

2. TURNERS AND GROWERS ADJOINING NEIGHBOUR DISCUSSIONS

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The purpose of this report is to advise the Council of various options available to it in relation to land at the east end of the Turners and Growers site (Barbadoes Street) and to recommend that staff negotiate with the landowner on two options, with a report back on a preferred package.

CONTEXT

The Council purchased the Turners and Growers site in April 2002 to meet objectives outlined in the Central City Revitalisation Strategy adopted by the Council in February 2001.

In September 2002 the Council approved a process for the development of the site, which consisted of two stages. Firstly, a Registration of Interest which would be evaluated and a short-list would be prepared. Secondly, a Request for Proposals which would be sought from the short listed organisations.

Officers are working with the Working Party established by the Council to prepare the Registration of Interest Document, which is expected to be made available to the public in February 2003.

At the east end of the block there are two properties which are not owned by the Council (refer attachment). These are on the north east (Lichfield and Barbadoes Streets) and the south east (Tuam and Barbadoes Streets) corners. The same owner, Devon Street Holdings Limited, owns both properties. The sole director is Mr McKee, a local property developer. These two holdings were transferred to Devon Street Holdings in the latter part of last year. Between the two sites is a 15 metre wide strip of land which is owned by the Council and has frontage to Barbadoes Street.

The western boundaries of Mr McKee's two sites are not on the same line, creating problems for both the Council and Mr McKee in terms of allowing the best development possibilities on the respective sites.

Accordingly, discussions have taken place between Mr McKee and Council officers, with the aim of investigating whether a repositioning of site boundaries could be achieved which would provide advantages to both parties. This report presents the conclusions of these discussions and analysis of options which have been considered.

EXECUTIVE SUMMARY

Mr McKee (through his company, Devon Street Holdings Limited) is the owner of two corner parcels of land adjoining the eastern end (Barbadoes Street) of the Turners and Growers site. Since purchasing these blocks last year Mr McKee has been in discussions with Council officers so that he can better understand the Council's desired outcomes for its site and the likely timing of future development.

Through discussion it has become evident that Mr McKee would like to develop his property in a manner which will be complementary to any proposed residential development on the Turners and Growers site. At the present time Mr McKee is unable to achieve this in a viable way owing to the constrained nature of the two individual parcels. Initial talks have indicated however that if the Council investigated a land exchange and sale or appropriate use of a piece of land (1750m²) which adjoins the McKee, site outcomes in line with Council objectives could be achieved.

A number of options have been investigated:

- Option 1 – Retain the Status Quo
- Option 2 – Land Exchange between Mr McKee and the Council
- Option 3 – Land Exchange between Mr McKee and the Council, and sale of Area D to Mr McKee
- Option 4 – Land Exchange between Mr McKee and the Council, and lease of Area D to Mr McKee
- Option 5 – Land Exchange between Mr McKee and the Council, but the Council retains Area D and builds the car park
- Option 6 – Land Exchange between Mr McKee and the Council, and an undertaking by the Council that they will provide 60 car parks to Mr McKee.
- Option 7 – The Council buys Mr McKee's sites.

Negotiations have been progressed to a point that now requires the Council to indicate its preferred option(s) so that (if any of options 2–6 are preferred) negotiations can be concluded and brought back to the Council for final approval.

RELEVANT CURRENT POLICY

Policy for Disposal of Property

- (i) Property: Sale Of - That, in principle, the Council should publicly tender properties for sale unless there is a clear reason for doing otherwise.

Council 29 October 1991

- (ii) Property - Process for Disposal of Council Property within the Central City Area

1. That the Council's policy of publicly tendering properties for sale unless there is a clear reason for doing otherwise be confirmed as applying to all areas of the city with the exception of the area in which the (interim) Central City Board is active in pursuit of Council revitalisation goals.
2. That it be confirmed that all such sales of Council land must be approved in the normal way by the full Council.

