

## David King – Rymans recording - Day 3, Part 2

David King: OK. Well, hello, commissioners and everyone here. My name's David King.

Before I get too formal, which is what's on the list here, I just wanted to make two or three comments at a personal level.

One is ah that it's important for everyone to note I think that I'm, given what I'm about to say, I'm not the David King who speaks from time to time and the media for Rymans.

That's supposed to be funny.

Helen Atkins: We figured that out.

David King: OK. OK. I met him yesterday. And he's a lovely, lovely chap.

Second, again, just on a personal note Rymans had the opportunity to play a promotional video, which I'm sure you will give appropriate weight to. I've resisted any temp, no I've all but resisted any temptation to respond to that. But I've allowed myself not to the promotional, but the general flavour of things to just have one small pot shot based on my experience is a young person growing up in a family, which was heavily involved in local residents' associations, in local body politics and council bureaucracies, and in ah yeah, all all that is before me.

Uh. It it really is ridiculous for Rymans, with all due respect to it, to sort of appropriate the Karori Residents Association and claim that it is representative of Karori. It has an important role, clearly, but it is not representative with Karori. I know that from my personal background in terms of association with these things.

It's not, it's not unreasonable in that regard to note that the chair, for example, of the association, last time I checked is a real estate agent who is, I'm sure, forming wonderful relationships with the elderly people of Karori at this very moment, with a view to the future sales, which will emerge from this process of the application is approved.

Final personal comment, just to say that to the disabled community, it is ah extremely offensive that representations have been made about disability issues and that both the Council and Rymans have, claim to have read the submissions and get no reference as being made to those disability issues. Now, it may be that those issues are deemed to be not relevant in this context. It is fine to argue that, but the argument must be made to ignore a disability. If you win it is raised is offensive.

Right now, I'll move into my formal statement. I'll put on my professional hat and and speak to you. I wanted to do a karakia, which is, which I've written this morning which reflects the community and culture, which I'm part of and which I will talk to and like any karakia there is no obligation on anyone to agree with anything in it. All that is asked is that it be respected as the karakia which is associated with a particular culture.

Wairua tapu, we uphold the Mana of the indigenous people of this land.

We affirm the dignity of every human being in this room and every human being upon this planet and the planet itself.

We express solidarity with all those who are persecuted and all those who do not enjoy the fullness of their human rights.

Tihei maori ora.

Amen.

Umm, just to give you background on me. Qualifications, Master of Arts and Master of Business Administration from Canterbury University. Further postgraduate study periods at Oxford University and the Kennedy School of Government at Harvard. In terms of experience, I've been a senior public servant for 20 years and I would be considered a public policy expert. That's the greenstone which I hold here I was offered to me by the policy community to symbolise my status within the policy community.

Public policy is a multidisciplinary activity. It is integrative, brings together a number of disciplines. Its essence is critical thinking. Key disciplines, which it brings together economics, psychology and law. It's important to speak to my social identity because that is germane. Obviously, I'm a unique individual, a human being, I'd say first and foremost. Secondly, my primary identity is as a survivor of child abuse and survivors of child abuse are those who bear the cost of the freedom that we all enjoy to live safe and loving family environments, live in safe and loving family environments.

We, as a community experience mental health issues far more proportionately, disproportionately than the population as a whole and have risk factors associated with a range of physical illnesses and including life expectancy which, disproportionate.

And we are an emerging cultural identity, who is finding its voice and developing its own culture.

We intersect with the wider mental health community and those who experience disadvantage generally. Uh. And reduced life expectancy and so forth and we obviously intersect with ah the indigenous people of this country in this regard.

You'll see on page 2 a very precise rendition of the front of our house, the north facing part of our house. We have a bungalow which has had an extension, and the second story placed upon it.

This is the, uh. So, there's a kitchen, a dining area and a uh, I guess a living area with couches and a desk, and in terms of the mental health community and the disability, which I myself have in that regard. This space is what we call in this community psychosocial, socially safe and accessible.

For me, I am no longer able to work in a typical work environment. Uh. However, I can work incredibly productively in this area where I am not exposed to anyone who has power over me.

Helen Atkins: I'm sorry to interrupt, can I just get you to confirm, so is this, which is, where's the, where is the road?

David King: Oh, I beg your pardon so, all I've drawn here is ah.

Helen Atkins: I am just trying to get the orientation.

David King: Yeah. So, this face is north.

Helen Atkins: Yes.

David King: This is really the front end of the north facing part of our house and behind that is the bedroom area and the and the living area. So so Scarpa Terrace is way back.

Helen Atkins: Yep, that's fine, so the boundary to the old teacher's college, is it along this top area.

David King: Yeah, yeah, yeah. Along the top there. And the patio area to the north is a bit bigger than that so yeah, apologies for the image.

Yeah so, I can't contribute now to public life and political life, policy life from this place. And because I am able to do my thing in this space, I'm able to move out into the world and offer what I have to offer in a way, which is safe for me.

Just to speak, if I could just say in regard to all of this, I've checked what I'm saying about disability issues with my neighbour, whom you heard from yesterday, Tristram Ingham, who as you know is an expert in these matters and he has affirmed my interpretation of how the ideas which are associated generally with physical disability translate into the concept of mental disability and the concept of accessibility is more than a functional physical environment, but a functional psychosocial environment. The nature of my evidence today is basically a range of matters which you'll see listed below which I consider, by virtue of my public policy experience, which I should have mentioned included four years as General Manager of constitutional, civil and human rights law at the Ministry of Justice.

Would be the matters which I consider myself to be an expert and consider my peers would acknowledge that. I'm obviously not here as a formal expert but in talking to these matters to you, I consider myself to be bound by the same duty as the experts have appeared before you and to that extent consider my evidence to be a what I understand is solid evidence and to relate to relevant considerations which ah decision makers should take into account.

Umm. I have to apologise for not having detailed written notes which would reflect my usual standard presentation. I experienced over the past 10 days when I intended to make these representations a significant depressive episode. Providing detailed notes, written submissions I think would be a burden for me and I would hope that it was not an unreasonable accommodation to have a transcript of what I say entered into the public record. Thank you. Thank you. Thank you. Well, I'm. I'm actually saying a transcript of my written.

Helen Atkins: Yeah, OK. Yes. As you know, it's being recorded.

David King: Yeah. Thank you. That's much appreciated.

I should probably uh, sorry. Just to jump back. I should have identified also that the upstairs bedroom is another what I would call safe space for me and that from September 2021, 2020 until the end of 2021 that was a one of two primary living areas for me. Place of respite, I guess in the context of major depressive disorder manifesting itself in the worst possible ways.

