

**REPORT TO: DEVELOPMENT QUALITY COMMITTEE - 16 JUNE 2008**

**REPORT ON: PLANNING APPLICATION 07/01005/FUL AND LISTED BUILDING APPLICATION 07/01006/LBC - DEMOLITION OF PART OF BUILDING AND ERECTION OF STUDENT ACCOMMODATION, BROWN STREET, DUNDEE**

**REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION**

**REPORT NO: 321-2008**

## **1 PURPOSE OF REPORT**

- 1.1 To seek the Committee's approval of the terms of the content and recommendations contained in the appended reports as Appendices 1 and 2 to this report and to the suggested conditions to be applied by the Reporter should planning permission and listed building consent be granted on appeal. Appendices 3 and 4 refer.

## **2 RECOMMENDATION**

- 2.1 It is recommended that
- a the terms of the reports appended to this report at Appendices 1 and 2 be supported as the decision on applications 07/01005/FUL and 07/01006/LBC which the Committee would have reached had this application not been appealed and had come before it for a formal decision.
  - b the suggested conditions contained in Appendices 3 and 4 to this report be agreed as those which the Reporter should apply in the event of planning permission and listed building consent being granted on appeal.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 There are no financial implications arising from this report.

## **4 BACKGROUND**

- 4.1 On 11 November 2007 a full planning application for the erection of student accommodation at the Old Mill, Brown Street, Dundee was registered as valid by the Council.

On 6 November 2007 an application for listed building consent for the part demolition of a building and the erection of student accommodation on the same site was registered as valid.

- 4.2 On 13 May 2008 the applicants appealed to Scottish Ministers against deemed refusal of both applications under Section 47(2) of the Town and Country Planning (Scotland) Act 1997 and Section 18 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as the Council had not reached decisions on the applications within the statutory two month period.
- 4.3 This report has been prepared in order that the Council's case for the appeals can be properly placed before the Reporter and appellant. As appeals have been lodged the Council is unable now to make formal decisions.

- 4.4 The reason for the delay in determining the applications is that information material to the determination had not been received prior to the appeals being lodged. Full details of the applications, the full planning implications and recommendations are contained in Appendices 1 and 2 of this report.
- 4.5 Appendices 3 and 4 contain suggested conditions should the Reporter be minded to uphold the appeals. Members should note that if the Reporter is minded to uphold the planning application appeal, it is recommended that a Section 75 Agreement is concluded with the applicants to cover the following heads of agreement:
- a future occupancy of the residences;
  - b periods of occupation by various user groups.

This approach is consistent with other private student accommodation developments located in the surrounding area.

## **5 POLICY IMPLICATIONS**

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

The major issues identified are outlined in Appendices 1 and 2 to this report.

## **6 CONSULTATIONS**

- 6.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Finance and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

## **7 BACKGROUND PAPERS**

- 7.1 Planning applications 07/01005/FUL and 07/01006/LBC.
- 7.2 Objectives, representations and consultations.

Mike Galloway  
Director of Planning & Transportation

Ian Mudie  
Head of Planning Services

IGSM/IAR/MM

4 June 2008

Dundee City Council  
Tayside House  
Dundee

**KEY INFORMATION**

Ward West End

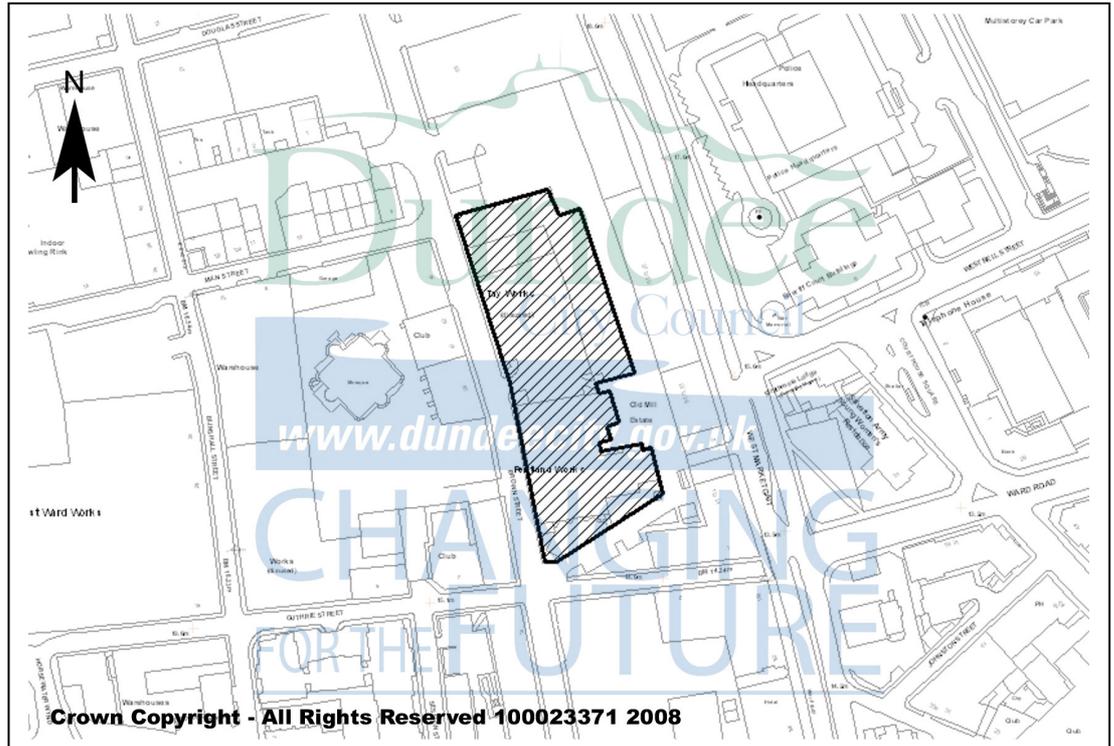
**Proposal**

Erection of Student Accommodation

**Address**Old Mill  
Brown Street  
Dundee**Applicant**N K Developments  
2 Christian Road  
Broughty Ferry  
Dundee  
DD5 1NE**Agent**Peter Inglis Architects  
Unit 3  
Prospect III  
Gemini Crescent  
Dundee  
DD2 1SW

Registered 24 Nov 2007

Case Officer D Gordon



# Student Housing Development

Erection of Student Accommodation is **RECOMMENDED FOR Refusal**. Report by Director of Planning and Transportation.

