increase arose, and on the facts of that case, as mentioned above, it did not actually matter which comparator he used. Here, of course, it very much matters, not least, perhaps even principally, because were one to adopt the reading of s.20(3)(q)(ii)(I) espoused by Mr Ryan, an absurd scenario would arise whereby a LAP could be amended to reflect the same amount of residentially zoned land as provided for in an existing LAP which is in breach of the core strategy, an irrational end which the court is neither required to arrive at by the conventional canons of statutory construction or the, at very best, ambivalent observations of Peart J. in *Tesco*.

V. Fair Procedures?

18. Although a breach of fair procedures has been claimed by Mr Ryan, this was not greatly expanded upon either at hearing or in the written submissions. Not a lot need be said in this regard by the court either. There is a set procedure in the Act of 2000, an Act which enjoys the presumption of constitutionality, and the procedure laid down by the Act, which comes with the benefit of that presumption, was at all times observed by the Council.

19. Some mention has been made, in the context of the issue of fair procedures, that when it came to considering the proposed material alteration of the draft LAP, the elected members of Meath County Council allegedly were not given the option of reverting to the provisions of the draft LAP without the making of any alteration. The court has already indicated above, by reference to the text of the Agenda for, and the minutes of, the meeting of 7th July, 2014, that this is not correct. It is entirely clear that the Council members were free to adopt, as they saw fit, all, some or none of the material alterations proposed. Yes, they had the advice from the Chief Executive as to her view regarding the legal implications of s.20(3)(q)(ii), as well indeed as her planning-grounded recommendation, but her view as to the import of s.20(3)(q)(ii) was but a view, however expert the source. The Agenda made clear that Council members were free to adopt, as they saw fit, all, some or none of the material alterations. And insofar as the minutes treat with the portion of the meeting at which those material alterations were considered, there is nothing to suggest that anything untoward occurred or that anything improper motivated the elected members in their consideration of the Chief Executive's report and her recommendation, on planning grounds, that the material alterations be approved.

VI. The Permission Granted

(i) The Extent of the Permission Granted

20. The shape of Mr Ryan's lands, a single land-block at Doneycarney, is roughly in the form of a square-like plot of land contiguous with the back-end of a crescent-shaped piece of land, with Mr Connolly's land sitting between the two arms of the crescent. Phases 1 and 2 were contained within the crescent portion of the lands. Phases 3 and 4 were to be contained within the square-like portion. It will be recalled that Condition 2 of the permission of 5th March, 2008, stated as follows:

"2. This permission is in respect of Phase 1 and Phase 2 of the proposed development...and in respect of the provisions of the main drainage and water supply infrastructure and of the full length of the main distributor loop road in the remainder of the site. The housing in Phases 3 and 4, as also the local housing access roads in those phases, shall not be developed on foot of this permission".

21. It will be recalled too, from the account of applicable facts given previously above, that the Meath County Development Plan recognised the entitlement of landowners who had existing or live planning permissions on their properties to utilise those planning permissions. More particularly, Variation No 1 to the Plan, which came into effect on 4th November, 2013, inserted, *inter alia*, the following text into the Core Strategy:

"The Core Strategy of this County Development Plan was developed on the basis that all of the 10,998 units which had the benefit of planning permission would be constructed over the life of the Development Plan. It is the intention of this Planning Authority therefore to include all lands which have the benefit of an extant planning permission for multiple unit residential developments as part of the lands identified for release for residential purposes within the life of this County Development Plan..." (Emphasis added).

22. The effect of the above-quoted text was that any land which had the benefit of an extant residential permission at the date the draft LAP was published was to retain its residential zoning. All other land which was zoned residential but which did not have the benefit of an extant planning permission was to be the subject of an evidence-based residential evaluation as to its suitability to retain its residential zoning.

23. Mr Ryan's lands were initially excluded by the Council as they were considered to benefit from the above-quoted/described arrangement. Later in the process, the Council took the view that the Phase 3 and Phase 4 lands did not have an extant residential permission and ought therefore to have been subject to the residential evaluation process. Mr Ryan takes a contrary view. He contends as follows:

(1) the planning permission that he received is in respect of a residential development on an identified planning application site and as such all of the lands that are the subject of that planning application (all of the 'square and crescent') have an extant planning permission for multiple unit residential developments;

(2) although the planning permission did not allow for residential development in Phases 3 and 4, Condition 2 grants permission for *"the provisions of the main drainage and water supply infrastructure and of the full length of the main distributor loop road in the remainder of the site"*, which, it is contended by Mr Ryan, is *"residential in nature in that it is specifically designed to facilitate residential development on the entire site"*;

(3) An Bord Pleanála, when granting the permission, required a special contribution by reference to the entire number of units for which application was made, notwithstanding the provision in Condition 2 re. Phases 3 and 4, with the Council, on 26th November, 2015, proposing a *pro rata* reduction in the special contribution by reference to the number of residential units that would actually be built.