Helen Atkins: Is that north facing as well?

David King: Yes, that's north facing. Yes, yes. So, it looks up. It looks out across the open area currently of the. So, I'm next door to Mr. Cooper and next door to Mr. Ingram.

And ok, so turning to the nature of social changing social norms, this is important to understand because and the law reflects social norms, but it also sometimes advances what we consider to be normal and the issue of what is normal, what is reasonable, is a matter which decision makers in areas like this need to turn their minds to and make judgments about. Just to illustrate that and not in this context, but just in the world we live in right now, we are obviously celebrating Māori Language Week and ah undergoing a change in social norms in regard to ohh status that our indigenous culture has within New Zealand and what was thought to be normal in regard to that, and at this very same time we are celebrating the life of our Head of State, former Head of State who represents, represented the best of the Western institutions that were brought to this country.

But also represents the abuse of power that, that culture imposed upon this land and we have to as a nation, work our way through what do we consider normal and regard, what hat are the new norms in regard to these issues? What do we retain of the past? What we build for the future?

This is germane to, obviously how much weight you give to disability issues. I want to just draw a parallel, drawing your attention to the quote that I have at the bottom from

Martin Luther King Junior. Uh. About the same time, Captain, give or take a few years, that Captain Cook arrived on the shores and began out process of nation building. Umm. One of the most revolutionary books in history was written. It was written by Mary Wollstonecraft, and it was called *The Vindication, A Vindication of the Rights of Women* and I draw attention to the fact that two women sit among you, Commissioners. Strictly speaking, I should say, say two people who identify as women. And in the process of 230 years, we have moved to a new norm about the role of women. One interesting thing to note about Mary Wollstonecraft, despite her fearless speaking and writing was that she hesitated and was only hinted at the possibility that women should enjoy the vote. And she did that, she hesitated and only hinted at it because for her at that time it was seen to be, she thought it would be seen to be so ridiculous a notion that she could not bring herself to state it explicitly. Today, but for a few I guess, at the end of the normal distribution of human beings, we take it as a totally grant for granted that women should have the vote. And it was surprising to me reading about this to find that that wasn't a conceivable possible idea when the most radical thinker in regards to women's rights and human in human history, and we're only, it's literally 230 years ago this year that she wrote that book.

So, I hope the context for saying that is is useful. It's not just going to.

Helen Atkins: I've just been pondering your statement and I think that question that you're asking or, at least the question I think we need to answer is to what extent can we or should we consider the nature of the recipient of effects and to be more specific, in this case, person suffering from a disability, whether it be a physical disability such as Mr Ingham or in your own case we're talking about a mental disability. To what extent does that come into play and considering the effects because it's remembering that. I I'm just drawing from, my long ago.

David King: Public law.

Helen Atkins: Yeah, well, public law and sort of law of tort. This idea to what extent do you do we consider everyone to be ordinary or what whatever that means, or do we have to consider the specifics of the individual? There is, there is there is some more on this in the environment context. I'm saying that now because I'd like the applicant to think about that.

David King: Of course, I hope that they do take the time to consider these issues having raised them before.

Secondly, well. And and I I guess just in response to that within, I guess what I'm saying is within each decision makers discretion there is, as I understand, the law and it comes down to some extent to how activist or otherwise that decision makers are. There is the discretion to act as a restraint on or a promoter of the development of social norms in regard to these sorts of issues.

I just wanted to move now to the nature of the rule of law, and I have no intention to teach you to suck egg so apologies if any of that appears that way. But I think it is important to just draw attention to that effectively foundational principle of our constitution, our way of life. What draws me to this issue, to this hearing actually, is and you may find this hard to believe but it's my truth it's not so much amenity effects on me personally. It's a passionate interest in whether the rule of law applies and here is an issue which I've been unfamiliar with where I've had the opportunity to reflect on the nature of the law and to test, challenge, reflect on whether how much confidence I have the rule of law applies in this area. And so, I just one or two potential features of the rule of law, which I think it is just worth reminding ourselves that under the rule of law it doesn't matter if a million people are in favour of an action and one person is opposed to an action, if that person has the law on their side that is who's position should prevail.

Secondly, the rule of law means that it is the law that applies at the time of the initiation of a legal process that applies. So, Ryman's made its lodgement on a certain date, at that point in time the proposed district plan did not exist, and Parliament has made no provision for retrospectivity, which it would normally do if it intended legislation in an extremely rare instance to apply retrospectively.

Of course, I'm offering all of these observations as a person with expertise and principles of law. I'm not claiming to define the law for you, but to draw your attention to issues which you as a decision maker, as decision makers, may wish to deem relevant and consider and I think that's enough to say about the all law for now.

So, coming to the law and what is the applicable legal framework here? And in making these observations, I recognize that there is a law as it currently stands. But there are elements of law which have not been tested in higher courts and which may well be visited through this or other processes in the future and where that may be the case. I wish to, at least for the record draw attention to issues where I think the law may potentially be, as it stands, wrong in terms of the jury, prudence so just let me talk to those issues. Just first to state I guess that's what intersects with the rule of law is a general principle that the law should be predictable, that people should have a level of certainty about what their rights are at law. The fact that there is a provision for a non-complying activity within the Resource Management Act is reflective of that principle. We need to recognize that here is a situation where what would normally be considered to be predictable, it's not predictable. Where it's not as predictable let's say as one would normally expect. And so, the law in those situations, commissioners, needs to be very precise about its nature. Parliament tends to turn its mind to those sorts of issues clearly and one can expect notwithstanding the stupidity if you like, of Parliament from time to time, some degree of coherence and rationality to the law. So, some observations in regard to that, umm, I don't know how much to make of this, but it wasn't in the legal representations of Rymans, but certainly in one of the I think the Mr Turner's evidence, a statement that Limb 1 of section 104 D was this supposed to be interpreted in a holistic basis. Now, applying my expertise, I can see no basis for that conclusion to be drawn. Effects the test is, is any effect minor or not? It's it was a holistic test one would reasonably expect Parliament to have said the effects overall are minor or wording of that nature.

Helen Atkins: I can tell you; we've talked about this. Our position is that if any effect on anyone we find to be more than minor Limb 1 is not met.

David King: Well, that's reassuring to hear.

Helen Atkins: So, noting that, and the assessments that have been done if you come down, you know, drilling down into the details around shading in particular if we don't agree, that one of the properties along Scarpa Terrace has an effect that is less than minor, Limb 1 is not met.

David King: OK, well, I'm delighted to hear that. And. Just because this word holistic was used.