Council 16 December 2000

ISSUES FOR CONSIDERATION

(a) Boundary Alignment

The present arrangement of the site boundaries creates problems for both Mr McKee and the Council.

For Mr McKee, if the present site boundaries were retained he would be compelled to develop his two sites separately for industrial style use. The sites are not wide enough to allow sufficient boundary setback for an office/residential development. This would limit the scale and flexibility of buildings he could put on the site, and would make it difficult to provide a mixed-use development that was economically viable. For example, if he were to develop the two sites with their present boundaries it would only be economically feasible for Mr McKee to build tilt slab concrete walls around the perimeter (on the boundaries with the Council owned land).

Such a mixed use development of the McKee site which the Council would prefer would also require two separate access points off Barbadoes Street, both of which would be too close to the corners of Lichfield and Tuam Streets respectively.

For the Council, the lack of alignment of the boundaries of the two sites is likely to create difficulties in planning of the buildings on its site. The ownership of the small block of land fronting onto Barbadoes Street is not perceived to add significant value for redevelopment of the Turners and Growers site.

(b) Compatibility of Use

If Mr McKee's sites were developed separately, in line with the existing City Plan requirements for the area, it would not be complementary to the Council's intended future direction for the balance of the Turners and Growers site and the surrounding area. Mr McKee has indicated his interest in the provision of residential/office accommodation on his site(s), which would be very supportive of the Council's objectives for the development of the area.

If Mr McKee developed the site in accordance with the existing Business 3 Zoning, there is the possibility that the uses on the site would be completely incompatible with the proposed future residential use of the Turners and Growers site. For example, businesses that create noise would be acceptable in the B3 zone, but would create difficulties for any proposed residential development resulting in potential Resource Management Act "reverse sensitivity" issues if residential zoning were pursued on the Turners and Growers site.

(c) **Car Parking**

The provision of car parking spaces on the site will be of vital importance for the successful development of the entire block. It is anticipated that the amount of space available for car parking will be a factor which limits the development of both the Council's and Mr McKee's sites.

Building on more than one level, either underground, or multistorey can reduce the amount of ground area committed to car parking. Both of these options are more expensive than parking on the ground. However an intermediate step, involving a two level car park partly sunk into the ground is considered to provide a compromise option which appears to be economically viable.

Careful consideration has been given to the likely locations of such a car parking building on the Turners and Growers site. The probable locations have been found to be at each end of the Turners and Growers site, namely the east and west ends of the site. The implications of locating such a building at the east end of the site, on a straightened boundary between the McKee site and the Council's site have been investigated, and it is considered to offer benefits to both parties.

Such a two level car park provides the number of car parks required to service Mr McKee's proposed development, while providing a number of car parks for the future residential development on the Council's site. This would be achieved on an area of land which is the same as would be required to serve the requirements of only one of the adjoining land owners. It also provides Mr McKee with the necessary separation from the Council's development to provide certainty to residents of the development. This is considered a mutual benefit to both parties.

From the perspective of the Council and any prospective developer that the Council may engage, the decision to locate a car parking building on this part of the Turners and Growers site does limit the flexibility of the development to some degree. However, consideration of other possible locations for car parking has shown that this is in fact one of the most likely places for a car parking building.

The Parking Manager comments *"Currently the site is being used for commuter parking and has been for a considerable number of years."*

Observationally occupancy appears to sit at less than 80%, this clearly being due to the availability of a significant amount of unrestricted parking on adjacent streets, and little in the way of significant demand generators in the immediate area other than the Polytech.

Two of the assumptions on which the financial analysis of a two level car park have been based are a 100% occupancy 12 months of the year, and a monthly rental of \$55 which is at the top end of the range for commuter parking on the periphery of the eastern part of the central city. The occupancy assumption is in reality highly unlikely to occur unless the site is developed, and therefore the already less than attractive estimates of return on investment will be lower still. Consequently as a stand alone investment a car park in this location is not considered to be a commercially viable development as things stand at present."

