

22/09/2020

To the Chairperson and Members of  
The South Central Committee

Meeting: 21/10/2020

Item No:

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**With reference to the proposed disposal of fee simple interest in a site at 51A Old Kilmainham, Dublin 8.**

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Approved Housing Bodies are a key part of the Government's strategy and policy on the delivery, regeneration and management of social housing and as such, are key partners for Dublin City Council. It is therefore proposed to dispose of Dublin City Council's fee simple interest in a site at 51A Old Kilmainham, Dublin 8 to Arlington NOVAS.

This site was transferred to the Council from the Irish Prison Service in December 2019, for the purpose of the onward transfer to Arlington Novas Ltd. Arlington Novas Ltd, an Approved Housing Body, intend to develop 11 units for social housing at this site. The proposed accommodation will go towards the Council's housing need in accordance with the Housing Allocations Scheme.

The Department of Housing, Local Government & Heritage has approved Stage 1 funding for this project under the Capital Assistance Scheme (CAS). One of the conditions of CAS funding is that a mortgage in the amount of the funding is placed as a charge on the property.

In disposing of the fee simple in this site to Arlington Novas Ltd Approved Housing Body, the following should be noted:

1. Approved Housing Bodies are not for profit bodies that provide and manage social housing.
2. Approved Housing Bodies are subject to a number of regulatory regimes, including the Companies office, the Charity Regulator, the Housing Regulator and are accountable to their stakeholders. In this regard, a Regulation Office was established within the Housing Agency in 2014 with responsibility for regulating Approved Housing Bodies. The Regulation Office oversees the assessment of Approved Housing Bodies in respect of their financial viability, governance and management along with the compliance with the Regulatory Framework. The majority of Approved Housing Bodies are Companies Limited by Guarantee and are required to comply with legal obligations set out in the Companies Acts, 2014 making their annual accounts freely available for public inspection.
3. In addition to being registered charities, they are regulated by the Charities Regulator and details of an AHB's activities are available for inspection on the Charities Regulator's public register.
4. They are not free to manage their assets in any way they wish. They must use their assets in accordance with their charitable status and any surpluses generated must be applied back to benefit their charitable aims.

5. A restriction on title will be applied to ensure the continued use of the units as social housing.
6. There are financial implications if they fail to comply with their loan obligations to use their properties for social housing.
7. Should they cease to exist, in the first instance, they will seek to transfer their assets to another organisation with similar charitable aims or their assets will be transferred free of charge to Dublin City Council.

The Housing Department has reported that agreement has now been reached with Arlington NOVAS (the Purchaser) subject to the following terms and conditions:

1. The subject property at 51A Old Kilmainham, Dublin 8 is shown outlined in red on the attached map Index No. SM-2020-0430.
2. The Council shall dispose of the fee simple title in the subject property under the terms of the Low Cost Sites Scheme, for the delivery of social housing.
3. The subject property will be disposed of with vacant possession.
4. Under the terms of the Lease and the Capital Assistance Scheme, the disposal price shall be the sum of € 1,397 plus VAT (if applicable). This equates to €127 (one hundred and twenty seven euro) per residential unit.
5. The title shall be transferred to the Purchaser subject to a Building Covenant.
6. There is an inhibition on the title that the subject property can only be used for social housing purposes.
7. The development must be fully completed and made fit for occupation within 36 (thirty six) months from the date of the Section 183 approval by the Council
8. The proposed Purchaser shall satisfy the Council that it has adequate public liability and employer's liability insurance and shall indemnify the Council against any claims for compensation that may be made arising from its usage of the site. The current levels of insurance are €6.5 million public liability insurance and €13 million employer's liability insurance.
9. The proposed Purchaser shall insure the buildings during construction against fire and all other insurable risks with an approved insurance company and pay all necessary premiums. The amount will provide cover for full reinstatement values of so much of the buildings as is erect at any time together with a sum for professional fees and removal of debris charges.
10. All roads and footpaths works shall be completed to the written satisfaction of the Council.
11. The Council shall have 100% nomination rights to all of the units.
12. Should the subject property cease to be used for social housing purposes at any stage, then the units will revert free of charge to the Council.
13. Should the proposed Purchaser not proceed with the development or complete the development within the agreed timeline that the benefit/ownership of the planning permission, design of the scheme and certification shall transfer, free of charge, to the Council.

14. In the event of the proposed Purchaser going into bankruptcy or insolvency, the Council reserves the right to take possession of the site and all of the housing units (partially completed or otherwise) at no cost to the Council.
15. The proposed Purchaser shall be liable for the payment of VAT and/or Stamp Duty should any such payments arise from this disposal.
16. Each party shall be responsible for their own legal fees and professional fees.
17. The proposed Purchaser shall not sell, assign, sublet or part with possession of the property or part thereof without obtaining the written consent of the Council, with the exception of tenancy and licence agreements with tenants or licensees for supported housing.

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

The agreement shall contain such other covenants and conditions as deemed appropriate by Dublin City Council's Law Agent.

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

**Helen McNamara**

**Senior Executive Officer**

**5/10/2020**

**Date**