**RECOMMENDATION**

The proposed development will result in an inappropriate development of a design and scale that would adversely impact on the setting and character of adjacent listed buildings and the surrounding conservation area. The proposal is viewed as a negative contribution to the continual improvement of the local area. The application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- Planning permission is sought for the development of a site within Blackness that will accommodate a number of uses including student housing, retail, office and cafe/restaurant. The proposed building will range in height from 6 to 14 storeys in height and will involve the demolition of and alterations to Category A listed buildings.
- The statutory neighbour notification procedure has been undertaken in addition to the proposals being advertised in the local press as being contrary to several development plan policies. The application was also advertised as Development Affecting the Setting of a Conservation Area, for the demolition and alterations to listed buildings and as a bad neighbour development (Section 34 of the Act). Three letters of objection have been received including one from Dundee Civic Trust.
- It is considered that the scale and design of the development is inappropriate in this location by virtue of the negative impact the proposed building would have of the appearance of the adjacent listed buildings and the setting of the surrounding conservation area. There are no material considerations that would justify the approval of this application contrary to the terms of the relevant development plan policies.
- The applicants have failed to submit supporting information considered to be essential to allow a full and comprehensive assessment of the development details by the Council.

## DESCRIPTION OF PROPOSAL

The proposal under consideration involves the erection of a student housing development that will accommodate a limited range of retail, office and commercial uses at ground and first floor levels. The proposal involves the demolition/partial demolition/partial re-use of former Mill buildings which are Category A listed buildings.

The submitted details advise of a structure that orientates in a north to south direction along the Brown Street frontage of the site. The building ranges in height from 6 storeys on the north to 14 storeys on the south side of the site and is to be finished in cladding on the roof with fyfestone, rainscreen cladding, render and metal cladding on the walls.

The development involves the provision of a number of uses including a convenience store, restaurant/cafe, offices, laundrette fitness centre and bar at ground and first floor levels and 116 student flats also at first floor level and above. Existing uses located in the existing north and east most units are to be retained. Associated off street car parking and landscaping within the development site are also proposed.

## SITE DESCRIPTION

The site is located within the Blackness area of the city and is bounded Brown Street to the west, Guthrie Street to the south and Tay Works Mill building to the east. The site contains stone built industrial buildings that accommodate a variety of uses at ground and first floor levels. These structures are Category A listed buildings.

The surrounding area is predominantly industrial in character. Additional uses such as residential, retail and religious are also evident in the local area.

The site is located within the Blackness Conservation Area.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

The following policy is of relevance to the determination of this application.

Environmental Resources Policy 5A: Historic Environment. This policy seeks the protection, enhancement and conservation of the historic environment of Dundee.



### Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 9: Student Housing - sites identified on the Proposals Map are considered appropriate for the development of student housing. In addition, student housing proposals on sites within fifteen minutes walking

to restrict occupancy to students unless a higher education institution was a partner in the proposed development, in which case planning conditions would be appropriate. Given the prominent location of many sites close to the City's Universities, it is important that development proposals are of a very high quality design. Adequate car parking should be provided based on a parking and accessibility assessment that takes account of factors identified in the Addendum to National Planning Policy Guideline 17 - Transport and Planning Maximum Parking Standards, including the need to avoid overspill parking on surrounding streets. Secure bike storage facilities should be included in all proposals.

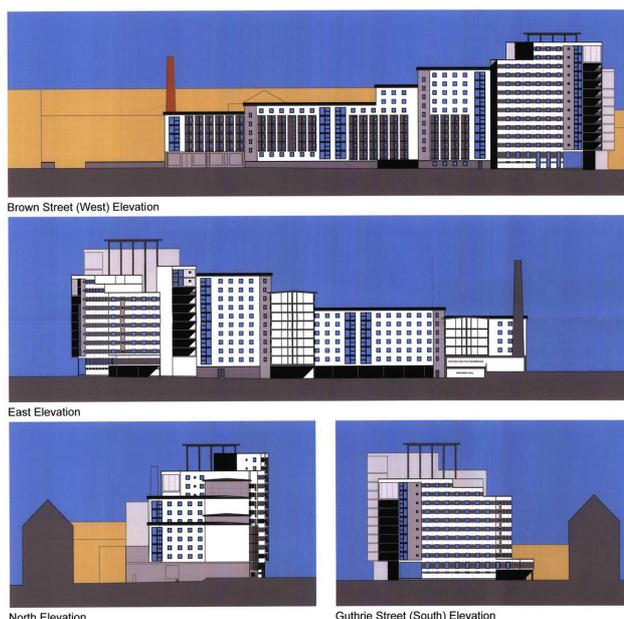
Policy 17: Cultural Quarter - within the Cultural Quarter uses and developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged.

Proposals which would extend and improve the area's representation of small scale independent and speciality retailers will also be encouraged. Proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance its visitor attraction.

Where appropriate, proposals outwith the area but capable of meeting these requirements may also be supported.

Policy 26: General Economic Development Areas - in areas designated as General Economic Development Areas, proposals for Class 4, 5 and 6 developments will be supported. Other uses of a wider industrial nature such as car showrooms, wholesaling, taxi offices and scrap yards may be permitted provided;

- a there is no detrimental impact on neighbouring uses and local residential amenity, and
- b there is no unacceptable traffic impact; and
- c the scale of development is appropriate to the size and location of the site.



distance of the Universities will be supported where this is in accordance with other Local Plan policies. A Section 75 Agreement will be required

Class 1 retail will not be permitted unless in accordance with other policies in the Local Plan.

