

**REPORT TO: DEVELOPMENT QUALITY COMMITTEE - 20 AUGUST 2007**

**REPORT ON: PLANNING APPLICATION 07/00015/FUL - PROPOSED ERECTION OF 2 HOUSES LAND SOUTH OF STEVENS YARD, SHEPHERDS LOAN, DUNDEE**

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

**REPORT NO: 379-2007**

## **1 PURPOSE OF REPORT**

- 1.1 To seek the Committee's approval of the terms of the report and recommendation contained in the appended report as Appendix 1 to this report and to the suggested conditions to be applied by the Reporter should planning permission be granted on appeal. Appendix 2 refers.

## **2 RECOMMENDATION**

- 2.1 It is recommended that

- a the terms of the report appended to this report at Appendix 1 be supported as the decision on application 07/00015/FUL 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 Appendix 2 to this report be agreed as those which the Reporter should apply in the event of planning permission being granted on appeal.

## **3 FINANCIAL IMPLICATIONS**

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

## **4 SUSTAINABILITY POLICY IMPLICATIONS**

- 4.1 Any sustainability policy implications arising from the proposal are outlined in Appendix 1 to this report.

## **5 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 There are no equal opportunities implications arising from this report nor from the application proposals.

## **6 BACKGROUND**

- 6.1 On 18 December 2006 a full planning application for the erection of 2 houses on land south of Steven's Yard, Shepherds Loan, Dundee was registered as valid by the Council.
- 6.2 On 3 July 2006 the applicants appealed to Scottish Ministers against a deemed refusal of the application under Section 47(2) of the Town and Country Planning (Scotland) Act 1997 as the Council had not reached a decision on the application within the statutory 2 month period.

- 6.3 This report has been prepared in order that the Council's case for the appeal can be properly placed before the Reporter and appellant. As an appeal has been lodged the Council is unable now to make a formal decision.
- 6.4 The reason for the delay in determining the application is that information requested from the applicants on 12 February 2007 in respect of potential ground contamination, parking and footway issues has not yet been received. Full details of the application, the full planning implications and recommendations are contained in Appendix 1 to this report.
- 6.5 Appendix 2 contains suggested conditions should the Reporter be minded to grant planning permission.
- 6.6 The Directorate of Planning and Environmental Appeals has agreed at the Council's request to extend the period for the submission of the Council's case pending the consideration by Members of this report.

## **7 CONSULTATIONS**

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

## **8 BACKGROUND PAPERS**

- 8.1 - Planning application 07/00015/FUL.  
- Objectives, representations and consultations.

