

Section 140 of the Local Government Act 2001 motion in relation to the O'Devaney lands.

Section 132 (1) of the Local Government Act 2001 states that it is the duty of every [CEO] to carry into effect all lawful directions of the elected council of a local authority or a joint body for which he or she is [CEO] in relation to the exercise and performance of the reserved functions of the local authority or joint body.

Section 15 (1) of the Planning and Development Act 2000 states it shall be the duty of a planning authority to take such steps within its powers as may be necessary for securing the objectives of the development plan.

Section 140 of the Local Government Act 2001 states that an elected council or joint body may by resolution require any particular act, matter or thing specifically mentioned in the resolution and which the local authority or the [CEO] concerned can lawfully do or effect, to be done or effected in the performance of the executive functions of the local authority.

Resolution 332/2019 refers to proposal for 768 residential units at O'Devaney Gardens.

An Bord Pleanála in decision SHD0011/21 granted permission for 1047 residential units at O'Devaney Gardens.

Accordingly I propose this Council approves this motion under section 140 of the Local Government Act that the CEO initiate actions to return to the Council all legal and equitable title to relevant lands at O'Devaney Gardens the subject of an unlawful agreement entered into by the CEO insofar as the purported terms of disposal by the City Council to Bartra Property Residential Holdings Ltd [Bartra] breach the terms of City Council resolution 332/2019 which was "assented to" by the Councillors who have the reserved function to agree or assent to the terms for disposal of City Council lands. Therefore the CEO must write to Bartra seeking its view on rescission of the unlawful agreement. If the CEO does not receive a reply from Bartra indicating willingness to revise its planning permission for the relevant O'Devaney Gardens site to comply with the terms of resolution 332/2019 agreed by this Council, to comply with the City Development standards, including on height, plot ratio and density and to comply with the law that the City Council should not facilitate breach of its own Development Plan, then the matter should return to the Council for discussion on how elected members and the CEO can act lawfully in this matter or the CEO should send a letter before action seeking rescission of the contract to Bartra.

If the CEO does not comply with this resolution and the law I advise that I will hold the CEO and his agents personally liable for the costs including legal costs, including those incurred by this proposer, of their and/or his non-compliance.

Signatures below:

