

**The Chairman and Members of
North West Area Committee.**

Meeting: 17th May 2022

Item No: 5

With reference to a proposed exchange of lands at Cappagh Road, Finglas, Dublin 11 and lands at Cherry Orchard, Dublin 10 with the Health Service Executive.

Dublin City Council is the owner of land known as Saint Fergal's Field adjacent to Cappagh Road, Finglas, Dublin 11. The land lies within an area bounded by Cappagh Road, Cardiffsbridge Road, Wellmount Road and Fergal's Lane and is contained in the "Finglas Strategy 2021", prepared in consultation with the Elected Members and which sets out a masterplan for comprehensive redevelopment of the land in an integrated manner. Dublin City Council, the Dublin Archdioceses, the CDETB and the HSE will be the main statutory stakeholders of the Strategy the detail of which can be viewed at:

<https://www.dublincity.ie/news/fergals-field-development-project>

In order to advance it's element of the redevelopment the HSE has proposed an exchange of lands with Dublin City Council whereby in return for Dublin City Council transferring ownership of St. Fergal's Field to it, the HSE would transfer lands in its ownership at Cherry Orchard, Dublin 10 to the Council.

It is proposed that the Housing and Community Services Department will develop the lands at Cherry Orchard for Affordable Housing and circa 172 units will be constructed, subject to detailed design and planning permission.

The Chief Valuer has now advised that agreement has been reached with the HSE on this proposal, subject to the following terms and conditions which he considers to be fair and reasonable:

HSE to Dublin City Council – Lands at Cherry Orchard

1. That the HSE shall transfer the unencumbered freehold title in the lands at Cherry Orchard to Dublin City Council, for no consideration.
2. That the lands at Cherry Orchard are as shown outlined in red on map index SM-2021-0666, having an area of 2.78 acres or thereabouts.
3. Three additional plots as shown on Map Index No. SM-2021-0666 and labelled X, Y and Z are currently held with other lands, under lease dated 22 December 2004 from Eastern Regional Health Authority to George Cronin, Pat Burke, Robert Flood (Cherry Orchard Football Club - Folio 145076L) for the term of 99 years from the 22 December 2004.

As soon as practically possible and, subject to written agreement between Dublin City Council and Cherry Orchard Football Club, the HSE will also transfer to Dublin City Council the unencumbered freehold interest in those plots for no consideration. This will facilitate and simplify a future direct agreement between Dublin City Council and Cherry Orchard Football Club in respect of the adjoining lands.

4. That all outstanding charges, rates and taxes (if any) on the lands shall be cleared prior to completion of this transaction.
5. That as part of the intended development of the lands, the Council shall erect a suitable boundary wall only along the boundary with the retained HSE Campus, (as indicated by the letters D, E,F,G,H on the attached map index SM-2021-0666) replacing the existing palisade fence; with a temporary working strip/area being provided to the Council by the HSE at no cost, on the HSE's retained lands, during the construction works for the wall. This wall will be to the specification previously agreed by the HSE and the Council's Housing Department and will be completed within 9 months from the date of completion of the land transfer. If the HSE elect to construct the wall, then the Council will pay for the section of the wall from D to H only, at an agreed tender cost, when it is completed.
6. That each party shall be responsible for their own professional fees, together with any Stamp Duty and VAT liabilities that might arise from this transaction.

Dublin City Council to HSE

7. That Dublin City Council shall transfer the unencumbered freehold interest in the entire of the lands known as Saint Fergal's Field, Finglas, Dublin 11, to the HSE, shown outlined in red on the attached map Index No. SM-2021-0631, having an area of 5.71 acres or thereabouts.
8. That Dublin City Council shall transfer to the HSE the entire of the site for a balancing consideration in the amount of €250,000 (two hundred and fifty thousand euro) payable in one lump sum at the date of transfer of title.
9. That this land transfer shall include a Covenant that the land can only be used for non-profit making health, education or community purposes.
10. That Dublin City Council shall transfer the unencumbered freehold title in the lands and with all outstanding charges, rates, taxes (if any) being cleared prior to the transfer of title.
11. That in the event that the HSE do not, in due course, receive Planning Permission for a Primary Care Centre and related buildings and works (including an access roadway) adjoining the lands at Condition 7 above, known as Fergal's Field, then the HSE has a right to call on Dublin City Council, upon giving reasonable notice, to re-acquire the said lands for the sum of €1,780,000 (one million seven hundred and eighty thousand euro).
12. That each party shall be responsible for their own professional fees, together with any Stamp Duty and VAT liabilities that might arise from this transaction.

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

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

Máire Igoe

9/5/2022

Acting Executive Manager

Date