Mike Galloway  
Director of Planning & Transportation

Ian Mudie  
Head of Planning Services

IGSM/IAR/DDB

3 July 2007

Dundee City Council  
Tayside House  
Dundee

**KEY INFORMATION**

**Ward** Tay Bridges

**Proposal**

Erection of 2 houses

**Address**

Land South of Stevens yard,  
Shepherds Loan  
Dundee

**Applicant**

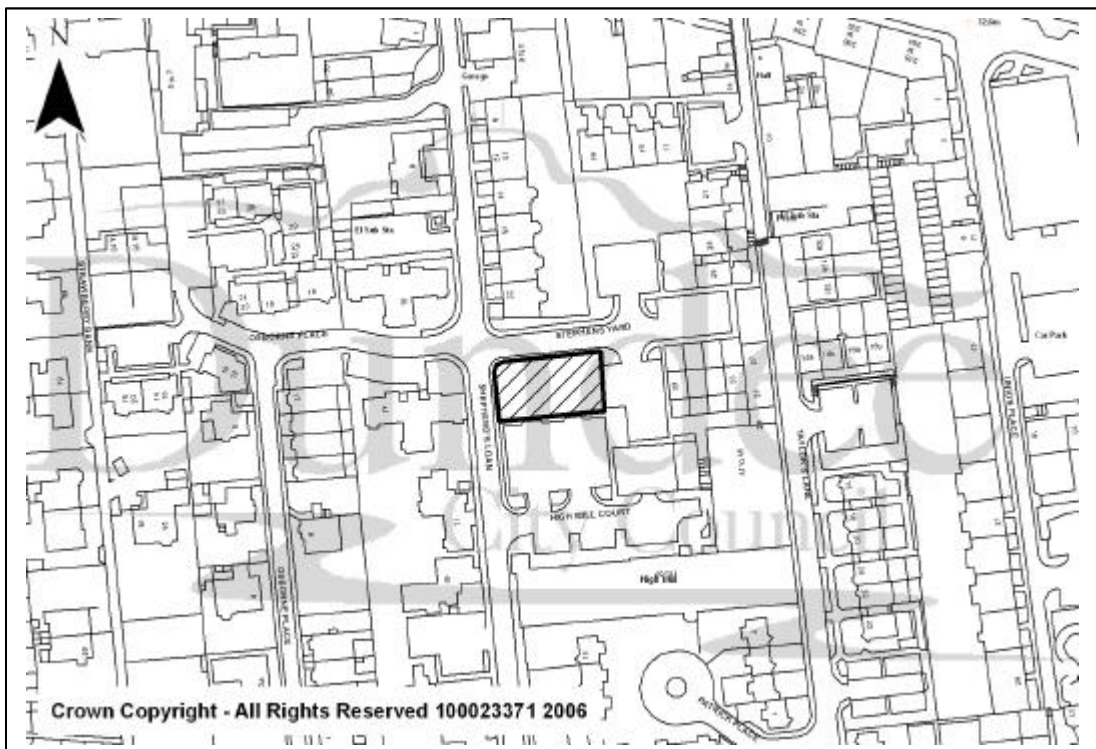
Charles McGregor  
Avenue Marechal Ney 143  
1180, Brussels  
Belgium

**Agent**

Baxter Clark & Paul  
(Dundee) Ltd  
24 South Tay Street  
Dundee  
DD1 1PD

**Registered** 18 Dec 2006

**Case Officer** D Gordon



The Erection of 2 houses is RECOMMENDED FOR REFUSAL. Report by Director of Planning and Transportation

**RECOMMENDATION**

The proposals will not contribute to the improvement in the environmental quality of this former inner city industrial site by virtue of the adverse impact the development will have on the setting of an adjacent listed building and the character of the surrounding conservation area. The application is therefore recommended for REFUSAL.

**SUMMARY OF REPORT**

- Planning permission is sought for the erection of a semi-detached block of 3-storey dwelling houses on a vacant site located on the east side of Shepherds Loan. The land forms part of the former Seafield Works re-development site and is currently vacant. The site was previously identified as the location for the re-erection of the former half-timers school that was demolished as part of the approved proposals for the area.
- The statutory neighbour notification procedure was undertaken by the applicants. In addition the proposals were advertised in the local press as being contrary to Policy 4 of the Dundee Local Plan Review and as Development Affecting the Setting of a Listed Building and Conservation Area.
- One objection to the proposals has been received. The main issues raised relate to the design of the buildings, the impact of the proposals on the adjacent listed building and the potential impact the development may have on parking in the local area.
- Additional information necessary for the full consideration of the application has not been submitted by the applicants.
- The details of the proposal are not considered to be in full accordance with the requirements of the relevant development plan policies for the area. There are no material considerations that would justify the approval of the application contrary to these policies.

## DESCRIPTION OF PROPOSAL

The application seeks permission to erect a semi-detached block of 3 storey houses on a site located on the east side of Shepherds Loan. The dwellings will be set back approximately 6 metres from Shepherds Loan and will accommodate both front and rear garden areas.

The new houses will provide kitchen, dining room, toilet and utility room on the ground floor, a living room and an en-suite bedroom at first floor level and 3 further bedrooms (study) and a bathroom at second floor level. The proposed finishing materials are white Sto render and Trespa coloured panels for the walls and a standing seam roof.

Off street car parking (5 spaces in total) is to be provided on an area located on the east side of the site.

The proposed houses accommodate mono pitch roofs, projecting bay windows and a variety of widow designs and openings that give the buildings a contemporary appearance.

## SITE DESCRIPTION

The application site is located in the inner city sector of Dundee within the curtilage area of a former jute mill that was redeveloped, primarily for residential purposes, in the late 1980's - early 1990's. The site is located to the west of Shepherds Loan, to the north of High Mill Court, to the west of Taylors Lane and to the south of Stevens Yard. The site, which measures .047 hectares, is currently vacant. The land is generally flat although it does slope slightly in a north to south direction. The site is contained within the West End Lanes Conservation Area.

The surrounding area is predominantly residential in character and offers a wide variety of residential accommodation ranging from new build 2 and 3 storey housing to converted former industrial buildings including the dominant former High Mill located to the south. This Mill is a Category A Listed Building. Traditional tenement buildings are also evident in the immediately area.

