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



**MEETING OF SOUTH DUBLIN COUNTY COUNCIL**

**Monday, 8th November 2021**

**H-I 7 (a)**

**LD 1092 Proposed disposal of lands at Castlefield, Knocklyon, Dublin 16 to Orbitiz Limited**

The Council is the freehold owner of two sites at Castlefield, Knocklyon, Dublin 16. The two sites were placed for open market sale with appointed selling agent, Vincent Finnegan Commercial, 1st Floor Joe Daly House, Dundrum Road, Dundrum, Dublin 14.

Following an extensive marketing process the Council Valuer in conjunction with the selling agent has reached agreement on sale terms and conditions which they consider to be fair and reasonable, and which have been accepted by the identified purchaser. This disposal if Agreed will supersede the previous disposal approved at Council meeting held on the 12th of 0ctober 2015 and as set out in Chief Executive Order DEV/83/15.

Accordingly, I recommend that the Council disposes of the sites at Castlefield Knocklyon, Dublin 16 to Orbitiz Limited, 38 Belgrave Road, Rathmines, Dublin 6 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 sites are shown outlined in red on Drawing Nos. LA/13/19 and LA/22/20 comprising an area of approximately 0.783 hectares/1.93 acres or thereabouts.
2. That the purchase price shall be the sum of €2,650,000 (two million six hundred and fifty thousand euro) plus VAT if applicable, payable in the following manner:
3. 10% deposit (plus any VAT due) upon signing of the disposal contract which is conditional on receipt of satisfactory planning permission. The Proposed Purchaser has lodged a booking deposit of €132,000 (one hundred and thirty two thousand euro) with the Council’s Sales Agent, Vincent Finnegan. The booking deposit payment of €132,000 will be set off against the 10% deposit payment (plus any VAT due) in advance of the signing of the disposal contract. The draft disposal contract should be issued to the Proposed Purchaser within eight (8) weeks of Council approval to the disposal of the sites (if approved). The Proposed Purchaser will sign and return the final disposal contract in the agreed form to the Vendor’s Solicitor within fifteen (15) working days of issue.
4. 90% balance plus VAT (if applicable) upon completion of the disposal – please refer to terms 5 and 6 below.

A 12% p.a. interest rate shall apply to any outstanding sums after they became due under the agreement.

1. That the proposed purchaser is Orbitiz Limited.
2. That South Dublin County Council holds registered freehold title in the subject sites subject to a wayleave shown in yellow on attached Drawing Nos. LA/13/19 and LA/22/20.
3. That the disposal is subject to the receipt of an acceptable planning permission for a residential development. The proposed purchaser (acting reasonably) shall be obliged to confirm in writing to the Council within 10 (ten) days of the date of final grant, that a planning permission received from the Planning Authority or An Bord Pleanála is acceptable or not to them. If a planning permission is notified to the Council as being acceptable, then this disposal shall complete within 10 (ten) working days from the date of such notification.
4. The final grant of planning permission will determine the final disposal price, and the amount listed in term 2 may be adjusted on a pro-rata basis in accordance with the Heads of Terms agreed between both parties.
5. That the proposed purchaser will lodge a planning application for the proposed scheme within 2 (two) months of signing and exchanging the disposal contract. Failure to lodge a planning application within the stated period shall render the agreement null and void.
6. That the proposed purchaser shall be permitted to lodge a maximum of two comprehensive planning applications to the Planning Authority and two planning appeals to An Bord Pleanála.

The entitlement to lodge a second comprehensive planning application shall only arise if the Planning Authority refuses permission for the first application or if the proposed purchaser (acting reasonably) deems the grant of planning permission by the Planning Authority to be unacceptable and onerous. The second comprehensive planning application, if it occurs, must be lodged within 6 (six) weeks of the date of the Planning Authority’s decision. The proposed purchaser (acting reasonably) shall be obliged to confirm in writing to the Council within 10 (ten) working days of the date of final grant, that a planning permission received from the Planning Authority or An Bord Pleanála is acceptable or not to them.
7. That if the Planning Authority or An Bord Pleanála refuses permission for the proposed development, or the proposed purchaser (acting reasonably) deems a planning permission to be unacceptable or otherwise fails to comply with any of the conditions above, the contracts will be rescinded, and all monies received will be returned, without the payment of interest.
8. That the proposed purchaser will be responsible for all costs in relation to the planning process.
9. That the proposed purchaser shall satisfy the Council that they have sufficent funds to develop the site in accordance with the proper planning and development of the area.
10. That it is a matter for the proposed purchaser to satisfy themselves as to the existence and/or availability of services within or adjacent to the sites.
11. That each party shall be responsible for their own costs and fees in this matter.
12. That the purchaser shall pay any VAT, Stamp Duty, or taxes arising at any stage in this transaction (expect where any lawful exemption or relief therefrom applies), including on the creation of a contract for sale.
13. That all site investigations (including archaeological investigations), groundworks, overhead cable diversions, demolitions/site clearance/septic site removal (such works are subject to regulations and to obtaining the relevant statutory licences), services connections, development and associated costs incurred in the delivery of the entire completed development shall be borne by the purchaser.
14. That the Council’s Law Agent shall draft the agreements and contracts for review and may include further reasonable terms and conditions as deemed appropriate to give effect to the terms and conditions set out herein, including provision for use of an independent expert to settle any disputes arising, as appropriate, in order to achieve a reasonable balance in the protection of the parties’ interests in the matter.
15. That this proposed disposal is subject to the necessary consents and approvals being obtained from South Dublin County Council.
16. That if no development has been substantially commenced on the subject sites within 2 (two) years of the completion of the sale, the Council reserve the right or option at any time during the third year following the date of completion of the sale, to acquire the site back at the same consideration for which it was sold. In the event that the Council wishes to exercise this right or option it shall notify the purchaser in writing.
17. That the dates for the performance of any of the requirements of the proposed agreement may be amended at the absolute discretion of the Chief Executive.
18. That no agreement enforceable at law is created or is intended to be created until exchange of contracts has taken place.
19. That the Law Agent shall draft the necessary legal agreements and shall include any further terms deemed appropriate in Agreements of this nature.
20. That the Council will retain ownership of any boundary walls or sound barriers that adjoins the M50 and a wayleave to access these walls.

The lands being disposed form part of the lands acquired from Thomas Mc Inerney and Company Limited and Meade Plant Hire in 1977 and 1980 respectively for road requirements.

**D. McLoughlin**

**Chief Executive**