(d) **Timing**

The timing of the development of the Turners and Growers site by the Council is dictated by two sequences of activities. The first is the requirement for the Council to implement the change in zoning required to allow residential use. This is expected to take at least until late 2003, and if the matter is appealed to the Environment Court, may take a further year to be resolved, ie December 2004. The second is the time required for the Council to seek and evaluate registrations of interest and then to seek and evaluate proposals from the short listed parties. While the Council could be in a position to consider acceptance of a proposal by October 2003, in practice it is unlikely to fully commit to such a proposal until the resource management issues have been fully resolved. Thus the earliest time at which the Council would be in a position to proceed with engaging a developer for the Turners and Growers site would be October 2003 (if the City Plan Variation is approved by the Council and there are no appeals).

Mr McKee has committed funds to the purchase of his two sites, (both sites were transferred to his company in the second half of the last year), and he is keen to progress as quickly as possible with his development. He has advised that he is not prepared to delay his development until the Council has reached resolution of its intentions. Mr McKee needs to get his development started prior to the zone change being actioned because the new zone may preclude him from undertaking a viable development. To meet his timing requirements he plans to have started construction by about June 2003, which means that he will need to commence detailed design around Feb/March 2003. This is obviously before the Council will have completed either the City Plan variation or the selection of the preferred developer for the site.

However, subject to Mr McKee obtaining resource and building consents it would be possible for him to proceed with his development now, if an acceptable agreement was reached with the Council regarding the boundary alignment and the provision of car parking spaces.

DESCRIPTION OF THE PROPOSAL OPTIONS

Discussions with Mr McKee have given him an understanding of the Council's desired outcomes for the site and the likely timing of development. Through these discussions Mr McKee indicated his desire to work with the Council, and to undertake a development that will be more cohesive with any residential proposal by the Council for the remainder of the site.

Discussions to date have indicated a number of potential options, which are outlined below. The financial analysis of each option is located in the public excluded section of the report.

Option 1 – Retain the Status Quo

This would involve the Council retaining all the land which it has purchased under the Turners and Growers transaction and Mr McKee having ownership of the two corner parcels (refer attachment).

At its July 2002 meeting the Council debated a motion that the Council "reiterate its commitment to a fair, open and transparent process if and when it engaged the private sector to develop residential accommodation on the Turners and Growers site". The Council decided to refer this motion to the Strategy and Finance Committee for further consideration.

At its September 2002 meeting the Council adopted the Strategy and Finance Committee's recommendation to (amongst other things) engage in a public registration of interest process, which may be followed by a request for proposals from suitable partners identified in the registration of interest process.

In light of the above resolutions, the Council may prefer to retain the status quo. Under this option the registration of interest document could:

- (a) Specify that the Council has had some discussions with Mr McKee in relation to parcels A, B, C and D on the attached plan; and
- (b) Ask developers to advise whether they would want that area as part of the proposed development or would prefer car parks to be already provided (in one of the ways contemplated by options 3–5).

Following the evaluation of registrations of interest, the Council could then decide whether to enter into an agreement with Mr McKee.

The key difficulty with this option is the timing issue. Mr McKee has indicated that he is wanting to commence detailed design around February/March 2003, and that he does not intend waiting until the close of the registration of interest process before progressing the development of his sites.

This would limit Mr McKee to building a tilt slab building along the boundaries with the Council's site. The permitted uses of the building would be limited to those complying with the Business 3 zoning of the area, unless he applied for Resource Consent.