The off street car parking areas for the High Mill building are located to the south side of the site.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

The following policies are of relevance:

Environmental Resources Policy 5A: Historic Environment.

Local Plans will establish a policy framework to safeguard and enhance important features of the area's historic environment as a means of conserving the diverse and distinctive qualities of Dundee & Angus. The historic environment of Dundee is a valuable, non renewable resource which must be protected, conserved and enhanced. Local Plans shall identify these assets and include policies which:

- protect the site and setting of listed buildings and scheduled ancient monuments;
- protect other archaeological sites and sensitive areas; and
- protect and enhance conservation areas and historic gardens and designed landscapes.

### Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 1: Vibrant And Sustainable Communities - the City Council will promote vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the Plan and seek to minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Policy 4: Design Of New Housing - the design and layout of all new housing in Dundee should be of a high quality. As a basis for achieving this, new development will be required to conform to the Design Standards contained in Appendix 1 of this Local Plan unless:

- 1 the City Council, through either site allocation in the Local Plan or site planning briefs, considers it appropriate to vary the standards to reflect the constraints or opportunities

offered by the development of a particular site; or

- 2 the proposal is within an established low density residential area, in which case the density of the new development should reflect this and more generous external space standards will be required.

New housing development should also have regard to the principles of the City Council's Urban Design Guide.

In addition, new housing development should meet "Secured by Design" standards. New residential streets should be designed to promote low vehicle speeds of 20mph or less. New housing should have regard to opportunities to maximise energy efficiency and promote sustainable waste management.

Where conversion of a listed building or other building worthy of retention is proposed, there may be limited flexibility in applying parking and garden ground requirements where compliance is impractical. The development of flats through conversions of buildings of merit may also be acceptable where conversion to flats is the only appropriate action.

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 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 79: Contaminated Land - when considering development proposals involving sites where the presence of contamination is suspected, the City Council will require applicants to:

- a submit the results of site investigations which assess the nature and extent of any contamination which may be present; and
- b where contamination is found to be present, notify the authority of the remediation measures proposed to render the site fit for its intended use including all receptors.

Appropriate conditions and/or legal agreements may be applied to ensure that such measures are implemented to the satisfaction of the Council.

Alternatives to the uses permitted by the Local Plan may be supported on contaminated sites in instances where evidence can be presented to establish that the severity of contamination is such that the site cannot be economically developed for its allocated use. In such instances the City Council will require to be satisfied that:

- clear evidence has been provided to establish the nature and extent of the contamination present;
- an economic appraisal has been provided which demonstrates that development based on the Local Plan allocation is not economically feasible due to the remediation requirement;
- justification for the proposed alternative to the Local Plan allocation is supported by economic and market appraisals which include the assessment of other potential options; and
- the proposed alternative use can be justified in relation to other policies of the Local Plan.

## Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

- NPPG 18: Planning and the Historic Environment sets out the framework of dealing with planning applications that affect listed buildings.
- Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 (Historic Scotland)

## Non Statutory Statements of Council Policy

The following policy statements are of relevance:

- Dundee - The Urban Design Guide.

## SUSTAINABILITY ISSUES

The proposal seeks permission to redevelop a brownfield site for residential purposes.

## SITE HISTORY

The site forms part of the comprehensive redevelopment of the former Seafield Works. However, the following applications are of direct relevance to this vacant site.

D13738 - Re-erection of half-timers school and its use as a restaurant - App 1 November 1988.

D18868 - Re-erection of half-timers school - application was withdrawn 1995.

D20662 - Re-erection of half-timers school and its use as a house - App 23 August 1995.

D23203 - Re-erection of half-timers school and use as a bistro bar - Refused 28 May 1998.

DLB01536 - Re-erection of half-timers school - App 28 May 1998.

03/00681/FUL - Erection of Two Houses - Refused 29 March 2004.

In addition to the above, the site has been the subject of a Wasteland Notice in June 2004 due to the untidy nature of the site.

