



With further reference to the proposed disposal of Rathmines Square

Report No. 503/2007, which was assented to by Dublin City Council at its meeting on 3rd December 2007, approved the terms and conditions for the proposed redevelopment of a site at Rathmines swimming pool, Lower Rathmines Road, Dublin 6 by way of a Building Contract dated 25th January 2008 and separate Commercial Agreement also dated 25th January 2008 with John Paul Construction Ltd.

In accordance with planning permission (ref: 4778/05), John Paul Construction Ltd demolished the existing swimming pool and constructed a new civic space, a combined sports, leisure and residential building, a childcare building and a new public park, as shown on map index no. SM-2018-0771.

Under the Commercial Agreement, John Paul Construction was to acquire by way of a 500 year lease (either directly or to a nominee) 40 apartments with exclusive right to use 40 associated car spaces within the completed development, subject to each individual disposal being brought to the Council in accordance with section 183 of the Local Government Act 2001. The remaining 6 apartments and associated car spaces as well as the balance of the site, consisting of a crèche, leisure centre and a public park and plaza, when redeveloped, was to remain in the ownership of Dublin City Council.

A number of issues have delayed delivery of the apartment leases to John Paul Construction Ltd and indeed, the Multi-Unit Development Act 2011 (the MUD Act) came into operation in the intervening period. Solicitors for John Paul Construction Ltd have sought amendments to the management structure proposed in the Commercial Agreement to reflect the requirements of the MUDs Act and have confirmed John Paul Construction Ltd's intention to call for the Apartment Leases once those amendments have been agreed and documents settled.

The MUDs Act includes the requirement to transfer the relevant parts of the common areas of the completed development to an owners' management company (OMC), in this case, called Rathmines Square Owners Management Company Ltd.

Therefore, in order to comply with the Act and its existing contractual arrangements with John Paul Construction Ltd, it is proposed that Dublin City Council will enter into: -

- (a) Individual 500 year leases to John Paul Construction or its nominee in the 40 apartments with exclusive use of 40 car spaces;
- (b) Individual 500 year leases of each of the 6 Dublin City Council apartments (social housing), with exclusive use of 6 car spaces to either Dublin City Council or the Law Agent, Terence O'Keeffe in trust from Dublin City Council;
- (c) Individual 500 year leases/freehold transfers of any parts of the scheme intended to be retained by Dublin City Council including the public park, the crèche facility, the remaining car spaces/areas, the leisure centre and swimming pool to either Dublin City Council or the Law Agent, Terence O'Keeffe in trust from Dublin City Council; and

(d) freehold transfer of the entire development (with the exception of the plaza to the front), in compliance with the MUDs Act 2011, to the OMC subject to and with the benefit of the individual leases/transfers referred to above.

The freehold in the site was transferred to Dublin City Council from the Rathmines and Rathgar UDC following its abolition in 1930.

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

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

This report was approved by the South East Area Committee at its meeting on 10th December 2018.

This report is submitted in accordance with the requirements of Section 183 of the Local Government Act, 2001.

Resolution:

"That Dublin City Council notes the contents of Report No. 128/2019 and assents to the proposal outlined therein".

Dated 20th day of March 2019.

Helen McNamara
Senior Executive Officer

