



**With further reference to the proposed disposal of land at Balbutcher Lane/
Parkview, Ballymun, Dublin 11.**

Report No.254/2004 which was assented to by the City Council at its meeting on 4th October 2004 contained a proposal to dispose of lands at Balbutcher Lane/Parkview, Ballymun, Dublin 11 to GAMA Construction Ireland Limited or their nominees subject to terms and conditions. GAMA Construction subsequently nominated Paddy Doyle of Lyndonbarray Developments as developer of the subject lands.

An Agreement was entered into in October 2006 between Ballymun Regeneration Limited and Paddy Doyle which provided that the lands would be disposed of for the development of mainly private residential units. Under the terms of the Agreement, Paddy Doyle was to construct around 266 units including apartments, houses and childcare facility as the private aspect of the development. The Agreement also provided for the construction of 26 Affordable units.

Construction began in 2006 and by the summer of 2009 172 units had been built with 96 of these units sold and 76 unsold. DCC has 14 units within the development. Construction stopped at that point with Mr Doyle citing financial difficulties. BRL commenced discussions with Mr. Doyle and his financiers Anglo Irish Bank in an attempt to complete the development. Pursuant to the National Asset Management Agency (NAMA) Act 2009, the Bank transferred its loans with the Developer to National Asset Loan Management Designated Activity Company (NALM). On 20 December 2010, NALM appointed Paul McCann of Grant Thornton the Receiver as statutory receiver for the Developer.

BRL entered into negotiations with the Receiver in relation to monies owed to BRL, completion of works and the remaining undeveloped portion of the site and although settlement terms were agreed in principle no formal acceptance was ever achieved.

The current situation is that the Council retains the freehold title to the entire estate. The elements of the development completed by the developer, including the common areas, require substantial remedial works estimated to be in the region of €8m.

Following further more recent negotiations a Settlement Agreement has now been reached with the Receiver, Paul McCann of Grant Thornton, in relation to settlement terms and conditions. Pursuant to the Deed of Settlement, Paul McCann (in his capacity as statutory receiver over certain assets of Paddy Doyle), Arcadia Developments Limited (in receivership) The Receiver has nominated Arcadia Developments Ltd (in Receivership), a connected company of Paddy Doyle, Paul McCann (in his capacity as statutory receiver over certain assets of Arcadia Developments Limited (in receivership), the Council and the OMC have agreed that the parties will enter into this agreement, pursuant to which Arcadia Developments Ltd (in Receivership) will undertake to procure certain remedial works to the 172 private units which have been completed, whether owned by Arcadia, the Council and/or third party owners together with certain remedial works to the common areas of the Estate owned by the OMC in further consideration of the Receiver nominating Arcadia to take the Deeds of Assurance.

Accordingly, it is now proposed that the disposal of these lands, which are shown coloured green on Map Index No SM-2018-0006, proceed as outlined on the following terms and conditions:

1. That the Council shall enter into a Settlement Agreement with the Receiver for Paddy Doyle In Receivership, Arcadia Developments Ltd. (In Receivership), the Receiver for Arcadia Developments Ltd In Receivership and Parkview Estate Management Company CLG (OMC).
2. That the undeveloped Plots 1, 2 & 3 coloured blue on Map Index No SM-2018-0006 shall be conveyed, assigned, transferred, confirmed and released on an 'as is' basis with whatever title right, estate and interest the Receiver for the Developer has to the Council so that the Council holds those lands freed and discharged from all rights and claims whatsoever under the Agreement for Lease. The Receiver shall ensure that the undeveloped plots are released of all claims from the National Asset Loan Management Designated Activity Company (NALM) and that the OMC acknowledges and agrees the conveyance, assignment, transfer, confirmation and release of those lands.
3. That the undeveloped plots shall be returned to the Council on as 'as is basis' in the same state as they are currently in at the date hereof and the Council shall take possession and secure the plots in a manner deemed appropriate by the Council.
4. That Dublin City Council shall enter into an Agreement for Works with the Receiver, Arcadia and the OMC. That Arcadia Developments Ltd (In Receivership) shall complete all remediation works in accordance with the scope of works agreed between Dublin City Council, the OMC and the Receiver (the Remediation Works). It is further agreed between the parties that the OMC and the Council shall not be paid and shall not seek any payments for any disturbance or inconvenience caused by the execution of Remediation Works.
5. That the Council shall pay 14/172 of the actual vouched costs that arise in connection with the Remediation Works to include building works, reasonable professional fees & VAT. That NAMA will provide funding for the balance of the costs that arise in connection with the Remediation Works i.e. 158/172 of the costs that arise in connection with the Remediation Works and a confirmation letter shall be provided by NAMA to the Receiver to this effect and this letter shall be attached to the Settlement Agreement.
6. That Arcadia Developments Ltd (In Receivership) shall complete all Remediation Works to the Council's units and to the balance of the Development in accordance with the Agreement for Works and in compliance with all necessary statutory consents.
7. That upon practical completion of the Remediation Works and expiry of the 12 months defects period thereafter, the Receiver shall have no further liability to the Council in respect of the Remediation Works and the Council shall rely on Collateral Warranties from the Receiver's Building Surveyor and Contractor.
8. That upon practical completion of the Remediation Works the Council shall have no liability to the OMC in respect of the works.
9. That the Council shall deliver to Arcadia Developments Ltd (In Receivership):
 - a) Deeds of Assurances being the executed but undated and undelivered Deeds of executed leases in the remaining unsold apartment and duplex units and
 - b) Deeds of Transfer in respect of the remaining unsold houses together with the associated Grant of Easements as per the attached schedule.

10. That the Council shall transfer the freehold in the common areas to the OMC to comply with the MUDS Act.
11. That Willows Football Club shall be granted a lease of Plot No. 1 as shown on Map Index No SM-2018-006 (subject to final survey) to facilitate an extension to their existing football club premises to run co-terminus and on similar terms and conditions to their existing lease (a 99 year lease from 27/7/2004 at an abated rent of €100).
12. That for the benefit of the undeveloped plots and any surrounding land owned by DCC, the Council and its nominees shall retain all appropriate rights through the completed development including inter alia, rights of way and rights to access to services etc. Rights of way shall extend to a right of access for construction traffic.
13. That each party shall be responsible for their own legal costs in relation to this matter.

This property was acquired under the Poppintree Balbutcher – Santry CPO 1967.

The dates for the performance of any of the requirements of the proposed agreement may be amended at the absolute discretion of the Executive Manager.

The disposal shall be subject to any such covenants and conditions as the Law Agent in his discretion shall stipulate.

No agreement enforceable at law is created or is intended to be created until exchange of contracts has taken place.

This proposal was approved by the North West Area Committee at its meeting on 19th February 2019.

This report is submitted in accordance with the requirements of Section 183 of the Local Government Act, 2001.

Resolution:

“That Dublin City Council notes the contents of Report No. 98/2019 and assents to the proposal outlined therein”.

Dated 21st day of February 2019.

Paul Clegg
Executive Officer