## PUBLIC PARTICIPATION

The applicants have undertaken the statutory neighbour notification procedure. In addition, the application was advertised in the local press on 16 January 2007 as Development Affecting the Setting of a Conservation Area and Listed Building. The proposal was also advertised in the local press on 22 January 2007 as development contrary to Policy 4 (Design of New Housing) of the Dundee Local Plan Review 2005. One letter of objection has been received. The terms of the objections are as follows:

- 1 the development will detract from the appearance of the surrounding area;
- 2 the proposal will detract from the appearance of an adjacent listed building; and
- 3 The development will potentially result in increased on street parking in the local area to the detriment of road traffic safety.

A copy of this letter is available for inspection in the Members Lounges. It is intended to comment on the various issues in the "Observations" section of this report below.

## CONSULTATIONS

The relevant Council Departments and outside bodies have been consulted with regard to the proposal.

The Head of Environmental Health and Trading Standards has advised of potential contamination issues relating to the development of the site for residential purposes. Further information on this issue has been requested from the applicants and, to date, this has not been submitted for consideration.

No adverse comments have been received for any of the other parties who have been consulted on this proposal.

## 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.

The site forms part of the comprehensive re-development of the former Seafeld Works for residential purposes that was undertaken in the late 1980's/early 1990's. This application site was originally identified as being suitable for the re-erection of the Mill complex half-timers school that was demolished as part of the redevelopment proposals for the area. It was considered that the former stone built single storey school, through its design, location and historical significance, would compliment the setting of the adjacent High Mill which is a Category A listed building. Unfortunately, a combination of vandalism, theft and weathering resulted in the virtual disappearance from the storage site of all the materials that were set aside for the relocation of the building. This, combined with the failure of the previous developer of the site to re-erection the school when the materials were available, has meant that the site has remained vacant for some time. Taking this into account, it is considered that the opportunity to re-construct the original building has now completely disappeared. This building has now been "de-listed" by Historic Scotland.

The proposal now under consideration is for the provision of a block of semi detached, 4 bedroom, 3 storey dwellings with associated off street car parking.

Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005 offers support to developments within residential areas that do not adversely affect the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell. There are no smell or noise issues associated with this development.

With regard to the design, it is considered that while the houses are innovative and contemporary in nature, the development of this isolated site

for the buildings proposed would not fulfil the original anticipated role of the former half timers school as outlined above. The proposed new buildings do not relate well in terms appearance, scale, design and materials to the existing stone built buildings located to the north and south ie the tenement buildings and the High Mill. It is considered that the proposed development fails to recognise and indeed fully appreciate the visual and historical importance of the setting of the adjacent Mill by obscuring, to a significant degree, the view of the north face of the building from Shepherds Loan to the west. It is accepted that there are other examples of modern residential properties in the immediate locality. However the majority of these houses were developed as part of the comprehensive redevelopment of the Mill complex and have been designed to have a minimal impact on the historical features located in the surrounding area. In light of the foregoing, it is considered that the proposal fails to comply with Policy 1 of the Local Plan.

Policy 4 (Design of New Housing) of the Dundee Local Plan Review requires the design and layout of all new housing in Dundee to be of a high quality. As a basis for achieving this, new development will be required to conform to the Design Standards contained in Appendix 1 of the Plan unless certain circumstances dictate otherwise.

It is considered that the design of the proposed buildings and their impact on the local area and the surrounding buildings has been discussed under Policy 1 of the Plan above. With regard to the requirements of Appendix 1 of the Plan, it is accepted that the proposed internal accommodation of the houses and garden ground provision is compliant with the aims of Policy 4. With regard to the proposed car parking provision, while the allocation of 5 spaces is considered to be appropriate for this location, it is not clear if this allocation would be for the exclusive use of the new residents only. The spaces are currently used for existing residents of the Mill and the requested clarification on this matter (February 2007) has, to date, remained unanswered by the applicants. Consequently, full consideration of the proposals under

Policy 4 of the Plan cannot be completed at this time.

With regard to Policy 55 (Urban Design), the issue of the design of the buildings has been discussed in consideration of Policies 1 and 4 above. Policy 55 confirms the emphasis of design quality in the city and requires, amongst other things, that all new developments should respect the setting of listed buildings. It is considered that the proposals fail to comply with the terms and aspirations of this policy.

Policy 61 (Development in Conservation Areas) of the Plan requires that all development proposals will be expected to preserve or enhance the character of the surrounding area. Taking into account the issues raised above in the consideration of the development under Policies 1, 4 and 55 of the Local Plan, it is considered that the proposals fail to achieve this aim for the reasons as previously stated. In this respect, the application is considered to be contrary to Policy 61 of the Plan.