Residential development is generally not supported within General Economic Development Areas unless a satisfactory standard of residential amenity can be achieved; housing will not adversely impact on the ongoing operation of adjacent industrial areas; and evidence demonstrates that the site is no longer suitable for economic development purposes.

Policy 28: Higher Education Development - the City Council will support further higher education development generally and particularly in association with relevant business and research expansion. Development proposals in the Blackness area will be encouraged subject to other Local Plan policies and agreed Masterplan

Policy 53: Licensed and Hot Food Premises outwith the City Centre - in general, outwith the District Centres no licensed premises other than off licences or hotels with a restricted license and no premises selling hot food is acceptable:

- a within 30m of existing and proposed housing if the outlet does not exceed 150m<sup>2</sup> gross floorspace (excluding cellar space) and;
- b within 45m if the 150m<sup>2</sup> figure is exceeded.

In the District Centres some relaxation of the above controls on distance from residential property may be appropriate. However, proposals for hot food takeaways other than those outlined below, will not be permitted in premises directly adjoining (i.e. directly above or to either side) residential property which is not within the control of the takeaway proprietor/operator.

Where hot food carryout premises and snack bars/cafes/tea rooms are proposed which would not meet the above requirements these may be permitted subject to:

- a the hours of operation being limited to between 7.00am and 7.00pm, and,
- b the hot food not requiring to be prepared on the premises and only requiring heating by means of a microwave oven or other method which would not cause a

nuisance to surrounding residential property by virtue of smell.

Policy 55: Urban Design - for all new developments the emphasis will be on design quality and the City Council will seek the creation of new public places and points of interest which incorporate architectural and landscape features and reflect and enhance historic street layouts, significant views and vistas. All development should respect the setting of listed buildings.

The City Council require the use of Design Statements for planning applications or listed building applications for new buildings or extensions to existing buildings on significant sites.

All development will, in its design and layout, be expected to contribute to an environment which is safe and accessible to all.

Policy 59: Alternative Uses For Listed Buildings - suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric must be undertaken carefully and sensitively and have minimum impact on the architectural and historic interest, character and setting of the building. Reference should be made to other policies in the Plan.

Policy 60: Alterations to Listed Buildings - the alteration of a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character. Alterations will not be permitted where the works would diminish the architectural integrity of the building or its historic interest.

The City Council will provide specific supplementary guidance on the following: window and door alterations, advertisements, shopfronts, roller shutters, treatments to masonry and painting and use of materials.

Policy 61: Development In Conservation Areas - within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees

and landscape features and the historic pattern of streets and spaces, as identified in the Conservation Area management plans to be advanced in the near future.

Policy 62: Demolition of Listed Buildings and Buildings in Conservation Areas - applications for the demolition of a listed building or building that is worthy of retention in a Conservation Area must be fully supported by reports on the condition and marketing history of the building along with a feasibility study which explores the viability of retaining the building in active use.

Where the demolition of buildings is permitted, applications must be supported by acceptable proposals for the redevelopment or treatment of the cleared site.

## **Scottish Planning Policies, Planning Advice Notes and Circulars**

The following are of relevance:

National Planning Policy Guideline 18 (Planning and the Historic Environment) sets out the framework for dealing with planning applications affecting listed buildings.

Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 (Historic Scotland) is of relevance to the determination of this application.

## **Non Statutory Statements of Council Policy**

There are no non statutory Council policies relevant to the determination of this application.

## **SUSTAINABILITY ISSUES**

There are no specific sustainability policy implications arising from this application.

## **SITE HISTORY**

There are no recently approved planning applications that are of direct relevance to the determination of this application.

A report on a corresponding listed building application (07/01006/LBC) for the demolition and alterations to listed buildings on the site can be found elsewhere on this agenda.

## PUBLIC PARTICIPATION

The applicants have completed the statutory neighbour notification procedure.

In addition, the proposals have been advertised in the local press as development contrary (and potentially contrary) to Policy 9 (Student Housing), Policy 26 (General Economic Development Area), Policy 61 (Development in Conservation Areas) and Policy 62 (Demolition of Listed Buildings and Buildings in Conservation Areas) of the Dundee Local Plan Review 2005.

The proposals have also been advertised as 'Development Affecting the Setting of a Conservation Area', 'Development Affecting a Listed Building' and as a bad neighbour development (Section 34 of the Act).

Three letters of objection to the proposals have been received including one from Dundee Civic Trust. The main relevant issues raised by the objectors relate to:

- 1 the design quality of the development is unacceptable in this location
- 2 the proposed demolition of the listed buildings detracts from the historical significance of the area
- 3 the proposed development will have an adverse impact on the setting of the adjacent listed buildings and surrounding conservation area.
- 4 the proposal would lead to increased noise from students to the detriment of local residential amenity.

Copies of these objections can be viewed in the Members Lounges. It is intended to comment on the above issues raised in the 'Observations' section of this report below.

## CONSULTATIONS

Due to the nature of the proposals (development affecting Category A listed buildings), informal consultations have taken place with Historic Scotland on the implications and acceptability of the details of the application. Historic Scotland has offered the following informal response to the development:-

*"The application proposes substantial demolition of an A listed building complex. The applicant has not provided sufficient information to demonstrate the need for demolition. Government policy is that no listed building should be lost to our environment unless it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of keeping them. NPPG 18 (paragraph 47) and the Memorandum of Guidance on Listed Buildings and Conservation Areas (1998) (paragraphs 2.10-2.14) provide more detailed guidance on the factors that should be addressed in consideration of demolition proposals.*

*If justification for demolition can be adequately demonstrated, then:*

- a it is our view that the elevation drawings provided do not sufficiently describe the visual impact of the new build sections on the elements of the Old Mill which would remain. Additional drawings would be required to fully assess the impact of the proposals.*
- b the design statement states that the Engine Shed is to be re-used for commercial purposes, but the application contains no information regarding any proposed works to this part of the complex. The applicants should clarify what works, if any, are proposed to the engine shed as part of this application.*

*The proposals would also, in our view, impact on the setting of several nearby listed buildings, and the character of the Blackness Conservation Area. Paragraphs 4.35 -4.40 and appendix 1, section 10.0.0 of the Memorandum of Guidance gives further guidance on these issues. We would expect to be consulted under the General Development Procedure Order regarding the proposals' potential impact on affected A listed buildings or their settings. We consider that additional images, for instance photomontages, which indicate the impact of the proposed development on the settings of affected listed buildings, would be necessary.*

*With regard to consideration of both the listed building consent and planning permission applications, we recommend that the applicants are also asked to provide a conservation statement. This should set out their*

*assessment of the character and significance of heritage assets (or their settings) which are potentially affected by the proposed development. It should also describe how this assessment has informed the design, location, materials, scale and massing of the proposals."*

Due to the historical nature of the site (industrial) the Council's Head of Environmental Health and Trading Standards has requested that a certain details relating to the potential contamination of the site be submitted for consideration. It has been concluded that the recommendations of the Environmental Risk Assessment submitted by the applicants are acceptable and it is suggested that certain conditions relating the decontamination of the site are attached to any permission granted

## OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider:

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations.

## The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above

Policy 9 (Student Housing) - due to the nature of the proposals, Policy 9 (Student Housing) of the Plan applies. This Policy identifies sites for the development of student housing and also advises that proposals on sites within 15 minutes of the main Universities will be supported where this is in accordance with other local plan policies. The preamble to this policy also advises that the Universities will need to keep under review the demand for student accommodation to ensure that supply is managed to guard against a surplus emerging.

The site has not been identified in the Dundee Local Plan Review 2005 as a site appropriate for student housing. The applicants have failed to provide a full justification for the selection of

this site and for this form of development.

Both Dundee and Abertay Universities have been replacing their existing student accommodation. In addition, private developments providing student accommodation have been built and others granted planning permission. Since the adoption of the Local Plan (2005), progress has been made on the majority of the identified sites in the Local Plan for the development of student housing.

Since 2003, a total of approximately 2,544 bed spaces have received planning permission for purpose built student accommodation. This includes both University and private sector development. Of these approximately 349 have been direct replacements within the existing sites (mainly the main Dundee University campus area and West Park). Of those granted planning permission approximately 2,046 are either complete or under construction. In addition, planning permission has been granted at Parker Street for approximately 498 bed spaces with construction works yet to commence.

Therefore, due to the number of existing approved planning applications for student accommodation (approximately 2,544 bed spaces), it is considered that this proposed scale of development where it is proposed to create an additional 496 bed spaces (assuming that the 4th, 5th, 8th and 13th floors repeat the same floor plan as the previous floor), has the real potential to lead to an over supply in this type of accommodation.

A surplus in student accommodation has the potential to result in pressure to allow the development to convert to mainstream residential accommodation. However, due to the relaxed standards applied to student housing in terms of car parking and amenity ground, it is considered that this would create a poor level of residential amenities for mainstream housing.

Due to the level of potential student accommodation still to be built, it is considered that this application is premature at this time and consequently contrary to the terms of Policy 9.

Policy 17 (Cultural Quarter) - Policy 17 states, amongst other things, that within the Cultural Quarter uses and

developments which will assist the further development of its role as a focus for cultural and related leisure related and business activities will be encouraged. In addition, proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance visitor attraction.

It is considered that the proposals under consideration do not present any policy issues in this instance.

Policy 26 (General Economic Development Areas) - this policy presumes in favour of developments within these areas that fall within Classes 4, 5 and 6 of the Use Classes Order. Exceptions to this may be permitted where uses of a wider industrial nature can meet certain criteria. This application is proposing a mix of uses including a convenience store, internet cafe, cafe/restaurant office and laundrette at ground floor level. These uses are considered to be contrary to the terms of Policy 24.

With regard to the provision of residential developments within such areas, this is generally not supported unless a satisfactory standard of residential amenity can be achieved; housing will not adversely impact on the ongoing operation of adjacent industrial areas; and evidence demonstrates that the site is no longer suitable for economic development purposes. The applicants have not submitted evidence to accompany this application that fully demonstrates that the site cannot be used for future economic development purposes.

In light of the above the proposals are considered to be contrary to Policy 26 of the Plan

Policy 28 (Higher Education Development) - this policy seeks to support further higher education development particularly in association with relevant business and research expansion. It is not the intention of this Policy to provide support for further student accommodation within these areas. In addition, the application site has not been formally identified as part of an agreed Masterplan with either Dundee or Abertay University.

It is considered that the proposals fail to comply with the terms of Policy 28 of the Plan.

Policy 53 (Location of Licensed and Hot Food Premises Outwith the City Centre) - the submitted details advise that the proposals include the provision of an internet cafe, a separate cafe/restaurant and a fitness centre with a bar. Due to the proximity of the surrounding residential accommodation to the east and south, it may well be the case that these proposed uses would be contrary to the requirements of this policy. Details on the nature of the proposed operations of these uses have not been submitted and consequently their potential impact on the environmental qualities of the area is difficult to assess at this time.

Policy 55 (Urban Design) - the site the subject of this application currently contains buildings that relate to the former industrial heritage of the area. These buildings are Category A listed buildings. The surrounding area is characterised by a mixture of traditional stone built industrial properties and modern style structures that accommodate a variety of uses. The area is further characterised by a narrow street pattern that is emphasised by the significant amount of buildings that have been erected hard on the street frontage. The historical significance, setting, character and appearance of this area are relatively unique and combine to justify its conservation area status.

The proposal involves the erection of a multi-level building that elevates to a maximum 14 storeys in height at the southern end of the site. The details of this development are outlined in the 'Description of Proposal' section of this report above.

The proposed building orientates in a north to south direction through the site and offers a dominant frontage onto Brown Street. From the details submitted for determination it is considered that this public frontage is long, monotonous and unsympathetic to the appearance and scale of the majority of the existing building in the local area. It is further considered that the scale of the building would dominate the local area to the detriment of the setting of the surrounding conservation area by virtue of its height and design.

The applicants have submitted a Design Statement to accompany their application which covers various issues including layout, scale, landscaping and appearance.

