

**KEY INFORMATION****Ward** Hilltown**Proposal**

Change of use of upper floor of veterinary practice to 1 no flat

**Address**

59-61 Constitution Road  
Dundee  
DD1 1LA

**Applicant**

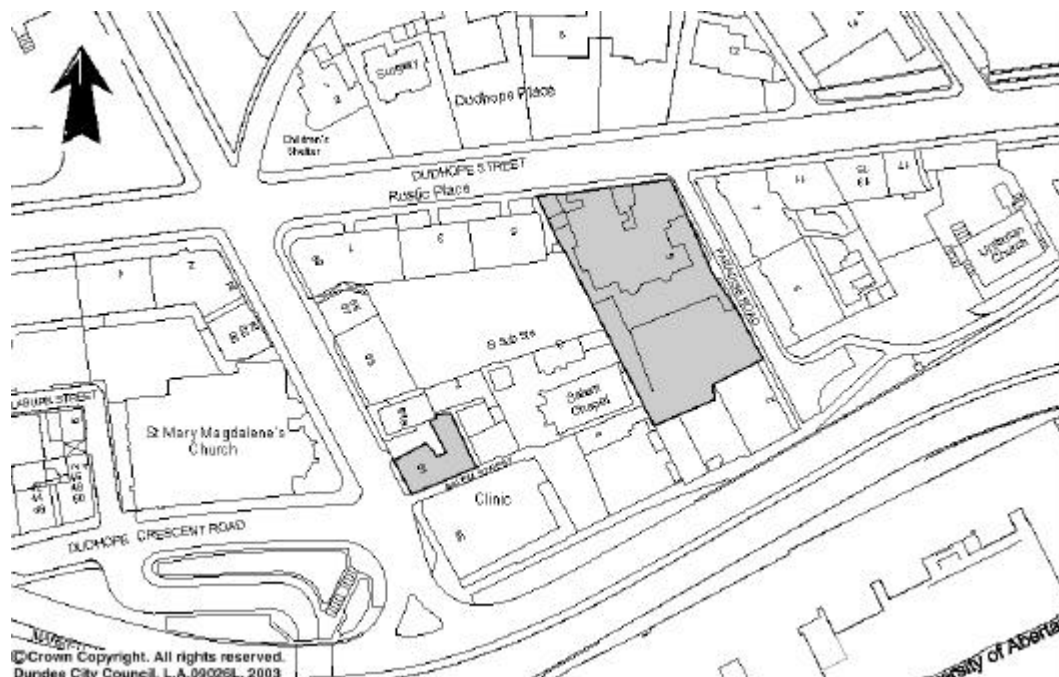
Scott Campbell  
The Chamber Practice  
61 Constitution Road  
Dundee DD1 1LA

**Agent**

Andrew Black Design  
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Lindsay Court  
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Invergowrie  
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**Registered** 15 Sep 2005**Case Officer** S Cooper**RECOMMENDATION**

The proposal is contrary to the provisions of Policy 4 of the Dundee Local Plan Review 2005. However, it is considered that there are material considerations that carry sufficient weight such as to warrant approval of the application. Accordingly, the application is recommended for **APPROVAL** subject to conditions.



## Proposed Change of Use to a Flat in Constitution Road

The change of use of upper floor of veterinary practice to 1 no flat is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

**SUMMARY OF REPORT**

- Planning permission is sought for the change of use of the presently vacant first floor of the building to form 1 flat.
- The application was advertised as a departure from Policy 4 of the Dundee Local Plan as it fails to meet the criteria for car parking and amenity space.
- No representations were received in respect of the application.
- The applicant has demonstrated that alternative secure car parking can be provided within walking distance. Balconies are proposed to provide some amenity space, and there is also public amenity space nearby at Dudhope Park.
- The proposal would result in the viable re-use of a vacant part of the building. The proposal accords with all other Policy aspects. It is considered that sufficient weight can be accorded to material considerations such as to justify the grant of planning permission contrary to the development plan.

## DESCRIPTION OF PROPOSAL

The proposal under consideration involves a change of use of the first floor of a former vets practice to a residential flat. The applicant proposes a 2 bedroom flat that will also accommodate a kitchen, lounge, bathroom and storage areas.

The proposed new flat would access directly from Salem Street to the south via an internal stair. The ground floor of the premises is to remain in office use.

