

25/05/2021

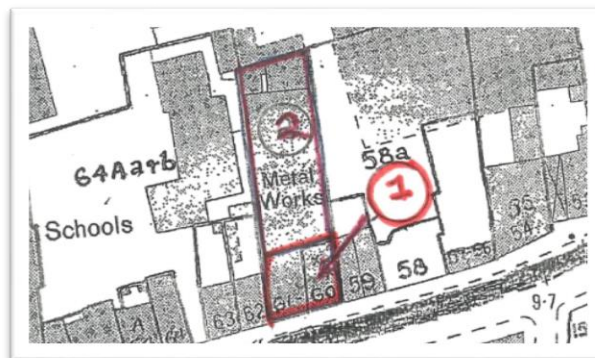
To the Chairperson and Members of
The Central Area Committee

Meeting: 8th June 2021

With further reference to the proposed disposal of the Council's fee simple interest in land at 60/61 King Street North, Dublin 7.

Terms and conditions for a proposed disposal of the Council's interest in land at 60/61 North King Street, Dublin 7 to Yellowline Limited were presented to this Area Committee at its September 2020 meeting but the consensus was that additional information and clarification should be sought in advance of the matter going before the full City Council for its statutory approval.

In 1949 Dublin City Council acquired the fee simple and an assignment of a lease in respect of the front portion of the premises 60/61 North King Street in advance of a proposed road widening CPO for the street. The part of the premises acquired is the portion marked number 1 below. The larger rear portion of the premises marked number 2 was not acquired and remained in private ownership.



When the site was acquired in 1949 it was not required at that point for the intended purpose of road widening and a 20-year licence was immediately granted to the previous owners to continue to occupy it for that period with a proviso that the licence would be terminated if the land was required for the proposed road widening at an earlier date.

The North King Street road widening scheme did not ever proceed and the licence expired in 1969. There is no record of Dublin City Council taking possession of the site at that time or of the occupants being requested to vacate it.

Due to the grant of the licence in 1949 the Council owned site was never physically separated from the property to the rear and was used as a single premises throughout the licence period and thereafter.

Title research carried out in 2004 uncovered the fact that the owner of the rear portion of the premises had in 1981 granted a 35 year lease of the front portion to an individual who operated it as a motor factors for many years.

In 2007 Solicitors acting for the owner of the rear portion advised that their client was then in possession of the entire site and was claiming title under adverse possession. The Chief Valuer entered into negotiations with the Solicitors for the party claiming adverse possession but these were protracted due to the downturn in the economy. The Chief Valuer advised in 2015 that negotiations had ceased as an agreement could not be reached.

During that time the matter was further complicated by a claim by another party that he had used the property as a stable and equine equipment store for many years.

The matter fell into abeyance until 2019 when Solicitors for the new owners of the rear portion of No. 60/61 and adjoining premises Nos. 62 – 65 North King Street sought to open negotiations for the acquisition of the Council's interest.

Following the reservations expressed by this Area Committee last year the Law Agent was requested to examine the matter and has advised that although the party claiming adverse possession was now deceased the benefit of occupation can be assigned to any successor to his title. Consequently, in its current form the Council's title is defective and in order to perfect same a Compulsory Purchase Order would be required.

The Law Agent further advised that the making of a Compulsory Purchase Order would be a time consuming and costly process in excess of the site's value due to the requirement to "buy out" any party who is laying claim to title in the site.

Notwithstanding this, at the request of this Area Committee City Architects Division was requested to examine the potential of the site for the construction of one or two houses on it. City Architects have advised that the construction of houses would be out of context with the established building developments and form on the street. They further advised that while the construction of an apartment building could be considered the narrow depth of the site at just 7.8 metres would severely inhibit the building and prevent any rear or side access to it. In view of this City Architects are of the opinion that a more effective use of the site would be its incorporation into a larger development comprising the extensive land to the rear and west.

In summary, the Law Agent's advice that the Council's title to the front portion of Nos. 60 and 61 North King Street is encumbered and defective. Any attempt by the Council to now take possession of it for the first time since it was acquired in 1949 would almost certainly face legal challenge and to seek to perfect title by Compulsory Purchase Order would be a potentially lengthy and costly process. Even if full title was eventually achieved through compulsory purchase the development potential of the site by Dublin City Council would be limited.

It is the view therefore that the most appropriate course of action for Dublin City Council is to proceed with the proposed disposal which will, subject to the grant of planning permission, enable the purchaser to develop the land and eliminate one of the last remaining stretches of dereliction on North King Street. Dublin City Council will also benefit from the developer's Part V social housing obligations.



It is proposed therefore to dispose of the Council's interest to Yellowline Limited subject to the following terms and conditions which the Chief Valuer has recommended as fair and reasonable:

1. The plot is shown delineated in red on Map Index No. SM-2020-0260 and has an area of approximately 107 m².
2. That consideration for the proposed disposal of the Councils Fee Simple Interest or equivalent shall be in the amount of €35,000 (thirty five thousand euro) plus VAT if applicable.
3. That the applicant shall pay the City Councils Valuer fees of €1,000 plus VAT and the Councils reasonable legal costs plus VAT.

The disposal 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.

Paul Clegg

27/05/2021

Executive Manager