Advantages	Disadvantages
<p>The Council does not start placing limitations on any proposed development on the Turners and Growers site.</p> <p>We do not commit the Council to developing the Turners and Growers site in any particular pattern/outcome.</p> <p>This option is entirely consistent with earlier discussions regarding a fair, open and transparent process.</p>	<p>This option would likely lead Mr McKee to progress with a tilt slab industrial development on each of his two parcels.</p> <p>Does not produce a compatible development for the Turners and Growers site.</p> <p>Does not promote neighbourly relations when the Council will want Mr McKee to support a zoning change for the entire block. If he has undertaken an industrial development it may not be in his best interest to support residential development on the adjacent site due to reverse sensitivity issues.</p> <p>Limits Mr McKee's development to two separate industrial developments constructed to his respective boundaries.</p>

Option 2 – Land Exchange between Mr McKee and the Council

This option would involve an equal land exchange between the Council and Mr McKee. This effectively straightens the boundary between the McKee sites and the Council's Turners and Growers site. The proposal involves Areas A and B, owned by the Council being exchanged for Area C belonging to Devon Street Holdings (Mr McKee) – refer attached plan.

Advantages	Disadvantages
<p>Creates a regular boundary line.</p> <p>Does not dispose of any portion of the Turners and Growers site.</p>	<p>The Council will no longer have a frontage to Barbadoes Street.</p> <p>No advantage in terms of a development for Mr McKee over having the two corner portions only.</p> <p>Would limit to single level development with a 6-9 metre stud.</p> <p>Not favoured by Mr McKee.</p>

Options 3 – 5

Options 3-5 involve the Council agreeing to two elements:

1. An **equal land exchange** between the Council and Mr McKee, which straightens the boundary between the McKee sites and Council's Turners and Growers site. This element is included in each of the Options 3-5. This proposal involves Areas A and B, being some 531m² and owned by the Council, being exchanged for Area C belonging to Devon Street Holdings (Mr McKee) and also being some 531m² (refer attached plan). The assumption is that the value of land exchanged is equivalent as there would be advantages to each party in their respective developments (these advantages are outlined below).
2. Council agreeing to a **car parking development** on a 1750m² area of land on the eastern portion of the Turners and Growers site (refer attached plan Area D). This car parking would be divided between the McKee development and the future anticipated development on the Turners and Growers site. The development of this area as car park would also meet a desire by Mr McKee to see a separation between his development and the future Turners and Growers development. The various ways in which these rights are given provide the basis for each different option. **(Refer public excluded section).**

Option 3 – Land Exchange between Mr McKee and the Council, and sale of Area D to Mr McKee

Areas A, B & C would be exchanged as detailed above.

The Council would sell Area D to Mr McKee's company, Devon Street Holdings Limited. This would create a rectangular shaped allotment for him and a regular boundary line for the Council as adjoining owner.

Mr McKee proposes to build a three storey building on his site, of which the lower floor would be accessed from Barbadoes Street, and would be used for activities that comply with the requirements of the Business 3 zone. The two upper floors would be built as residential accommodation, but could also be used for office purposes.

If this option were adopted, commitments would be required from Mr McKee to ensure that he did complete his development in this manner.

Mr McKee would build a two level car parking building, partly sunk into the ground, on Area D. On completion approximately 60 car parking spaces would be made available to the Council, either by way of lease or by unit title. It should be noted that this equates to the number of car parks that would have been able to be placed on the land area of Area D.

Access to the two upper levels of Mr McKee's building would be obtained from the upper level of the car parking building.