The premises has no curtilage ground that could be used for garden ground/drying area provision. Two balconies would be formed in the front elevation of the building. The balconies would be accessed from new doors that would be fitted in the enlarged window openings. The balconies would measure some 600mm in depth and 2.3 metres in length. 1.1 metres high steel handrails would be erected to enclose the balconies. There is no off street car parking associated with the building. The applicant has secured two car parking spaces at Lows of Dundee to the north east which is within walking distance of the application site.

## SITE DESCRIPTION

The site is located on the east side of Constitution Road at its junction with Salem Street. The property is a two storey, detached building that is finished in white render and slate roof. The premises were formerly a vet's practice. The ground floor is now occupied by a solicitor/ estate agents. The building provides a frontage onto Constitution Road. The building has no associated curtilage ground or off street car parking. Internally, the premises are a maze of rooms that still retain features of the former use. The building is not listed as being of special architectural or historic interest and is not located in a conservation area.

The surrounding area accommodates a variety of uses including residential, business, ecclesiastical, commercial and educational. A multi storey car park is located to the south on the south side of the inner city by-pass.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

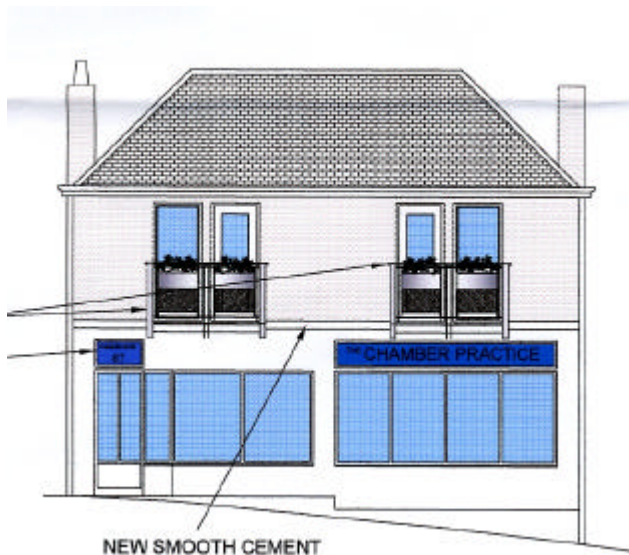
There are no policies relevant to the determination of this application.



### Dundee Local Plan Review 2005

The following policies are of relevance:

Policy 1: Vibrant and Sustainable Communities seeks to safeguard the amenity of residential areas in terms of design as well as layout, parking and traffic movement, and noise and smell issues.



Policy 4: Design of New Housing seeks to ensure that all new housing in Dundee is of a high standard. As such all new development will be required to conform to the design standards contained in Appendix 1 of the Local Plan. For the purposes of the Design Standards the application site lies adjacent to but outwith the City Centre boundary. As such the proposal must

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be assessed against the criteria for the Inner City area.

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

There are no statements of Government policy relevant 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.

## LOCAL AGENDA 21

The proposal will result in the reuse of a vacant part of an existing building and is therefore considered to be sustainable and consistent with the aims of Local Agenda 21.

## SITE HISTORY

A previous application, ref: 05/00275/COU, also seeking a change of use of the first floor of the building to a flat was refused on the 5th July 2005 for the following reason:

- 1 That the proposal is considered to be contrary to Policy H10 of the Dundee Local Plan 1998 and Policy H4 of the Finalised Dundee Local Plan Review in that the new flat fails to meet the requirements to provide associated private and usable garden ground and associated off street car parking to the detriment of the future occupiers of the proposed residential unit. There are no material considerations that would justify the setting aside of these policies and approving the application.

## PUBLIC PARTICIPATION

The applicant has carried out the Statutory Neighbour Notification procedures. No letters of objection have been received. The application was advertised in the Dundee Courier and Advertiser as being a departure from Policy 4 of the Dundee Local

Plan Review 2005. No letters of objection were received.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards advises that there is the potential for traffic noise by virtue of the proximity of the property to North Marketgait. Accordingly he recommends the imposition of a condition on the grant of planning permission to ensure suitable noise attenuation levels can be achieved.

Otherwise, no adverse comments were received from consultees.

## 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 determining issues in the assessment of this application are whether the proposal complies with the relevant provisions of the Development Plan and whether there are any material considerations that would justify setting aside those policies.

In terms of Policy 4, the site is located within the Inner City sector of the City.

The Design Standards only allow for flats where identified in a site planning brief, conversion of an existing building is proposed or site specific circumstances demand a flatted solution. A minimum gross internal floor area of 60m<sup>2</sup> should be provided.

This application involves the conversion of the upper floor of an existing building. Therefore the proposal is acceptable in principle in terms of Policy 4. The gross internal floor area is also in excess of the minimum requirement of 60m<sup>2</sup>.