Helen Atkins: Yeah, I don't actually think, I think the applicant would agree that is the test.

Luke Hinchey: We just we wanted to be clear there we don't agree that Madam Chair. We make a submission that that first limit the one that would test it does need to be looked at holistically and I can give you some case law on that.

Helen Atkins: You can but indeed. Anyway, you do need to address us on that and that's why I've said it now.

David King: That's very helpful.

A comment on Limb 2, and as I understand from reading the submissions the test there is the district plan or the operative or the proposed district plan, would it be repugnant to that? Those plans for uh, non-complying activity, of otherwise non-complying activity to be approved or not? This seems to me to be a impossible interpretation with one variant which I'm prepared to admit of Limb 2. It effectively means the Parliament is to create two limbs by which non-complying activity may be met. The first line being a very tight test, and then the second test being one which to use an idiom, one could drive a bus through. With an element of respect for our lawmakers, they don't tend to make such such such stupid irreconcilable tests. So, my submission would be that the reasonable interpretation of that Limb is that the Parliament requires, the law requires decision makers to give, having decided that Limb 1 is met to notwithstanding be able to apply a test which says OK, the effects here. Sorry uh backtrack, Limb 1 is not met yeah, notwithstanding that we are prepared for decision makers to take a look at the whole situation and say the way I would put it is OK, there are some effects here which are more than minor. But when we consider those effects do we think that they are material enough to mean that it's OK in this case to override the fact that that rightly tight test about what is minor, uh, whether something is more than minor or not it's has been not met. Which is quite a different conceptualization from saying it is repugnant to the operative or proposed plan.

Helen Atkins: I think the test in the act is, actually the word that is used is not contrary. Repugnant is quite different.

David King: Well, I'm presuming because both the legal teams used that word, that that is what the law is.

Helen Atkins: What the case law has said about that test, is that you look, I definitely agree you look at that in *...inaudible...* you don't just pick out, you don't cherry pick policies and objectives. You look at them in a holistic way. And some objectives and policies are greater than others in terms of what is it that as a whole they are trying to achieve? And looking at them in round is the application contrary to. And that's the way we are directed by case law that does find us to look at that. But I don't think that's inconsistent with what you're saying. I don't use the word repugnant.

David King: OK, well, I'd be very interested in why that word is used in the both....

Helen Atkins: It has been used in some cases, but the test is not contrary to.

David King: OK well it seems to me to be quite clear that the applicant and the Council are relying on that. OK. Sure.

A couple of other matters, there has been some comment about what weight should be given to the District Plan, Operative District Plan versus the Proposed Plan. I would submit that on the basis of my understanding of the rule of law and the way the law is constructed, that there

is there is no grounds for weighting one more than the other that. If one could mount an argument for one prevailing over the other the arguments might go both ways that in all cases because not the argument for the Operative District Plan being given more weight seems to me to be potentially the better argument because it by definition as operative, the Proposed Plan is not operative and didn't exist at the time that the application was made. To reinforce that point.

Helen Atkins: So, there's law on there as well. So, in terms of that the Operative District Plan is your starting point and has to be given due weight. So, the extent to which you then consider the Proposed District Plan depends on the point you're making, one was it in place of the time the applicant was made and where is it at in terms of its life. And the further it's travelled, and this one hasn't travelled very far, the more weight you based. I do think that it is quite early in its life and the case law would tell us that it's relevant, but it doesn't warrant considerable weight because it's still goes through the submission process.

David King: Yeah. And perhaps just to illustrate what a reasonable person I am, I would argue nonetheless that the fact that elements of the proposed plan have the status of law cause, you know, there's a predictability about that which makes which counter vales the um, so I guess.

Helen Atkins: *Inaudible*

David McMahon: And just on that Mr King I think you need to be aware on that also that there's different legal tests applying to policy and objectives in a plan and the provisions in the plan in terms of the legal effect and the weight. They're not the same tests.

David King: Could I clarify there; I understand what you mean by policy and objectives.

David McMahon: The provisions of the rule.

David King: The provisions of the rules, yep ok.

42:00

David McMahon: Some rules will have legal effect... *inaudible*.... regulations of statute, other rules won't. Policies are matters are taken into consideration, the amount of weight that's placed on the policies, therefore, considerations the same weighting exercise needs to apply to rules in the Operative Plan and those rules in the proposed plan that have legal affect. As the chair has said there's a continuum anomaly in terms of the greater way through the process as a general rule, the more weight. But also, there's this concept of paradigm shift in the rules and we've heard Mr Hinchey's views on that in his opening submissions.

David King: And I guess what I'm signalling with some of these issues that I, of course, accept that there may be settled law but some of those issues which are settled law are still open to appeal on points of points of view.

David McMahon: I guess the point I'm trying to get we understand that you don't need to tell us that.

David King: Yes. And yeah, as I said, I hope that I'm not, I certainly don't want to do the suck eggs thing.

David McMahon: What we need to hear from you what does that mean on the ground for you in terms of your property and your concerns.

David King: No, with with respect, it is very important, I think that you, I know from in terms of your decision making you need to hear about the effects. I'm going to come to that of course. But I think it is important, at least for me, it is to signal as part of this hearing what I consider matters which are legally unclear. Yeah, yeah, because obviously it's the prospect of appeal over the time.

OK, I'll try to move a bit more quickly. Point of law windfall sites, Rymans, and council, to varying degrees, consistently make the argument that because something is a windfall site, a lower bar can be established because residents could reasonably predict or anticipate something of the nature of Rymans activity. Um. I mean to quote from Lisa Hayes planner district planner at City Council, any multi-unit application will be assessed against the residential design guide with no lower bar set for windfall sites. And notwithstanding that, I would argue that the one, when one considers the policies and objectives of the district plan, uh, in the round and in the specific wording of the windfall site issue that, what could be predicted reasonably for that site is not an activity which is noncomplying. Hopefully that is evident, self-evident but happy to talk to that. Secondly, I think it's uh, Ms Skidmore makes reference on a number of occasions to the landmark site nature of the site being relevant and having an impact on how effects are assessed. There's a principle which might be considered a rule of law issue you can't have your cake and eat it too. If it is a landmark site, it's a site that featured some buildings and it's a site that featured open space. If you want to assess what is appropriate in the light of the landmark site nature of the site, you must take into account the entire set of elements which constitute that site, in my view. Umm. This is basic critical thinking stuff to me. So, I would urge you to discount any consideration of the concept of the landmark site. Turning to the issue of what is the permitted baseline I note clearly that Commissioners and both Council and Rymans seemed to be clear that establishing what the permitted baseline is problematic, and I would say in terms of making a decision that is problematic in and of itself. But what I would note is that notwithstanding the acceptance of that lack of a permitted baseline, the Council and Rymans frequently throughout their representations say nonetheless, a building bought built next to the site next to the properties would have a greater impact than our particular building or some something words. Now if there is a not a permitted baseline that is an irrelevant consideration in my opinion. To be helpful, and I don't know if it is helpful but for your consideration and it seems to me as a resident that while there may not be a permitted baseline in terms of how one thinks about the immediate boundary area, there is a baseline in regard to what one might expect to see