However, it is considered that the matters that have been raised in support of the preferred design of the building are not sufficiently robust to justify the setting aside of the requirements of Policy 55 of the Plan in this instance.

With regard to Policy 59 (Alternative Uses for Listed Buildings), Policy 60 (Alterations to Listed Buildings), Policy 61 (Development in Conservation Areas) and Policy 62 (Demolition of Listed Buildings and Buildings in Conservation Areas), it is considered that the informal views submitted by Historic Scotland are relevant to the determination of this application. The Council concurs with these views and consequently, concludes that the applicants have failed to supply sufficient information to justify support of the submitted proposals.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

### **Other Material Considerations**

The other material considerations to be taken into account are as follows:

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities, in considering applications that affect listed buildings, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which they possess. Section 64 of the Act requires that the Council have special regard to any buildings or other land in a conservation area and special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the area.

This matter has already been considered in the assessment of the proposed development under Policies 60, 61 and 62 of the Dundee Local Plan Review 2005 and it was concluded that the proposals would have a negative impact on the appearance of the listed buildings and adversely impact on the setting of the conservation area. Consequently, it is considered that statutory duty set out in these Sections of the Act has not been discharged.

### **Objections**

With regard to the matters that have been raised by the objectors that relate to the impact the scale and design the proposed development will have on the character and appearance of the adjacent listed buildings and surrounding conservation area, it is considered that these have been discussed and discharged above.

With regard to the matter relating to the potential increase in noise from additional students in the area, it is considered that taking into account the amount of students that already live in the area together with the proximity of a significant number of public houses and night club uses, the increase in any noise by additional students may be minimal in relative terms. It may also be a matter that could be more appropriately controlled by the operators of the new student accommodation through, for example, tenancy agreements.

### **NPPG 18 and Memorandum on Listed Buildings and Conservation Areas**

National Planning Policy Guideline 18: Planning and the Historic Environment and Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 are material considerations. In light of the various comments above on the issue of the scale and design of the building and the resultant impact on the local area, it is considered that the proposals fail to meet the aspirations of these documents.

### **Transport Assessment**

In order to fully assess the impact of the proposals on, amongst other things, the local road network a Transport Assessment was requested from the applicants. This Assessment required to cover various matters including details of how the existing site operations will interact with the proposed development and confirmation of which campus the students are likely to attend. The applicants have failed to submit this Assessment and accordingly a full determination of the proposals in transportation terms has not been concluded.

### **Design Statement submitted by Applicants.**

The applicants have submitted a Design Statement in support of the proposed development. It is considered that this document, in part, deals with several land use policy issues that may be more appropriately addressed in a planning policy justification in support of the development. With regard to the remaining issues that have been raised ie layout, scale, landscaping and appearance, it is considered that the terms of the Statement are not sufficiently robust to fully demonstrate the appropriateness of the development in this sensitive location, for example the full impact the new building would have on the architectural heritage of the adjacent buildings.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be refused.

### **Design**

It is considered that the proposals put forward for consideration fail to meet this Council's aspirations with regard to design quality within the city. The building is of a size and design that will detract from the scale, appearance and character of the adjacent listed buildings and surrounding conservation area. Further it is considered that the applicants have failed to fully justify the demolition and alterations to the Category A listed buildings that currently exist on the application site.

### **CONCLUSION**

The applicants have put forward a scheme for the development of the site that is considered to be inappropriate in terms of both scale and design. The applicants have been requested to submit additional information to this Council in order to allow for a full assessment of the development to take place. These requests include a justification for the demolition of the Category A listed buildings on the site, a Conservation Statement, a Transport Assessment, a justification for choosing the application site for the uses proposed, a statement on the

viability of the existing buildings on the site for future economic development purposes and a justification for providing additional student accommodation within the city. To date this requested information has not been submitted for consideration. In this respect, full consideration of the development details has been difficult to achieve.

## RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:-

- 1 The proposal is considered to be contrary to Policy 9 (Student Housing) of the Dundee Local Plan Review 2005 by virtue of the failure of the applicants to adequately justify the requirement for additional student bed spaces within the city on a site that is not allocated for such uses on the Proposals Map; by failure to provide a Transport Assessment to allow a full assessment of the operational and parking requirements for the proposals and the failure to provide a very high quality design for the scheme in the location proposed. There are no material considerations that would justify the setting aside the terms of this Policy and approving the application.
- 2 The proposal is considered to be contrary to Policy 26 (General Economic Development Area) of the Dundee Local Plan Review 2005 by virtue of the proposed use of the site for purposes that are not consistent with Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or other uses of a wider industrial nature. The applicants have also failed to adequately demonstrate that the site is no longer viable for economic development purposes. There are no material considerations that would justify the setting aside the terms of this policy and approving this application.
- 3 The proposals are considered to be contrary to Policy 26 (Higher Education Development) of the Dundee Local Plan Review 2005 by virtue of the intended uses not being consistent with the requirement of the policy to

support higher education development in association with relevant business and research expansion. The proposed site has not been formally identified as being part of an agreed Masterplan for either of the major Universities within the city. There are no material considerations that would justify the setting aside the terms of this policy and approving this application.

- 4 The proposed development is considered to be contrary to Policy 55 (Urban Design) of the Dundee Local Plan Review 2005 by virtue of the inappropriate scale and design of the new building and the resultant negative impact of the proposals on the character and appearance of adjacent listed buildings, on the setting of the Blackness Conservation Area and on the continued improvement in the urban fabric of the surrounding area. There are no material considerations that would justify the setting aside of the terms of this Policy and approving this application.
- 5 The proposals are considered to be contrary to Policy 60 (Alterations to Listed Buildings), Policy 61 (Development in Conservation Areas) and Policy 62 (Demolition of Listed Buildings and Buildings in Conservation Areas) of the Dundee Local Plan Review 2005 by virtue of the failure of the applicants to adequately demonstrate the need to remove listed buildings from the site, to adequately demonstrate that the development will not have an adverse impact on the character and integrity of the listed buildings to be retained within the site and to adequately demonstrate that the development will not have a negative impact on the appearance of the adjacent listed buildings and the setting of the surrounding conservation area. There are no material considerations that would justify the setting aside of the terms of this proposal and approving this application.
- 6 The applicants have failed to demonstrate beyond reasonable

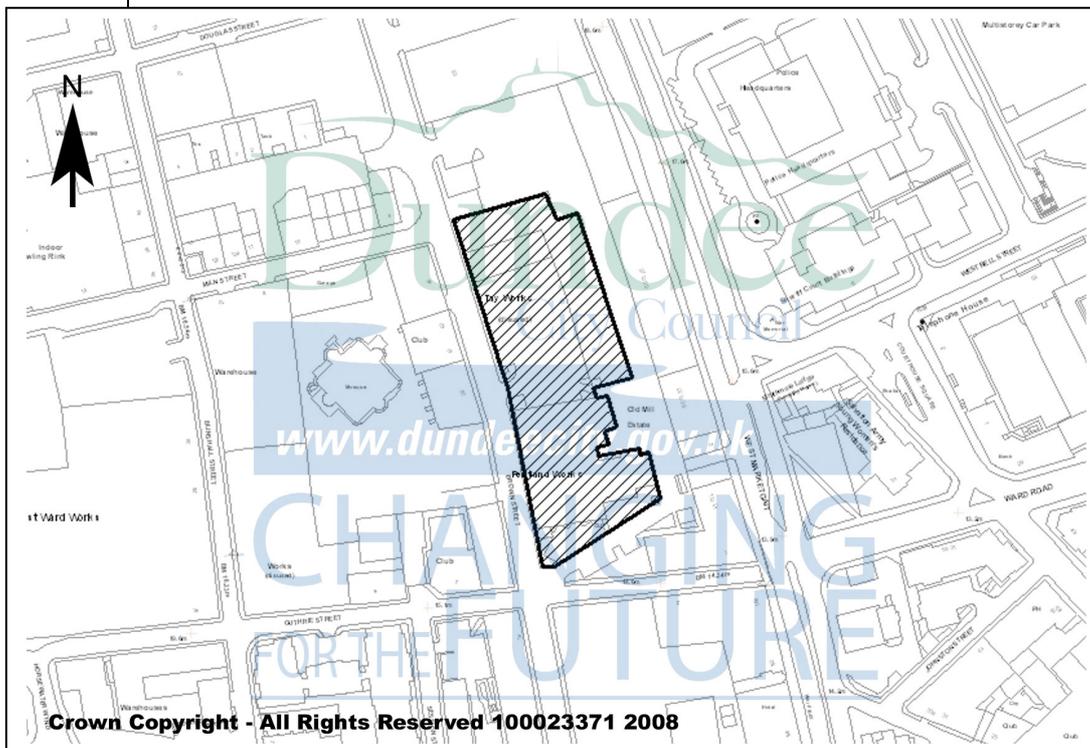
doubt the need to demolish the Category A listed building on the site and have failed to submit sufficient information to accompany the application to allow a full and comprehensive assessment of the development contrary to the requirements of National Planning Policy Guideline 18: Planning and the Historic Environment and the Memorandum of Guidance on Listed Buildings and Conservation Areas 1998.

**KEY INFORMATION**

Ward West End

**Proposal**

Demolition of Part of Building and Erection of Student Housing

**Address**Old Mill  
Brown Street  
Dundee**Applicant**N K Developments  
2 Christian Road  
Broughty Ferry  
Dundee  
DD5 1NE**Agent**Peter Inglis Architects  
Unit 3  
Prospect III  
Gemini Crescent  
Dundee  
DD2 1SW**Registered** 6 Nov 2007**Case Officer** D Gordon

# Student Housing Development

The demolition of Part of Building and Erection of Student Housing is **RECOMMENDED FOR REFUSAL**. Report by Director of Planning and Transportation

**RECOMMENDATION**

The development is contrary to Policy 60 and Policy 62 of the Dundee Local Plan Review 2005. The proposals also fail to discharge the statutory duty set out in Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The listed building application is recommended for **REFUSAL**.

**SUMMARY OF REPORT**

- Listed Building permission is sought for the demolition of and alterations to Category A listed buildings on a site located within an Old Mill Complex in Blackness. The works are required to accommodate a proposed new student housing development.
- Section 14 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, Policy 60 (Alterations to Listed Buildings) and Policy 62 (Demolition of Listed Buildings and Buildings in Conservation Areas) of the Dundee Local Plan Review 2005 require the Council to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
- The application has attracted letters of objection from a local resident, AHSS Cases Panel and Dundee Civic Trust. The primary concerns expressed relate to the failure of the applicants to demonstrate beyond reasonable doubt a need for the proposed demolition and the potential adverse impact the proposals will have on the appearance and setting of listed buildings on the site and in the locality.
- It is considered that the proposals the subject of the application are unacceptable and that the requirements of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are not discharged.

## DESCRIPTION OF PROPOSAL

The application seeks permission to demolish an existing Mill building and alter and extend an adjacent Mill building located to the north to accommodate a large student housing development. The buildings under consideration are Category A listed buildings.

The ground and first floors of the building to be retained are to accommodate existing uses within the site. The north most section of the building is to be extended by 4 storeys in height in order to accommodate new student bed spaces. The east most section of this building is to remain two storeys in height.

## SITE DESCRIPTION

The site is located within the Blackness area of the city and is bounded Brown Street to the west, Guthrie Street to the south and Tay Works Mill building to the east. The site contains stone built industrial buildings that accommodate a variety of uses at ground and first floor levels. These structures are Category A listed buildings that form part of a historical former Mill Complex.

The surrounding area is predominantly industrial in character. Additional uses such as residential, retail and religious are also evident in the local area.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Environmental Resources Policy 5A: Historic Environment. This policy seeks the protection, enhancement and conservation of the historic environment of Dundee.

### Dundee Local Plan Review 2005

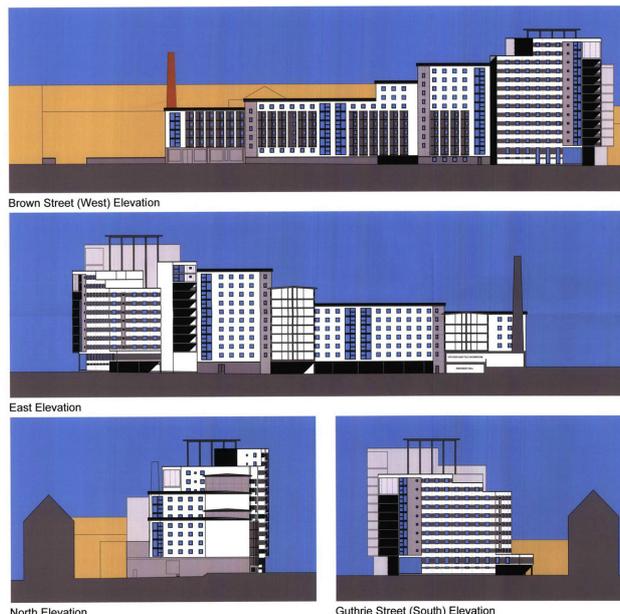
The following policies are of relevance:

Policy 59: Alternative Uses For Listed Buildings - suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric

must be undertaken carefully and sensitively and have minimum impact on the architectural and historic interest, character and setting of the building. Reference should be made to other policies in the Plan.



Policy 60: Alterations To Listed Buildings - the alteration of a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character.



Alterations will not be permitted where the works would diminish the architectural integrity of the building or its historic interest.

The City Council will provide specific supplementary guidance on the following: window and door alterations, advertisements, shopfronts, roller shutters, treatments to masonry and painting and use of materials.

Policy 62: Demolition Of Listed Buildings And Buildings In Conservation Areas - applications for the demolition of a listed building or building that is worthy of retention in a Conservation Area must be fully supported by reports on the condition

and marketing history of the building along with a feasibility study which explores the viability of retaining the building in active use.

Where the demolition of buildings is permitted, applications must be supported by acceptable proposals for the redevelopment or treatment of the cleared site.

## Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

National Planning Policy Guideline 18: Planning and the Historic Environment, sets out the framework for dealing with planning applications affecting listed buildings.

Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 (Historic Scotland) is of relevance to the determination of this application.

## Non Statutory Statements of Council Policy

There are no non statutory Council policies relevant to the determination of this application

## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

## SITE HISTORY

There are no recently approved planning applications that are of direct relevance to the determination of this application.

A report on a corresponding planning application (07/01005/FUL) for the demolition and alterations to listed buildings and the erection of a mixed use development including student housing on the site can be found elsewhere on this agenda.

## PUBLIC PARTICIPATION

The proposals were advertised in the local press under the terms of the Town and Country Planning (Scotland) Act 1997 and Related Legislation as Demolition of and Alterations to Listed Buildings. The application has

attracted 3 objections from a local resident, AHSS Dundee and Angus Cases Panel and Dundee Civic Trust. The main relevant issues raised relate to the adverse impact the proposals will have on the listed buildings and the failure of the applicants to demonstrate beyond reasonable doubt that every effort has been made to retain the buildings the subject of this application.

Copies of these objections can be viewed in the Members Lounges. It is intended to comment on these matters in the 'Observations' section of this report below.

## CONSULTATIONS

Due to the nature of the proposals (development affecting Category A listed buildings) informal consultations have taken place with Historic Scotland on the implications and acceptability of the details of the application. Historic Scotland has offered the following informal response to the development:

*"The application proposes substantial demolition of an A listed building complex. The applicant has not provided sufficient information to demonstrate the need for demolition. Government policy is that no listed building should be lost to our environment unless it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of keeping them. NPPG 18 (paragraph 47) and the Memorandum of Guidance on Listed Buildings and Conservation Areas (1998) (paragraphs 2.10-2.14) provide more detailed guidance on the factors that should be addressed in consideration of demolition proposals.*

*If justification for demolition can be adequately demonstrated, then:*

- a *It is our view that the elevation drawings provided do not sufficiently describe the visual impact of the new build sections on the elements of the Old Mill which would remain. Additional drawings would be required to fully assess the impact of the proposals.*
- b *The design statement states that the Engine Shed is to be re-used for commercial purposes, but the application contains no information regarding any proposed works to this part of the*

*complex. The applicants should clarify what works, if any, are proposed to the engine shed as part of this application.*

*The proposals would also, in our view, impact on the setting of several nearby listed buildings, and the character of the Blackness Conservation Area. Paragraphs 4.35 -4.40 and appendix 1, section 10.0.0 of the Memorandum of Guidance gives further guidance on these issues. We would expect to be consulted under the General Development Procedure Order regarding the proposals' potential impact on affected A listed buildings or their settings. We consider that additional images, for instance photomontages, which indicate the impact of the proposed development on the settings of affected listed buildings, would be necessary.*

*With regard to consideration of both the listed building consent and planning permission applications, we recommend that the applicants are also asked to provide a conservation statement. This should set out their assessment of the character and significance of heritage assets (or their settings) which are potentially affected by the proposed development. It should also describe how this assessment has informed the design, location, materials, scale and massing of the proposals."*

## OBSERVATIONS

In accordance with the provisions of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Committee is required to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess.

The proposal involves the demolition of and alterations to Category A listed buildings in order to accommodate a new student housing development. It is considered that the informal comments submitted by Historic Scotland are relevant to the determination of this listed building application. In this respect it is considered that the applicants have failed to fully demonstrate the need for the demolition of Mill building and consequently it is concluded that the proposals are contrary to government policy on such matters.

With regard to the details of development under consideration it is concluded that the proposals would have a negative impact on the existing listed building on the north side of the site and adversely affect the appearance and setting of adjacent listed buildings by virtue of the scale and design of the proposed new building. This would not be consistent with government advice on such matters.

It is concluded that the development will fail to preserve the character of the listed buildings and that the statutory duty set out of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is not discharged.