For private flats, the Standards require a level of parking provision of 130%. This level may be increased or decreased slightly in light of on street and off street parking provision nearby.

There is no off street parking associated with the building. As such the proposal is contrary to the provisions of Policy 4 of the Dundee Local Plan Review 2005.

The applicant proposes to provide 2



remote car parking spaces for the proposed flat at Low's of Dundee, Dudhope Street. This is within easy walking distance of the application site. The car parking is secure with a gated entrance, for which occupants of the proposed flat would have a key to facilitate 24 hour a day access.

The Design Standards require that a minimum useable private garden area of 10m<sup>2</sup> is provided. Drying areas should be provided in addition. Private garden provision may be reduced if balconies that are useable and attractive in terms of size and outlook are provided.

There is no private amenity space associated with the flat. Accordingly the proposal is contrary to the provisions of Policy 4 of the Dundee Local Plan Review 2005. However,

the proposal does include the formation of two balconies at the front elevation of the building. The balconies would each measure some 600mm in depth and 2.3 metres in length.

The application site lies almost on the boundary between the Inner City and City Centre areas as defined by the Dundee Local Plan Review 2005. However, if the application site fell on the south side of North Marketgait (which is within 50 metres of the application site) it would be within the City Centre area and thus amenity space would only be required where site specific circumstances allow. There are no grounds associated directly with the building where amenity space could be provided. Policy 4 allows for balconies to contribute to amenity space provision. In this case the applicant proposes the formation of two balconies. It is considered that the proposed balconies would be of a sufficient size and would offer an acceptable outlook. There is also amenity space within walking distance at Dudhope Park.

The previous proposal for the change of use of the first floor to a flat (ref: 05/00275/COU) made no provision at all for car parking, or for amenity space. Accordingly, that application was refused on the basis that it was contrary to Policy H10 of the Dundee Local Plan 1998 and Policy 4 of the Finalised Dundee Local Plan Review 2005. The

Dundee Local Plan Review 2005 has now been adopted and as such, the Dundee Local Plan 1998 is no longer relevant.

In this case, however, the applicant has provided as much amenity space as can reasonably be provided for the flat with two balconies at the front. There is also public amenity space nearby at Dudhope Park. There is no ground associated with the building where off-street car parking could be provided. However the applicant can provide secure off-street car parking within easy walking distance of the property.

The proposal would result in a suitable and viable use for a presently vacant part of the building. The applicant has demonstrated that measures can be taken to provide car parking and access to amenity space in order to bring the

first floor of the property back into use. The car parking provision can be secured through a legal agreement under the provisions of Section 75 of the Town & Country Planning (Scotland) Act 1997. The applicant's agent has agreed in writing to enter into such an agreement.

In these circumstances it is considered that although the proposal is contrary to the provisions of Policy 4, there are material considerations that carry sufficient weight such as to justify the grant of planning permission contrary to the provisions of the development plan.

### Other Material Considerations

There are no other material considerations relevant to the determination of this application.

As stated above it is concluded that sufficient weight can be accorded to 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 granted with conditions.

### Design

The external alterations proposed involve the replacement of windows with doors to provide access to the new balconies that would be formed in front of the existing windows. 1 metre high steel handrails would enclose the balconies. The frontage of the building has been subject to significant alteration over the years. The proposed balconies would be of steel and mesh construction and as such would not appear unduly bulky or obtrusive on the front elevation of the building. It is therefore considered that the proposal is acceptable in terms of design.

### CONCLUSION

It is concluded that the proposal does not comply with Policy 4 of the Dundee Local Plan Review 2005 in terms of car parking and amenity space provision. However, the applicant has made provision for amenity space and car parking provision within walking distance of the building. In these circumstances it is considered that these material considerations that would justify the grant of planning permission contrary to the provisions of the development plan.

## RECOMMENDATIONS

### Recommendation 1

This planning permission shall not be issued unless and until an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 between the Council and parties with appropriate interests in the land has been recorded. This agreement will relate to the provision of car parking for the flat.

### Recommendation 2

It is recommended that planning permission be GRANTED subject to the following conditions:

- 1 The development hereby permitted shall be commenced within five years from the date of this permission.
- 2 The proposed dwelling shall be provided with a level of noise attenuation to ensure that internal noise levels do not exceed 45dB(A) between 0700 and 2300hrs and 35dB(A) between 2300 and 0700hrs.

### Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In order to ensure the residential amenity of future occupants of the flat.