24. With regard to (1), what is being contended, in effect, is that (i) a part of land that does not have the benefit of an extant planning permission for multiple unit residential developments, and (ii) on which no future residential developments can be built without obtaining a future planning permission, ought rightly to be, and to have been treated as land with the benefit of an extant planning permission for multiple unit residential developments because (a) it is contiguous to a portion of land with which it was considered as part of a previous planning application, with (b) only that contiguous portion (and not the portion of land now in issue) being made the subject of planning permission for multiple unit residential developments. Such a contention is, to put matters at their very mildest, extremely strained, and cannot enjoy the support of the court.

25. With regard to (2), the same contention is made as in (1), with the fact of the permission for *"the main drainage and water supply infrastructure and of the full length of the main distributor loop road in the remainder of the site"*, i.e. other than in Phase 1 and/or 2, being prayed in aid to support the contention that in fact the permission granted by An Bord Pleanála was *"residential in nature...[being] specifically designed to facilitate residential development on the entire site"*. In terms of logic, this is not unlike arguing that tubes of steel are boat-like in nature because they have been laid up for inclusion in a boat which may never be built... with the difference that the 'boat' in this case cannot be built without going through a formal process of obtaining planning permission that may never be granted. And if one looks to the balance of Condition 2, specifically the portion which follows that referring to drainage and water supply and the loop road, this makes entirely clear that *"The housing in Phases 3 and 4, as also the local housing access roads in those phases, shall not be developed on foot of this permission"*. So it cannot properly be said that, by reference to the planning permission granted by An Bord Pleanála, Phases 3 and 4 ought rightly to be or to have been treated as land with the benefit of an extant planning permission for multiple unit residential developments.

26. With regard to (3), the Board and Council did as indicated, but this does not suffice, it does not even begin, to convert land that does not have benefit of an extant planning permission for multiple unit residential developments into land that does.

27. In passing, the court cannot but note that neither the submission made by Mr Ryan's planning consultant and an associated legal opinion also provided to the Council ever asserted, and rightly never asserted, that Mr Ryan had extant planning permission for multiple unit residential developments in respect of Phases 3 and 4.

28. The court notes that it was referred by Mr Ryan to the decision in *McCallig v. An Bord Pleanála* [2013] IEHC 60 in support of the contentions considered by the court in this item (i) but does not see anything in that case which would cause it to depart from the conclusions reached above. All of the court's observations in this item (i) are subject to the court's conclusions as regards timing identified in the following item (ii).

(ii) Timing

29. Although, in the interests of completeness, the court has undertaken the analysis at item (i) of the within Part of its judgment, this is without prejudice to its overriding conclusion, the rationale for which is explained below, that the aspect of Mr Ryan's proceedings considered at item (i) has been brought out of time and without the leave of the court.

30. Meath County Council decided in March, 2014 that Mr Ryan did not have extant planning permission for multiple unit residential developments on the land subject to Phases 3 and 4. It amended the draft LAP and, deeming the amendment to be a material alteration, put it out for public consultation. Mr Ryan, through his consultants, then made submissions. The planning authority, in response, reviewed its original decision and the submissions made for Mr Ryan, and affirmed its original decision. This took place on 7th July, 2014. The within proceedings were issued in August 2014. It was not then asserted that Mr Ryan had the benefit of planning permission in respect of the land that was the subject of Phases 3 and 4. No declaration was sought that the decision of the planning authority to remove the residential zoning was *ultra vires*. This was so, even in the face of Mr Ryan's own consultants having previously submitted to the Council that its evaluation of Mr Ryan's lands was flawed. Nor did Mr Ryan seek to overturn the Council's affirmation of its original decision in March, 2014, as confirmed in its decision of 7th July, 2014. It was not until revised legal submissions on behalf of Mr Ryan were filed in December 2015 that Mr Ryan sought by way of legal submission to challenge the Council's decision(s) to re-zone. This challenge was done out of time and without leave being granted.

VII. Conclusion

31. Mr Ryan has come to court seeking, inter alia, the following reliefs: (i) an order of *certiorari* quashing that part of the East Meath LAP 2014-2020 which relates to the land use zoning objective of the lands within the ownership of Mr Ryan and subject to Phases 3 and 4; (ii) a declaration that Meath County Council, its members, servants or agents, have erred in law in removing the zoning objective for the lands in the LAP aforesaid; (iii) a declaration that the Council has acted in breach of fair procedures in removing the zoning objective for the lands in the LAP aforesaid; and (iv) an order remitting that part of the LAP aforesaid which relates to the zoning objective for the lands aforesaid to the Council for its further consideration in accordance with law. For all of the reasons stated above, the court must respectfully decline to grant all of the reliefs sought by Mr Ryan at this time.