## Other Material Considerations

The other material considerations to be taken into account are as follows:

### A - The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above

In terms of Policy 60 (Alterations to Listed Buildings) and Policy 62 (Demolition of Listed Buildings and Buildings in Conservation Areas), these matters have already been considered in the assessment of the proposed development under Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and it was concluded that the proposals would not preserve the character and appearance of the listed buildings. It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.

### B - Letters of Objection

The main concerns expressed by the objectors relative to the proposal under consideration is the adverse impact the proposed development will have on the character, appearance and integrity of the listed buildings under consideration. It is considered that this matter has been fully discussed and discharged above

### C - Design Statement

The applicants have submitted a Design Statement in support of the application. It is considered that while certain matters are addressed in the

Statement, it is concluded that the justifications put forward are not sufficiently robust in terms of discharging the impact the proposals will have on the heritage and setting of, amongst other things, the adjacent buildings to offer support for this development.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the grant of listed building permission contrary to the provisions of the development plan. It is therefore recommended that listed building permission be refused.

### **Design**

The treatment of the listed buildings on the application site are considered to be inappropriate by virtue of the negative impact the development will have ie the complete demolition of the south most building and the excessive alterations to the northern section of the building to be retained by extending its height by 4 storeys in an unsympathetic manner.

The scale and design of the new building will also have a adverse affect on setting and appearance of adjacent listed buildings.

### **CONCLUSION**

The proposals under consideration involves the partial demolition of a Category A listed Mill complex in order to accommodate a new student housing development. It is considered that the applicants have failed to submit information that demonstrates beyond reasonable doubt that there is a need to remove the buildings in question from the site. This is not consistent with government advice on such proposals.

The applicants have also failed to submit a Conservation Statement for the development that would set out the applicants' assessment of the character and significance of the heritage assets which would be potentially affected by the proposed development.

The design details submitted to accompany the application are considered to be inappropriate in terms of scale and design due to the adverse impact the development will have on the integrity of the existing building to be retained on the site and the setting and appearance of the adjacent listed buildings.

## **RECOMMENDATION**

It is recommended that consent be REFUSED for the following reasons:

### **Reasons**

- 1 The proposals are considered to be contrary to Policy 60 (Alterations to Listed Buildings) and Policy 62 (Demolition of Listed Buildings and Buildings in Conservation Areas) of the Dundee Local Plan Review 2005 by virtue of the failure of the applicants to adequately demonstrate the need to remove listed buildings from the site, to adequately demonstrate that the development will not have an adverse impact on the character and integrity of the listed buildings to be retained within the site and to adequately demonstrate that the development will not have a negative impact on the appearance of the adjacent listed buildings and the setting of the surrounding conservation area. There are no material considerations that would justify the setting aside of the terms of these policies and approving this application.
- 2 The applicants have failed to demonstrate the need to demolish the Category A listed building on the site and have failed to submit sufficient information to accompany the application to allow a full and comprehensive assessment of the development contrary to Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the requirements of National Planning Policy Guideline 18: Planning and the Historic Environment and the Memorandum of Guidance on Listed Buildings and Conservation Areas 1998.

### **APPENDIX 3**

#### **SUGGESTED CONDITIONS TO BE ATTACHED TO 07/01005/FUL**

- 1 The development hereby permitted shall be commenced within 5 years from the date of this permission
- 2 Samples of the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in full accordance with such approved samples.
- 3 Total noise from all mechanical and electrical services shall not exceed NR35 as measured 1 metre external to the façade of the nearest residential accommodation.
- 4 Details of refuse storage measures to be provided shall be submitted to the Council for approval prior to the commencement of development and if approved the development shall be carried out only in full accordance with such approved details.
- 5 Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:
  - a the nature, extent and type(s) of contamination on the site;
  - b measures to treat/remove contamination to ensure that the site is fit for the use proposed;
  - c measures to deal with contamination during construction works; and
  - d condition of the site on completion of decontamination measures.

Before any of the proposed accommodation hereby granted permission is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

- 6 Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - a location of new trees;
  - b schedule of plants to comprise species, plant sizes and proposed number/density;
  - c details and materials of all hard landscaping works; and
  - d programme for completion and subsequent maintenance.

For the avoidance of doubt, any trees or shrubs which, in the opinion of the planning authority, are dying, severely damaged or diseased with 5 years of

planting shall be replaced by trees or shrubs of a similar specification to those originally planted.

- 7 That full details of public art provision for the development shall be submitted to the planning authority for approval prior to the commencement of development and if approved, the development shall be completed only in full accordance with such approved details.
- 8 That prior to the commencement of any works, details of off street car parking provision and how the existing site operations will interact with the proposed development shall be submitted for the written approval of the planning authority and if approved the development shall be carried out only in full accordance with such approved details.

### **Reasons**

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997
- 2 To ensure that the development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 3 To protect local residents from any noise generated by the development hereby granted permission.
- 4 In the interests of sustainable development
- 5 In order to ensure that the site is fit for the use proposed.
- 6 to ensure a satisfactory standard of appearance of the development
- 7 In order to provide for public art in the interests of visual amenity
- 8 To ensure that the car parking arrangements for the development are satisfactory and to allow the facility to operate in a manner that will not prejudice the road traffic and pedestrian safety of the area.

## **APPENDIX 4**

### **SUGGESTED CONDITIONS ATTACHED TO 07/01006/LBC**

- 1 The works must be begun not later than the expiration of 5 years beginning with the date of this consent.
- 2 Samples of the finishing materials proposed to be used shall be submitted to the Council for written approval and if approved the development shall be carried out only in full accordance with such approved samples.
- 3 The existing building shall not be demolished until a Joint Contracts Tribunal building contract or a building contract of a similar recognised form acceptable to the Council for the carrying out of the works of redevelopment of the site in accordance with plans approved by the Council has been made and evidence thereof supplied to the Council.

### **Reasons**

- 1 To comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- 2 To ensure that the materials will not have a detrimental impact on the character of the listed building.
- 3 To ensure that redevelopment of this site takes place immediately following demolition of the existing building, thereby ensuring that an unattractive gap does not exist in the street scene to the detriment of the character and appearance of the area.