**COMHAIRLE CHONTAE ÁTHA CLIATH THEAS  
SOUTH DUBLIN COUNTY COUNCIL**



**MEETING OF SOUTH DUBLIN COUNTY COUNCIL**

**Monday, 11th February 2019**

**H-I 7 (b)**

**FILE REF: MS8/134**

**Re:**

**Disposal of plot of land at Monastery Road, Clondalkin, Dublin 22 to Thomas & Hilary Dempsey, Hunters Lodge, Daars North, Straffan, County Kildare as agreed and negotiated at Arbitration hearing in relation to acquisition of Plots 134c1, 134c2 &134c3 pursuant to Dun Laoghaire Rathdown County Council (M50 Motorway Upgrade Scheme) Order 2004**

Dun Laoghaire Rathdown County Council (M50 Motorway Upgrade Scheme) Order 2004 was made by Dun Laoghaire Rathdown County Council on 22nd September, 2004. Notice of Confirmation was served on 10th May, 2005. Notice to Treat was served on 15th August, 2005. Notice of Intention to Enter was served on 2nd December, 2005 and the Council entered and took possession of the plots on 29th March, 2006.

Following lengthy negotiations and a subsequent Arbitration Hearing on the 7th November, 2016, the Property Arbitrator made an award based on the acceptance of an unconditional offer made by the Council to Mr and Mrs Dempsey. The terms of which are binding on both parties to conclude the acquisition from Thomas & Hillary Dempsey of lands identified as Plots 134c.1, 134c.2 and 134c.3 on drawing no. M50 – 134c having a total area of 0.030 ha or thereabouts. The legalities for the transfer of the three plots into Council ownership is ongoing.

During negotiations at the arbitration hearing, the Council through legal representation agreed in principle that an area of Council owned land comprising 116 sq. m which had been incorporated into the curtilage of Thomas & Hillary Dempsey’s adjacent property could be regularised. This agreement was subject to acceptance by the Claimants of the Council’s unconditional offer of acquisition of the CPO’d lands.

Thomas & Hillary Dempsey have now made a formal application to the Council to have the matter regularised. The subject area which is a strip of land at a junction embankment is of no strategic or economic value to the Council. However a public lighting standard is contained within this strip of land and Thomas & Hillary Dempsey have agreed to cover the Council costs for removal and relocation of the lighting standard estimated at €7,000 plus VAT.

In order to regularise matters and comply with agreement reached which enabled a settlement award be recommended at the Arbitration Hearing I recommend that the Council disposes of the area of land outlined in red on drawing LA/01/19 measuring 116 sq m or thereabouts to Thomas & Hillary Dempsey in accordance with Section 211 of the Planning and Development Act, 2000 and subject to the provisions of Section 183 of the Local Government Act, 2001 subject to the following terms and conditions:-

1. That the subject area comprises 116sq m or thereabouts and is outlined and hatched in red on the Drawing No LA/01/19.
2. That the Council disposes of the subject area for the nominal consideration of €10 (if demanded) on the basis that the area is of no strategic and or economic value to the Council.
3. That the subject area is disposed of with full freehold title.
4. That the Applicants hold the freehold or equivalent interest in the lands adjacent to the disposal plot.
5. That the Council will recoup from the Applicants the full costs of removal and re-location of the lighting standard on the disposal plot estimated in the sum of €7,000 plus VAT.
6. That all boundary features shall be in accordance with the Planning & Development and the Building Control legislation.
7. That each party shall be responsible for their own legal fees plus VAT and outlay.
8. That in the event of any name change to Applicants prior to formal completion of the legal transfer, the Applicants must provide documentary evidence to the Council proving that the new named party is one and the same as the named Applicants heretofore to enable the transfer to complete.
9. That all parties use their best endeavours to complete the transaction within a reasonable timeframe following adoption of the disposal resolution.
10. That the Law Agent drafts the necessary legal agreements and includes any further terms deemed appropriate in Agreements of this nature.
11. That no contract enforceable at Law is created or intended to be created until such time as contracts have been exchanged.
12. That the disposal is subject to the necessary approvals and consents being obtained.

The lands being disposed of form part of the lands acquired from A.C. Boles Limited in 2015 for road development purposes.

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**Daniel McLoughlin**

**Chief Executive**