Advantages	Disadvantages
<p>Mr McKee would be able to undertake a development better integrated with the aims of the Turners and Growers development.</p> <p>Would help develop a good neighbourly relationship with Mr McKee who will then be obligated to support the Council's zoning change. Any agreement between the Council and Mr McKee could specify that Mr McKee is not to oppose a rezoning of the Turners and Growers site or block.</p> <p>Gives Mr McKee more options in terms of development and would ensure that a standard industrial development does not occur on the McKee site. Any agreement between the Council and Mr McKee could require certain restrictive covenants to be registered against Mr McKee's sites.</p> <p>Development more likely to be cohesive with Council objectives and should therefore avoid reverse sensitivity issues.</p> <p>Creates a regular boundary line.</p> <p>Creates separation between developments with the development of a car park.</p> <p>Provides the same number of car parks for the future Turners and Growers development as could be built on the land area of Area D.</p> <p>Simple ownership structure in terms of land and improvements thereon.</p>	<p>Effectively results in disposal of 1750m² of the Turners and Growers site.</p> <p>Starts to place parameters on the proposed Turners and Growers development.</p> <p>The Council will no longer have a Barbadoes Street frontage.</p> <p>Involves development of a portion of the Turners and Growers site, which is undertaken independently of the remainder of the site.</p> <p>There may be a perception that the Council is not engaging in a fully fair, open and transparent process.</p>

Financial Analysis of Option 3 - *(Refer public excluded section)*

Option 4 – Land Exchange between Mr McKee and Council, and lease of Area D to Mr McKee

This option is similar to Option 3, except that instead of selling the land to Mr McKee, it is leased to him.

Advantages	Disadvantages
<p>As for Option 3.</p> <p>Council retains ownership of the land.</p>	<p>As for Option 3.</p> <p>Effectively results in disposal of some of the Turners and Growers site through areas C and D being leased to Mr McKee.</p> <p>Difficult ownership structure in terms of land and improvements thereon, which could create difficulties in the long-term future.</p> <p>Not favoured by Mr McKee.</p>

Financial Analysis of Option 4 - *(Refer public excluded section)*

Option 5 – Land Exchange between Mr McKee and Council, but Council retains Area D and builds the car park

Again, Areas A, B & C would be exchanged as detailed above.

Mr McKee would develop his building as detailed in Option 3, but the Council would undertake the building of the car park. On completion approximately 60 car parking spaces would be made available to Mr McKee, either by way of lease or by unit title.

Currently no money has been allocated for the construction of the car park.

Once development has been completed there are two scenarios available to the Council.

Scenario 1 – Lease the car parks to Mr McKee. Mr McKee would lease 60 of the developed car parks on a long-term basis.

Scenario 2 – Once constructed the car parks would be unit titled and then car parks could be sold to Mr McKee for use in association with his development. The Council could then retain the remaining car parks for use in conjunction with the Turners and Growers development or they could be sold individually.

Advantages	Disadvantages
As for Option 3. Council retains ownership of the land, while achieving a commercial development.	As for Option 3. No Council funding is allocated for development. The timing of the construction of the car parking building will need to be co-ordinated with construction of Mr McKee's building. Additional costs of having two different contractors working alongside each other.

Financial Analysis of Option 5 – Scenario 1 - *(Refer public excluded section)*

Financial Analysis of Option 5 – Scenario 2 - *(Refer public excluded section)*

Option 6 – Land Exchange between Mr McKee and the Council, and a undertaking by the Council that it will provide 60 car parks to Mr McKee

Again, Areas A, B & C would be exchanged as detailed above.

This allows Mr McKee to construct the building he proposes on his site but in order to comply with the City Plan requirements additional car parks need to be provided. The Council would therefore give an undertaking to provide the required parking on the Turners and Growers site.

In the initial stages this would be in the form of a chip sealed park at ground level, but in the future would involve a multilevel car parking building designed and built as part of the development of the Turners & Growers site.

The Council would need to allocate funding to seal and mark the car park.

The benefit to the Council of investigating such an option is that it does not provide predetermined outcomes on the Turners and Growers land.

This option however does have complex legal issues, which would need to be overcome. For example to allow Mr McKee to market the upper levels of his proposed development, legal access provisions and car parking entitlements would need to be legally defined.

This would require many undertakings by both parties and legally would provide a complex agreement that still does not provide a satisfactory outcome for Mr McKee. Also it does not provide certainty for one of Mr McKee's main concerns, being the degree of separation between his development and the Turners and Growers development. In addition, as the timing of construction of the car parking building would be after Mr McKee's building was occupied, the occupants would suffer significant disruption while the car park was being built.