in the broader territory. One obviously has to imagine to use some of the wording that's been used speculate a little bit, but I don't think it's unreasonable to conclude that the properties and Scarper Terrace would be looking out on three story buildings under the proposal and the baseline is currently 8 meters. And so yeah, I invite your consideration that matter. A couple of natural justice issues that apply here. First, as we've corresponded about obviously existing practices that Rymans get the opportunity, the applicant to comment on matters at the end of the process I have significant concerns that this is not consistent with natural justice that. If the if Rymans has the opportunity to comment on what the Council says, then submitters should have the opportunity to comment on what the Council says.

Secondly, that if Rymans comments on matters which they haven't commented on before for example, in regard to disability issues, that submitters should have the right to comment on what they say then, so again, just for your consideration. Umm. And again, just to note, as a natural justice issue that, I've missed the Bill of Rights, I'll come back to that. And that there is something, if one does permit the proposed district plan to be part of your considerations there is the very odd situation that submitters had no opportunity to comment on the application of the proposed district plan, because the proposed district plan didn't exist at the time of the submission period. So again, I guess this goes to the nature of the decision-making process and whether all relevant considerations have been taken into account.

Switching back quickly to the Bill of Rights to it's very easily stated under the Bill of Rights, there is an absolute right to non-discrimination when it comes to law, decision making processes under the law. For those who are protected under the Human Rights Act, including people with disability. The Bill of Rights Act is very clear that where the law can be read consistent with the Bill of Rights Act then that's the way that it should be read. Consequently, we're one is considering whether an effect is minor or not more than minor or not it is the law in my submission that the effects on disabled people should be taken into account. It's not an able bodied to test has or enablist test that is applied. So that covers that.

The nature of decision making just wanted to make two or three comments there. And again, please, I'm not trying to say anything about this is sucking eggs as it were. But I have been conscious throughout this process because I am, I guess what I guess is termed and. If the citizen informed of heights which perhaps are not normally exercised. Of the possibility of creating a will by decision makers and I just want to remind you, with all due respect and it is sincere respect that the law, the rule of law, having attended a friend swearing in as a High Court judge just recently. Is that the law is administered without fear or favour, without a fiction or ill will? So, whether you see me as a pain in the butt or not that is irrelevant, I guess. Just two or three from psychology, what we understand about how people make decisions, and I don't know whether this is covered in your making good decisions stuff so which isn't publicly available. So which I think is an issue in and of itself. Two of the two or three of the most important observations about decision making that have been identified in recent times as the, umm impact of what may be called loosely unconscious bias or the perhaps a more kindly the extent to which it is very difficult for people to come to a situation I set of facts and a set of law without a prior presumption. The interesting thing is that not only do people tend when they are confronted with a set of facts to weight the set of facts which are consistent with that prior presumption more heavily than facts which are not consistent with that prior

presumption. Very, very curiously. The more intelligent one is, the more that applies, go figure. It seems to be true, so there are a number of presuppositions which could be made here that the residents of Nimby's that intensification as a fantastic thing that we need elderly people's housing. Umm. The community of experts, which are part of this process are and in group of which I am loosely apart. And to whom I would be predisposed to give greater weight too, so. Again, urging that as one approaches this important decision that there is reflection on what, am I approaching this situation with priors? And can umm, develop the critical distance from those priors to to to to ensure that they don't weight, influence my judgment. And again, to really to emphasize to everyone this is not a criticism of individuals it's part of the human condition.

Helen Atkins: Of course it is and I can assure you, you are absolutely right? Yeah. And so one of the things this group of Commissions do, I can't comment on ones I haven't sat on, but often we are testing ourselves behind the scenes to make sure we are not doing that.

David King: And that's why there's three of you for example, one and so on.

Helen Atkins: Because you're right. And inevitably you come to a situation with a loosely developed view. You're absolutely right but I can assure you that there is a lot of testing going on between us.

David King: Good, good, good, good, good, good. I guess. Yeah. Just without labouring the point that that is why we have higher courts and so on because just to ensure that

Helen Atkins: The objectivity... *inaudible*...

David King: The objectivity, you know, and you know, I guess and there is a certain degree to which this application has unique features and therefore there is that real need for critical distance, I think to be particularly exercised and, but I really appreciate what you've said said there. Thank you.

The nature of the expertise I did want to comment on that a little bit. And here I'm really focused on to what extent expertise in regards to planning, in regards to urban development, urban design, I beg your pardon and in regard to the landscape and visual effects can be relied upon. And as with, as has been noted through this hearing, of course they are by definition, have elements of subjectivity attached to them. They are not matters of black and white but within that construct whenever expert advice is prepared and a framework that attempts to create a level of objectivity must be and usually is applied and in this particular case, it should be possible to identify shades of grey, as it were. is it?

Helen Atkins: *Inaudible*...

David King: Well, no, it's it's it's, it's absolutely, I mean it directly. Things are neither black or white, but one should be able to see on what basis are judgment is made that this is light grey, that this is medium grey and that this is dark grey, as it were. OK. Ohh come to the specifics

of the... My general point will be that I don't see the standard of framework being applied in these cases which is sufficient in and of itself, or sufficient in its application, uh to provide a reasonable basis for a decision maker to rely upon. Evidence now when I come to things, I will speak to that in more detail. Secondly, I think it's important to note about experts that in subject of matter areas, that two things tend to happen, either experts bifurcate or polarize. You will tend to get experts who say one thing and you will tend to get experts who say something quite contrary and this is known informally, of course, in the world of expertise as world public policy is you can always find an expert to align with the judgment that you want, not because they're biased, but because their particular way of looking at the world is at one part of the, one end of the, one part of the bifurcation. The second phenomenon that you see is convergence and this too can happen where experts congregate around a particular mean. And that mean is not necessarily an objective mean. It is a mean where all the incentives align for that mean to be established and so, speaking from public policy experience, you will have experts where umm, in cases where there are two corporates it's up against one another, both high paying and you will have and a lot at stake and you will have experts with quite different opinions and the court or the decision makers have to make decisions about those differences. Secondly, you have I would argue, well, no. I've seen for example, I could contrast here the telecommunications market and the financial market in recent times, you have had seen in regards to financial markets, convergence of expert opinion, because the overarching ethos has been towards consumer protection. And in some sense the pendulum swings too far and we're constantly in this business of recalibrating once we realize it has swung too far. I obviously am not an expert in the history of planning but have paid some attention to the issues and I submit for your consideration that what has potentially happened in the discipline of planning, landscape, urban design has that there has been a move from polarization or bifurcation to congregation around. And that these are aligned with the incentive effects that are at play that to the extent that there was previously and ethos amongst one set of planners that community, community values, let's call it that should prevail versus developers who who took the view that need to get on with development and and and and that's important. And so, you would have contrast here in recent times, quite understandably, intensification has become a prevailing ethos and that ethos, I think it's fair to say has influenced councils and that potentially more weight is given to intensification than if you like the mean should be. So again, that's a matter for consideration.

