

20th May 2021

To the Chairperson and Members of
The Central Area Committee

Meeting: 08/06/2021

With reference to the proposed disposal fee simple interest in 35 Upper Abbey Street (part of) to Abbey Cottages Limited

On 16th December 1939 Dublin Corporation acquired from Simon Watchman a plot of ground comprising approx. 41 sq. metres at 35 Upper Abbey Street (part of) as shown outlined in red on Map Index No. SM-2021-0286 (the original lease Map Index No. was 3601). The title acquired was freehold subject to a Fee Farm Grant indemnified against the payment of rent.

The purpose of the acquisition was for the future widening of Upper Abbey Street which did not ever proceed. The agreement by which the Corporation acquired the land provided that *“pending the utilisation of the premises hereby conveyed for the purpose of widening said street the owner shall be at liberty to occupy same free of rent or any other charge or expense of any kind and to erect thereon a one-storey shop which he hereby agrees to remove immediately after the adjoining houses are set back to the new street frontage.....”*.

As the widening of Upper Abbey Street never took place the premises erected by Mr. Watchman remained standing for many years and was continuously occupied by him and his successors in title. Dublin City Council retained a freehold interest in a property but it had no entitlement to take possession of or occupy it.

Discussions were held circa 2005 with the then owners of the premises Cinema and General Publicity Limited for the acquisition of the Council's interest but agreement was not reached on a purchase price at that time.

In 2019 it was noticed by a City Council official that the site of the by then demolished premises at 35 Upper Abbey Street (part of) was enclosed within the hoarding of a larger development site in the ownership of Abbey Cottages Limited. Dublin City Council had not been formally made aware of this nor was its consent to the inclusion of the land in a development sought.

Solicitors for Abbey Cottages Limited responded to correspondence from the Law Agent to refute any wrongdoing and reiterated the above stated provision in the 1939 Deed of Conveyance. Counsel advice provided to the Law Agent confirmed that as a result of that provision Dublin City Council's position in the matter was not one of strength.

After a hiatus during the pandemic in 2020 the Solicitors for Abbey Cottages Limited indicated in January 2021 their client's willingness to enter discussions for the acquisition of clear title to the land. The Law Agent advised that if agreement could be reached it would be a good outcome for the Council and the matter was referred to the Chief Valuer to open negotiations.

The Chief Valuer has now advised that agreement has been reached with Mr. Adrian Power-Kelly, Chartered Surveyor, representing the applicant, Abbey Cottages Limited, subject to the following terms and conditions which he considers to be fair and reasonable and recommends for acceptance:

1. That the subject plot is situated at No 35 Upper Abbey Street, Dublin 1 (part of) as shown outlined in red on Map Index No. SM-2021-0286 and has an area of approximately 41m².

2. That the property is held by Dublin City Council under Deed of Conveyance dated 16th December 1939 from Simon Watchman.
3. That consideration for the proposed disposal of the Council's freehold interest or equivalent, shall be in the amount of €100,000 (one hundred thousand euro) plus VAT if applicable, in full and final settlement.
4. That both parties will be responsible for their own fees in this regard.

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 is intended to be created until exchange of contracts has taken place.

Paul Clegg

Executive Manager

18/05/2021

Date