These complexities will make it difficult for Mr McKee to offer certainty to potential purchasers that an adjoining development will not detract from their property, and would have a significant effect on his ability to market the residential component of his development.

Advantages	Disadvantages
<p>As for Option 3.</p> <p>The Council retains ownership of the land at this stage</p> <p>Does not provide any limitations on the Council's development.</p>	<p>As for Option 3.</p> <p>Constrains/complicates future process.</p> <p>Fraught with many legal issues in terms of tenure, which would need to be overcome.</p> <p>Not favoured by Mr McKee.</p>

Financial Analysis of Option 6 - *(Refer public excluded section)*

Option 7 – The Council buys Mr McKee's sites

This option would involve the purchase of the sites purchased by Mr McKee. The Devon Street Holdings land comprises two corner sites comprising a total area of 2,778m².

(Refer public excluded section)

The benefit of undertaking this option is that we then control the sites and they can be developed in conjunction with the Turners and Growers site development. It is unlikely to create issues with the rezoning of the land holding.

The Council could have purchased these blocks originally when purchasing the Turners and Growers site but no budgets existed at that time to complete the purchases.

Advantages	Disadvantages
<p>Council does not start placing limitations on any proposed development on the Turners and Growers site.</p> <p>We do not commit the Council to developing the Turners and Growers site in any particular pattern/outcome.</p> <p>This option is entirely consistent with earlier discussions regarding a fair, open and transparent process.</p> <p>Enables amalgamation with the Turners and Growers site, or alternatively controls the McKee sites to ensure a compatible development.</p>	<p>Council does not have the budget for a purchase.</p> <p>Mr McKee may not be a willing seller and is likely to seek a high price if agreeing to sell. He would want to be compensated for the lost opportunity.</p>

CONCLUSION

In summary both Option 3 and 5 provide what appear to be two real options for the Council to achieve a compatible development on the McKee site. These both involve the Council relinquishing rights to a portion of the Turners and Growers site. The benefit would be that the Council will get a development that is integrated with the remainder of the site. Staff also believe that if the McKee development proceeds as proposed it will provide a key catalyst to setting quality development in the area supporting the Council's overall intention of central city revitalisation of the east side. These options also provide a revenue stream to the Council once the land is sold or leased.

Although both Options 3 and 5 effectively dispose of 1750m² of the Turners and Growers site, outside of a public process, once the development has been undertaken the Council will get back much of this land containing already constructed car parks which will be useful in the redevelopment of the Turners and Growers site. Therefore the net effect of disposing of the land is minimised as car parking will undoubtedly be required for the Turners and Growers redevelopment.

A financial analysis of the options is outlined in the public excluded section of the report.

Recommendation:

1. That staff negotiate options 3 and 5 with Mr McKee and report back to the Council with a preferred package, achieving compatible development with the anticipated redevelopment of the Turners and Growers site.
2. That any negotiations include the following conditions:
 - (a) An agreement from Mr McKee not to oppose rezoning of the Turners and Growers site (or the entire block).
 - (b) That the McKee proposal be required to achieve a 3 storey development including the opportunity for mixed uses as detailed in his concept plans.
 - (c) That the proposed car park development be 2 level and no higher than approximately 1.5 metres above ground, include designs and landscaping which benefit the area and the adjoining Turners and Growers site.
 - (d) That the area proposed for car parking development on the eastern portion of the Turners and Growers site be used as a permanent space separation between the McKee site and the Turners and Growers development for a specified number of years or by mutual agreement by both parties.
3. That Council officers investigate further the option of placing all car parking required on the McKee site ie under his proposed development.
4. That the Property and Major Projects Committee be given delegated authority to make a decision on which is the preferred option and, if applicable, to enter into the contractual arrangements necessary to effect that option.