It it's fair to note, I think that. Parliament to turn its mind to the extent to which, umm, incentives could impact on the independence of experts by banning fee for success arrangements. That does not mean, of course, that the full incentive effects have been fully reflected in law and that there are not other incentive effects at work. And then particular in professions where there are congruence of interests you see, and this has happened in the public sector, movement of experts in and out of the public and private sector, because there is a congruence of opinion which enables that transition to take place. Whereas uh when there is bifurcation that does not take place. The incentives, obviously you know just quite clearly, there are planners who and expert, experts who have a significant interest in the ongoing business of major corporates and no reflection on the individual's integrity, this is all at the unconscious level. This can affect how individuals see what is reasonable.

Helen Atkins: I think you'll be familiar because you were at the Ministry of Justice the courts, including Environment Court, umm have taken a lot of time to put the evidence act in place and it's also got an environment context a very detailed lengthy code of conduct regarding the role of the experts. I do hear what you're saying. Yeah. And I think similar to the comment you made before about decision makers coming into preconceived views. And again, this panel really does see its role, I think David in particular stated at the outset of really acquiring in.

David King: Yeah, and I can I can see obviously and I can see clearly that you're focused on that for example, the shading issue and see how material the judgment about that.

Helen Atkins: And you'll see more of that when we speak to the Council. And then it won't just be on shading either because traffic and all the infrastructure services are *...inaudible...* today. So. So no, I it's a fair comment. For each and I think with the best one in the world, you can't have the perfect system.

David King: Yeah, I'm not arguing for perfection.

Helen Atkins: No, I know. No, I I do, I hear what you're saying and yes, it is a daily consideration for the likes of us. We all are in that space of hopping in and out of being decision makers one day and *...inaudible...* another day

David King: In the interest of time, I'll I'll move on, but what I I would say is that just very briefly is that experts in the areas of subjectivity, having applied their objectivity use language, which hollers' the way that advice is delivered and the the various submissions are and I could give detailed examples if you want, are full of that and I've used the same devices myself.

Helen Atkins: I know yeah, I know.

David King: OK, good, good, good. OK just turn. Sorry, really focusing in in the these are not my sole areas of concern that obviously questions of bulk and dominance, sunlight and shading, privacy and overlooking are material issues where a subject of judgment about what is minor or not overlaid by a framework which tries to create objectivity about that is is, are paramount. And without picking on anyone in particular I just draw attention to the framework for in Ms Skidmore's evidence for assessing visual effects and there may be some reasonableness to some of the factors that are listed there. As an expert on experts and there's someone who is evaluated policy advice using similar sorts of approaches one would generally expect to see a much more detailed elaboration of what is to be taken into account in for example let's pick on one, contrast between the proposal and the existing view from similar to highly contrasting. Wonderful to know that an expert is going to apply that judgment but where is the information that enables me as a person scrutinising the judgment to say how does this person determine what is low? How does this person determine what is high? Where do I see the Shades of Grey and in that? And you know, I note that undoubtedly

Ms Skidmore will have an individual assessment sheet for each of our houses and it would of course be useful to have have those. But making a comparison to the policy advice context, one would expect to see and have evidence of similar cases. So, in assessing contrast I would expect an expert to say to bring to the table information about previous cases which are comparable and what judgment has been made about what is minor, what is more than minor, what is yeah, on any one to five scale. And in the Council and in Rymans submissions from experts there is absolutely no information of that nature. There is no basis by which I can see as a resident of 24 Scapa Terrace what is deemed to be minor in the general scheme of things. What I experts, what, comparable situations have been looked at before and what judgments have been deemed to be reasonable by experts in that context? We talk in the policy world about the complexity of the policy judgment that needs to be made this village I would argue as a as a complex situation where a highly skilled judgment needs to be applied and. It's absolutely critical in that context that the the full evidential basis for judgments is available to decision makers. And so my submission is that there is no reliable ground for making, or relying on the experts judgments in regards to these matters. I mean it's a little unkind, but it's not unfair to say that if experts in regard to landscaping matters cannot get it right with regard to appropriate planting along the boundary which is a matter that residents, you know, also bring a level of knowledge to, what level of confidence can one have about the judgment that is exercised in regard to more complex matters. Again not, certainly not determinate if, but I would tender suggestive that the only place in the whole entirety of the evidence that is provided across the entire suite of expert advice that has been given where an expert has said that the judgment is close is in relationship to our property by Ms Brownlie in relationship to shading and.

Helen Atkins: I think she says in relation to a couple, not just yours, I think. ...*Inaudible*...

David King: OK. OK, well, I, well, I'll. I'll be interested to double check that, but double check that right.

Helen Atkins: Yeah we picked that up.