With regard to Policy 79 (Contaminated Land), the Council's Head of Environmental Health and Trading Standards advised that, due to the historical nature of the land, there is potential for contamination to impact on future receptors at or near the application site. In this respect, the applicants were advised by this Council in February 2007 that a Phase 1 Site Investigation should be submitted to and determined by this Council prior to the consideration of the planning application. To date, this information has not been submitted for consideration. Consequently, the terms of Policy 79 cannot be discharged at this time.

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:

a 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 1, 55 and 61 of the Dundee Local Plan Review 2005 and it was concluded that the proposal would detract from the appearance of the listed building and adversely impact on the setting of the conservation area.

### View of the Objector

It is considered that the issues raised by the objector that relate to the design of the new housing, the impact of the proposals on the adjacent listed building and car parking matters, have been discussed in the consideration of the relevant development plan policies above.

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

The proposed new houses are considered to be innovative in design and good use has been made of a limited palette of materials to compliment the appearance of the new building. However, despite this quality of design, it is considered that the proposal fails to recognise the importance of the site and its surroundings. The development of a 3 storey block of housing in this prominent and isolated location in front of one of the main elevations of the adjacent Mill building would be inappropriate in terms of scale and appearance. Consequently, the buildings are considered to be inappropriate by virtue of their adverse impact on the setting adjacent Category A Listed Building and the character of the surrounding conservation area.

## CONCLUSION

In principle the development of the site for residential purposes is considered to be acceptable in land use terms and the approval of a previous planning application for such a use confirms this position.

However, it is considered that the proposal currently under consideration does not satisfactorily complete the re-development of this section of the former Seafield Works site. The details submitted for determination are considered to be inappropriate in appearance and scale in this location and would not result in an improvement on the re-instatement plans originally approved for this site. The development of this isolated and prominent site will detract from the character of the surrounding conservation area and will adversely impact on the setting of the adjacent Mill that is a Category A listed Building. In this respect the proposal is considered to be contrary to Policies 1, 4, 55 and 61 of the Dundee Local plan Review 2005.

The proposals will adversely affect the setting of a listed building and character of a conservation area contrary to the statutory duty set out in Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

In addition to the above, the applicants have been requested to submit additional information relating to the potential contamination of the site and off street car parking arrangements for the new buildings. This information has not been supplied and consequently, full consideration of the application cannot be undertaken in a complete and comprehensive manner.

## RECOMMENDATION

It is recommended that consent be REFUSED for the following reason(s):

### Reasons

- 1 The proposed development detracts from the setting of a Category A listed building at the High Mill, Shepherds Loan and the character of the surrounding conservation area by reason of its scale, appearance, design and location contrary to Policies 1, 55 and 61 of the Dundee Local Plan Review 2005 and the statutory

duty set out in Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 to have special regard to the desirability of preserving the setting of listed buildings and enhancing the character of conservation areas. There are no material considerations that would justify the approval of this application contrary to the provisions of the development plan.

- 2 The applicants have failed to demonstrate that the proposed development is in accordance with Policy 79 (Contaminated Land) of the Dundee Local Plan Review 2005 by virtue of the failure to submit for consideration details of the potential contamination of the site and any remediation works required to ensure that the site is fit for the use proposed.
- 3 That the applicants have failed to demonstrate that the development is in accordance with Policy 4 of the Dundee Local Plan Review 2005 by virtue of the failure to submit confirmation that the proposed car parking spaces identified at the east end of the site can be used exclusively by the occupants of the new houses.

## Application No 07/00015/FUL

### SCHEDULE OF SUGGESTED CONDITIONS

#### ERECTION OF 2 HOUSES AT SHEPHERDS LOAN/STEVENS YARD, DUNDEE (07/00015/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 accordance with such approved samples.
- 3 Prior to the commencement of works details of the proposed boundary enclosures shall be submitted to the Council for written approval and if approved the development shall be carried out only in accordance with such details within 1 month of the first occupation of the building.
- 4 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 include details of proposals to deal with any contamination to include:
  - the nature, extent and type(s) of contamination on the site
  - measures to treat/remove any contamination to ensure that the site is fit for the use proposed
  - measures to deal with any contamination during construction works
  - condition of the site on completion of decontamination measures.

Before the site is occupied, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

#### Reasons:

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 3 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 4 In order to ensure that the site is fit for the use proposed.