The Council at its meeting held on 13th November 2006 approved an exchange of lands with Shelbourne Development Limited whereby the Council agreed to dispose of approximately 41.5 acres of land at Balgaddy to Shelbourne Development Limited in exchange for the acquisition from them of approximately 42.56 acres of land at Cooldrinagh subject to agreed terms and conditions. An Agreement to Lease was signed on the 31st of October 2008 between the Council and Shelbourne Development Limited embodying the terms of the exchange agreement approved by the members. As part of this agreement, title to the Cooldrinagh lands transferred to South Dublin County Council and a portion of the Balgaddy lands, approximately 7.5 acres transferred to Shelbourne Development Limited.

Having secured planning permission for a mixed-use proposal in 2011, for various reasons Shelbourne Development Limited did not proceed with the development of the Balgaddy lands as provided for in the Agreement to Lease. Negotiations commenced between the parties with a view to terminating the Agreement to Lease, however, these negotiations were unsuccessful, and the Council initiated High Court legal proceedings against Shelbourne Development Limited in 2013.

Both parties made several unsuccessful attempts over the years since the legal proceedings commenced in 2013, to reach a resolution. In an effort to resolve the matters, both parties agreed that it was in both their interests to enter settlement talks to try and bring a mutually satisfactory conclusion to this matter. Settlement talks took place in May 2022 between the parties, and following intensive negotiations, settlement terms were agreed, subject to certain terms and conditions. Under the terms of the settlement agreement, the Council agree to transfer the Cooldrinagh lands to Shelbourne Development Limited and Shelbourne Development Limited agree to transfer the Balgaddy lands to the Council. The transfer of the Cooldrinagh lands is subject to the provisions of Section 183 of the Local Government Act 2001 and in accordance with Section 211 of the Planning & Development Act 2000.

I recommend that the Council transfer lands at Cooldrinagh to Shelbourne Development Limited in accordance with Section 183 of the Local Government Act 2001 and Section 211 of the Planning & Development Act 2000, subject to the following terms and conditions-

1. Shelbourne Development Limited shall transfer the unencumbered freehold title of the Balgaddy lands comprised in Folio DN186668F to South Dublin County Council. The subject lands are outlined in green for information purposes on the attached Map LA/34/08 REV.A and referred to as Plot A. Please note a formal disposal map shall be prepared in due course by the Council for inclusion with the legal documents.
2. The Council shall transfer its freehold title in the Cooldrinagh lands comprised in Folio DN140160F as outlined in red on indicative Map No. LD 1174.22.1 to Shelbourne Development Limited or its nominee, subject to:
   1. a Restrictive Covenant – “that the public shall have an unfettered right of access across the Cooldrinagh lands by way of the Cooldrinagh Public Route between Point "A" and Point “B” as marked on Indicative Drawing No. LD 1174.22.1.”
   2. that Shelbourne Development Limited is bound by existing registered easement rights and privilege rights registered as a Burdens at Entry Numbers 2 and 4 of Part 3 of Folio 140160F; and
   3. that Shelbourne Development Limited is on notice that there are watermains serving Fingal County Council lying below the surface of the Cooldrinagh lands.
3. There are overhead Electricity Cables located on the Cooldrinagh lands. Shelbourne Development Limited or its nominee shall, if required by ESB Networks or another statutory authority, place the overhead electricity cables underground and all costs associated with same shall be borne by them.
4. On completion of the transfer of lands at term 1 and 2, South Dublin County Council and Shelbourne Development Limited agree that the Agreement to Lease dated 31st October 2008 shall be terminated and no further rights, entitlements, lands and/or monies due or owing to either party in respect of the termination of the Agreement to Lease shall exist.
5. On completion of the transfer of lands at term 1 and 2, the Council agrees to apply for the High Court Proceedings, Record No. 2013/2240P, to be struck out with no further order and the vacating of any/all previous orders as to costs and the parties will bear their own legal costs.
6. The Council shall pay the sum of €1.35 million euros as a contribution towards Shelbourne Development Limited’s costs, namely:
7. Infrastructure works on the Cooldrinagh lands to include but not limited to the relocation of ESB cables and construction/repair to walls.
8. Design team fees.
9. Legal costs.
10. Stamp duty payable.
11. The formal written consent of NAMA is required to the release of its charge registered against the Balgaddy Lands outlined as “Plot A” on Indicative Drawing No. LA 34-08 REV.A., registered on folios DN186668F and DN211S. Also, the written confirmation from NAMA that it has no interest or charge/lien over the lands subject or referenced in the Agreement to Lease signed between the parties on the 31st of October 2008 is required.
12. That the above proposal is subject to all the necessary approvals and consents being obtained by all parties.
13. That each party shall be responsible for their own professional fees (i.e., legal, engineering, architects, and other required consultants) in this case.
14. That each party shall be responsible for their own V.A.T., Stamp Duty and other Taxes arising.
15. That no agreement enforceable at law is created or is intended to be created until an exchange of contracts has taken place.

The lands being disposed of form part of lands acquired from Company Exports Limited in 2009 for park and ride, roads, and amenity purposes.

Daniel McLoughlin

Chief Executive