David King: And I hesitate to say it, but just being aware of the interaction between our conscious and our unconscious minds. Ms Brownlie's report is pristine in terms of its, language, its grammar, it's lack of typos and so on in that one sentence there is, you know, a significant grammatical error. For your consideration, does that show that at some level there is an element of Ms Brownlie as an expert, which it was not sure and potentially is at a deep level, umm more inclined to say that the judgment in regard to our place is more than minor. So, coming to the you know, the specifics in regard to our place. I am not a visual person, I cannot conceive, I openly admit, of what the view, the impact, and effects on me about my property and my wife's property will be. I rely very much in that regard on the judgment of my neighbours, who are better placed than me to do that. I've asked people who, contacts, friends who know about something about these things, whether it would be unreasonable for Rymans in these sorts of situations to have rather than screeds of shading diagrams, which it's impossible, quite frankly for people who, even someone like me, that has time on his hands too, to spend the investing in this to get their heads around. It is not unreasonable to

require that a three-dimensional CGI model of the village and its immediate surrounds be developed so that people like me who struggle with the visuals can locate ourselves within that model and see the impacts on us. So in regards to bulk and dominance, privacy and overlooking in particular I rely on my neighbour's judgment in regard to that largely. One thing I do know about is sunlight as a mentally disabled person sunlight is so important. And in my safe space which I have on page two, there's a spot there on this couch where in winter I enjoy sunlight. Umm. Just one example of bias that I have to draw attention to is that Mr. Burns in his assessment said that in relation to the factors that were to be taken into consideration was the fact that we currently enjoy a high level of sunlight. That is totally irrelevant, totally irrelevant and shows bias, but there's no reason what matters is what is the baseline for sunlight and what is the impact of the proposal and is the effect more than minor. I do not claim to be able to understand Ms Brownlee's assessment of our house. It is very complicated; I've asked for clarification that I haven't received that. It uses words like fenestration which are just part of the masquerade of expertise, with all due respect. Which you know, much simpler words could be used for, used instead of. What I can say with certainty is that I accept fully completely, absolutely that there will be properties built upon that site next door to us which will be intensive in nature, which will have impact on shading in sunlight in regard to our property and my only concern is at law, whether the impacts on us are minor or more than minor?

David McMahon: Mr. King, just on that, a question of clarification. Is that statement in relation to the proposal before us or are you referring to what might occur after the MDRS rules?

David King: I'm making it in regard to the operative district plan. But you know, I've noticed, Commissioner, that you have raised this issue two or three times and it's an important issue. My wife would take a different position, I'm sure, but for me the overarching and primary value which I apply here is the rule of law. Yeah, it what is lawful. And if something is lawful under the new plan, then it can be developed there as far as I'm concerned.

David McMahon: It's a simple question. So, you're not referring to the Ryman proposal in that statement you're referring to what might occur, to use your words, under the operative district plan?

David King: No, no, no. I'm referring to the Ryman proposal.

David McMahon: So, when you say that you accept that there will be, property there will be intensive in nature and have an impact on shading, privacy, you're referring to the Ryman proposal.

David King: Well, I'm. No, no, no. I'm. I'm. I'm. I'm what is permissible under the...

David McMahon: It's not a difficult question.

David King: No, no, no, no, sorry. I think we just need to be clear about what the question is.

Helen Atkins: Yeah, what I think he means, you tell me if I get it wrong. Umm what I read it, what I took out of that comment was you are not in the camp that's saying we live next to an undeveloped site, we can expect to continue to live next to an undeveloped site.

David King: No absolutely not absolutely not.

Helen Atkins: So, the site couple be developed and could be developed intensively. That site, that development could have shading etc effects. Uh, so not which you know, you're not saying it needs to be kept as open space for the rest of its natural life,

David King: Where you are far from it. It should. It shouldn't. It shouldn't be. It shouldn't be quite clearly. All that matters to me is whether those effects are minor or whatever, OK. But in in regard to the proposed district plan, to the extent that that's relevant my position is that yes, of course that will become law but the law is always a contested matter and there in essence my problem, and I think many others problem is with Parliament rather than with and and with regard, and it's and, and particularly in terms of whether the law is in breach of the Bill of Rights.

David McMahon: Thank, thank you for that clarification, I understand now. Your statement was made about what could happen under the operative plan that was my question. OK. But it brings me to and if you don't mind...

David King: No, no, no, of course.

David McMahon: A question I had written down from something you said earlier about permitted baseline. I don't want to increase the permitted baseline.

David King: No no no, I get lost on that.

David McMahon: But no. And really, the the situation with that is that the applicants not pursuing the permitted baseline.

David King: No, but they are...

David McMahon: Just some context before I ask you the question. Ms Brownlee doesn't appear to be advancing it with any vigor. In any event, its a discretion to apply it or not and what what and applying it...

David King: Well, you have to have one do apply it like you

David McMahon: Can I just finish? If the panel was to apply it and could apply it, it would be through the discount of effects associated with any activity that could occur without the need for resource consent. So, but what I was really and this is my question is what it's really

interested in, you said, you reminded us that we should be cognizant of what might be expected, what we might be expected to see in the broader...

David King: Context...

David McMahon: Locality, neighbourhood. You talk about the three by three, three stories, three dwellings.

David King: No, no, no, I can I clarify that. What I, I may well have erred on, erred there. What I said was I thought I said was that one could expect to look out beyond the boundary where it was uncertainty on if you like a field of intensive development, which is compliant with the operative plan which currently is 8 metres, which is currently two stories.

David McMahon: And that brings me to my question, and I would specifically wrote down 8 metres because that's the height standard and of course, the MPRS allows 11 + 1 metre and I guess the question I'm putting to you is are you advancing to us that, that height standard in the proposed plan does not have legal effect.

David King: Uh. On my understanding of the law and the way it works, it does not.

David McMahon: If, if the applicant advances a different perspective legally and we accept that then comes down to what we might expect in the broader environment. So rather than a field of eight metre dwellings...

David King: It's a field of 11 metres. Yes. Plus one. Yeah. Yeah.

David McMahon: Thank you. That's clear.

David King: I accept that fully

David McMahon: I appreciate your answers.

David King: Uh. So yes, struggle with visuals, aware of sunlight and shade. Not at all sure exactly, but Mr. Burns does have this very stark statement that we will have 1 and a 1/2 hours, I think, of mid-winter sunlight and concludes that that is minor. He, I guess you madam Chair have used the word pieces of, the phrase the pieces of a puzzle, he's pulled together range of factors to to...

Helen Atkins: Yeah, that was his evidence.

David King: Yeah that was his evidence. Again, I would submit that in pulling together that range of evidence, it is a range of factors. It is not at all transparent on what basis he can reach the conclusion that 1 and a 1/2 hours is a minor yeah affect, it's my view. I think to the extent that he introduces a factor which is the availability of sun during the equinox periods and at

the summer solstice. That is something that should be given little weighting in regard to the puzzle is as it were. Sunlight in mid-winter is much more material to well-being, than sunlight, sunlight indoors it's much more material to well-being than sunlight indoors, or you're... one wants for sun inside during the winter, one doesn't want the sun inside during the summer to put it too frank, frankly. So I really struggle to see how Mr Burns can reach judgment that is reasonable too.... I can do a count the availability of sun during the rest of the year. It is either a minor effect or a more than minor effect midwinter on sunlight into our property and being able to see where the shades of grey are in regard to that is in my submission, the most material matter in terms of the whole puzzle.

Umm. I would add and this applies to a range of judgments here are in regards to these matters, privacy and overlooking, bulk and dominance, sunlight and shade. That if the judgment is that in regard from the experts is that in regard to these matters the impact on residence as normally applied is minor then by definition, the impact on the disabled must be more than minor because sunlight, overlook privacy, and we're not just talking about here about actual overlook, but the potential, the, the feeling of the feeling of being overlooked, which from a psychosocial point of view is, is is incredibly material. And bulk and dominance, in the world of child abuse and in the world of mental ill health, dominance, which in Latin means power is... has has impacts that are adverse. Now, I will get to the end, I'm sure if I can remember where I am.

Helen Atkins: You're only just a little bit over the time that you suggested, and I'm not proposing to push you along too much.

David King: The remaining matters won't be too...

Helen Atkins: The discussion you've just been having with us is really, look, it's all critical. I'm not trying to suggest that, but, but in terms of, uh, something that's exercising our minds and will continue to do, all the points you raised the directly relevant for our consideration so thank you.

David Kink: Yeah. OK. Umm. The. Just turning to Limb 2, section 104 D. My submission is that there isn't any particular planning expertise that needs to be applied in looking at that issue. What needs to be applied is critical thinking skills and what needs to be asked is, is there a logical coherence to the policies and objectives of the district plan, which enables one to say with confidence what is the, to use one of the phrases that's used, broad thrust of the plan. And is. anything in what is proposed I would put it two ways, I know you said not to use the word repugnant, but it's stuck in my mind repugnant too. And and and or in my assessment of the law. More than minor, but in terms of the overall nature of the plan not material enough to require to permit the activity, to to prevent the activity going ahead and I by that. I guess I'm saying yes, we've identified that there's an effect that is minor. But when we look at that it's not that it's necessarily, it's not, it's repugnant, but it's it's It can be said that it's it's not that important in the grand scheme of things and that would be how I would interpret that text.

Helen Atkins: Often that happens with that section 104D test, so it becomes a bit circular, because you're quite often policies particularly hone in on effects and so you end up having this circular argument which comes back to effects, not always.

David King: Yeah. Yeah, yeah. No, no, no. I think you're right. Well, seems to me that that's right. Yeah.

Helen Atkins: So, you're looking at the policy. You're right, though, it is what is ...*inaudible*... And the broad thrust. I'll tell you that I think what we've got here, is we've got mostly and residential provisions, you find the broad thrust is often around amenity. Yeah, that that's where the operative plan comes from. Then we've got this overlay, which the government has largely imposed on us all around intensification. And as you know, the councils that are pushing back and saying, how do we achieve residential environments and intensification. That's exactly what's at play here.

David King: Yeah. Yeah, exactly. Yeah. Yeah, yeah. Couldn't agree more. The, I guess I I certainly don't claim this is the final word to be said on how to interpret limb 2 too, but I have tried to apply my critical thinking skills to it and to see does it, does it form a coherent whole? And I would tender that it does, notwithstanding the various points that have been made it needs to be read, I think in light of the overall objectives that the Council has set for its district plan. Where to get the right wording, district plan objectives chapter 1.6.3 bullet point, bullet point, bullet point, etcetera, etcetera. And to maintain and enhance the amenity values of the city. And what I would say is that within that broad context and the statement within the, the principle within the that introductory set of comments within the district plan that it's important that people have a reasonable level of predictability about what will happen around them. The Council has over time reviewed its policies and objectives in regard to residential areas in the upper residential zone and my interpretation is that it has an overall goal of maintaining and enhancing amenity. But that within that it wants consolidation where that does not detract from amenity. If it does begin to detract from amenity, it is deterred, turned its mind to that and established a set of policies and associated rules which attempt, which reflects its assessment of where the balance can be struck between in in some activity to some extent amenity of someone like myself, a property and amenity values for those who are being, you know, going to occupy intensified housing and so on. In that it is turned its mind and particular to multi-unit residential developments and has said in that context it recognizes that the effects may be even more, umm, difficult to manage. And it has given itself discretion to deal with those circumstances. It has no intention that anything be developed that is beyond those proposals without meeting the tests of Section 104 D of the Resource Management Act.

David McMahon: Can I just ask it a question of clarification, you gave a reference to an objective number earlier, and I didn't get it.

David King: It's not numbered, but it's chapter 1.6.3 of the district plan objectives.

David McMahon: So that's in the operate plan, Mr. King?

David King: Yeah. And it's the first, it's the first objective, and there's no mention of intensification within those objectives.

David McMahon: And you also referred about discretion being the multi-unit residential developments, where the, and you just quoted you where the effects are more difficult to manage...

David King: Where the interface between, yeah becomes more more challenging. Yes. Yep.

David McMahon: Do you happen to know what the activity status for those types of developments are in the operative district plan?

David King: Ohh I couldn't off the top of my head. I I think there's a question. I I don't think retirement villages are no, no.

David McMahon: I'm talking about multi-unit residential developments.

David King: It's it's. Could you do? Would you mind just repeating the question?

David McMahon: You talked about multi-unit residential and the policy framework around though. Yeah. Do you have to know what activity status of multi-unit residential development standards are in the residential zone of the operative district plan?

David King: Could I just clarify because it just shows my ignorance obviously? What do you mean by activity status?

David McMahon: Are they permitted, controlled, discretionary?

David King: Oh, they're discretionary.

David McMahon: Is it fully discretionary or restricted discretionary?

David King: Umm. Again, forgive me for not understanding fully the terminology. What I understand is that a, in regards to a multi-unit residential development, the Council has given itself discretion in regard to building height to go up to 10 metres based on an assessment of the effects.

David McMahon: Sure, you're not suggesting that they're not, they're not complying activities, are you?

David King: If they get to 10 metres?

David McMahon: If they get above, if they're below 10 metres.

David King: If they're below 10 metres and the council has gone through a process which as reasonably considered effects umm, and as reasonably concluded that you know it's discretion can be exercised in this way, then obviously not.

David McMahon: OK, thank you. Sorry to interrupt.

David King: No, no, no, no, no, no, very important.

So, I we're just about there, it's challenging finding all the papers that are... where's my piece of paper?

David McMahon: See how we feel.

David King: I sympathize enormously.

Yeah, that's finally to comment on the application of Part 2, there is as Council slash Ryman's have pointed out the existence of Section 7C, which is the requirement to have regard to, and I haven't got the exact right wording, but maintaining amenity value, yeah. And one rightly, that's rightly asked in what circumstance should that come into play, given the purpose of the act, which is to include avoiding remedying, mitigating adverse effects, if the, that that's the purpose of the act and decision makers are to orient themselves around that. In what circumstance should section 7C be had regard to? I don't know the answer to that, but I'd suggest a relevant consideration and thinking about that might be that it applies precisely in the context of critical areas of judgment within the Resource Management Act, and in particular in circumstances where an activity is non-compliant. For your consideration, I have no idea what a judge would say on that.

Helen Atkins: It's certainly, it's a subject that's changed a little bit over the years because Part 2 historically was often heavily discussed and every resource consent process regardless if it was non-compliant or not. In in the courts over time including the Supreme Court and the Court of Appeal have kind of nuanced that cause what you would expect in a case like this is that the plan provides the framework that gives effect Part 2, so the plan should be placed....

David King: Consistent with that.

Helen Atkins: ...in amenity, all of those sorts of things. Where the plan is silent on something in Part 2 there's an argument its non-compliant with the act. But say it's silent and you're in the middle of a resource consent hearing then the courts have been quite clear, that resort to Part 2 is helpful, and, or the plan is unclear. So, there is there for example that conflict you just talked about between maintaining amenity and providing for intensification. So, so Part 2. And I think the Counsel for the applicant touched on this, Part 2 may be of assistance in trying to manage that issue. Part 2 is actually silent on housing intensification. So that's the way I kind of think about it. It's not a get out of jail card to use Part 2, the economic drivers of

Part 2 to say it doesn't matter what the effects are. It has great economic ...*inaudible*... which people did often for an argument. So that's kind of its history.

David King: OK. OK, that's that's interesting.

Helen Atkins: But I I don't. I I think it has relevance. It certainly does in terms of some of the other comments you've made around higher order, all of that matters. It is relevant and the courts have talked about it in that context too. So, we certainly have to turn our minds to it in our decision, whichever way we go.

David King: Yeah. Yeah, yeah. Good. Good. OK.

David King: So yeah, I've reached my conclusion, which will be brief. Just emphasizing again that I haven't covered every point that one might want to make.

Helen Atkins: But your submission does, and the submission of others do. So, I'm not reading ...*inaudible*... saying you're perfectly happy about traffic and noise and all those other things. But I'm really grateful to you for honing in on specific concerns.

David King: Yeah. So, my submission overall is that in regard to the judgments that have been made as to whether something is minor or not and pains of its effects, adverse effects, there isn't sufficient evidence base for a reasonable decision maker to be able to make a decision. There is no, there there, there's been no evidence around what the shades of gray are. And no evidence as to how shades of gray have been identified another situations of similar nature and you know the points that Andrew Cooper made yesterday about the Auckland situation, the villages there. I don't know to what extent these judgments applied there, but they would seem to be potentially quite material and there's been no evidence brought to bare in regard to those. And, umm, my second point obviously is that when you apply, as I submit, that you have to a disability lens to this, in particular for me, just because of how I am, the importance of sunlight in the safe space in which I operate and the importance of, umm. I haven't mentioned this the upstairs living room as a safe... upstairs bedroom is the safe space.

Helen Atkins: Yeah, you did mention it.

David King: I beg your pardon. That those factors must be taken into account and if the conclusion of experts is that the effects applying their normal test, not to pick on Ms Skidmore if she's in. The viewers values and attitudes towards the proposed activity is properly applied with a disability lens then by definition where judgments are that affects a minor, uh, in particular, where had the judgment call was close then the effect must be by definition more than minor. And I was just so moved yesterday that I want to emphasize that this it's not just about me, it's about my neighbour Tristram and it's about the disability community as a whole. And as Andrew Cooper pointed out yesterday, the nature of the facilities that are going to be provided for dementia care residents, who I can't remember the exact details, but the lack of sunshine was outstandingly poor from my my my read and my father suffered from

dementia and I know what it's like to live in a dementia ward and to how important vestiges of normal life are to people with dementia and sunlight is just so important. And I would go so far as to say not having read it recently, but I know Andrew referred to the health department guidelines, but but the, I just do not think it unreasonable to think about the International Convention Against Torture which uh, New Zealand is a signatory to and which it would be worth having a read of because New Zealand is found regularly to breach that convention and, the issue of what are reasonable standards for disabled people who live in retirement villages, as I suspect, an issue which hasn't received much attention. It might have been received some but obviously become increasingly important over time as the population ages. And this may be an issue that needs consideration. There you have it.

Helen Atkins: Thank you. I asked my questions as we went. Would you have, have you asked your questions?

David McMahon: I have exhausted my list Mr King will be happy to know.

Helen Atkins: Ms Jones has been studiously taking lots of notes. As have I I have to say, as you spoke so clearly, I wouldn't guarantee it's an absolute word for word, but I think I've got pretty close.

David King: My goodness that's impressive.

Angela Jones: Hopefully between us we've captured everything. I only have a couple of questions most of what I was going to ask has already been covered. You've talked about, you've showed us the layout of the inside of your back northern part of the, your house, downstairs and talked about what you described as your safe space and your spot on the couch there. How do you use the outside of your house and how important to sunlight and the patio area and the...

David King: Speaking for my wife, hugely important. For me personally, reasons I won't go into uh, that is not such a safe space and it is less material to to me personally. Clearly, for someone without a disability, it would probably be, or my particular disability, it would probably be very important.

Helen Atkins: Well, I know Mr, and certainly your neighbour you've talked about the importance of that space to them.

David King: Yeah. And again, just to emphasize one accepts the loss of sunlight and shade to some degree, it's what is reasonable in that regard.

Angela Jones: So, if I could summarize it for your household the outside is also equally as important, in terms of access for sunlight, is that your... as a whole... I don't want to put words in your mouth.

David Kings: No, no, no, no, no, no. Well, my wife has equal status, my children have equal status, so I'd better jolly well say it as equal status.

Helen Atkins: ...*inaudible*...

David King: I simply want to emphasize for me personally, inside is sunlight is critical. Yeah. Yeah.

Angela Jones: My last question is we've heard from some other submitters who have had quite directive requests in terms of amendments in terms of setback from the boundary and heights. Do you have any of those type of request that would from your perspective satisfy you?

David King: I'm someone who focuses on principles rather than specifics, I'm afraid. I I I simply trust the judgment of my neighbours in regard to that. So, to the extent they've asked for more separation and more tiering that would seem to me to be reasonable and by the standard test and reasonable from my own personal perspective is having a mental health disability.

Helen Atkins: Mr. Cooper had some very specific examples, not only from his own perspective, but the perspective of RDK.

David King: Yeah, yeah, yeah, of course.

Helen Atkins: It's very helpful. Thank you. Alright, thank you so much Mr King. I very much appreciate it.