

KEY INFORMATION

Ward Tay Bridges

Proposal

Residential development comprising of 7 flats to South, 4 flats to North and 4 houses and environmental improvements to boundary walls

Address

Land at Former Tay Rope Works
Magdalen Yard Road
Dundee

Applicant

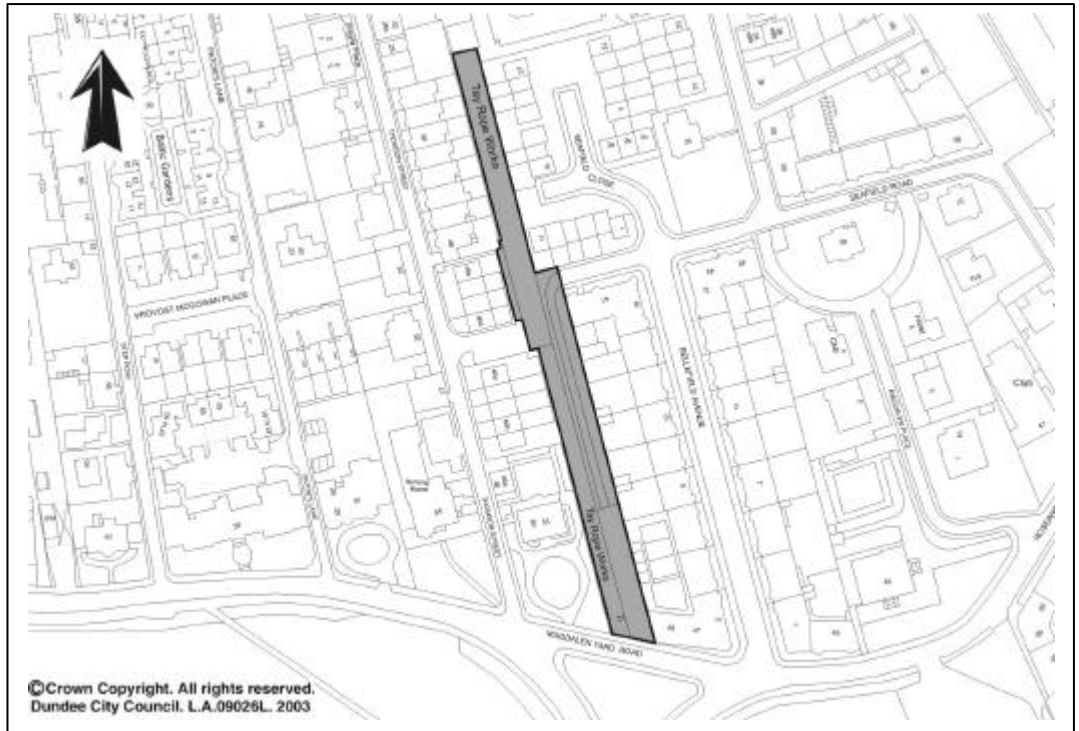
Duncarse Ltd
West Green Park
Liff
Dundee
DD2 5NF

Agent

AIM Architecture Interiors
Media
Castle Chambers
36 Castle Street
Dundee DD1 3AF

Registered 19 July 2006

Case Officer E Jones



Proposed Housing Development at former Tay Rope Works in Magdalen Yard Road

A residential development of flats and houses is **RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS**. Report by Director of Planning and Transportation

RECOMMENDATION

The proposed development complies with the relevant policies in the Dundee Local Plan Review 2005, given the exceptional quality of the design and the sensitive retention and reuse of historic features. There were numerous strong letters of objection and support. The material considerations are considered to support the application and accordingly it is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the erection of two blocks providing 7 flats (south) and 4 flats (north), the erection of 4 single storey houses with access and parking and environmental improvements to boundary walls. The flats are all 2 bedroom and all units have 2 parking spaces. The site will be accessed from Magdalen Yard Road, via a one way road and a two way road access from Seaford Road. The existing boundary walls will be retained and repaired with red brick. The gateway of the original building will be retained and reused.
- The development is of modern design to complement rather than copy the surrounding tenemental properties. The materials include red brick, white render, red sandstone and timber cladding with grey sarna roofing to the flats and zinc roofing to the houses.
- The site was originally occupied by the Tay Rope Works and is extremely long and narrow, the southern part 12 metres wide by 130 metres and the northern section 8 metres wide by 80 metres. The site is overgrown and in poor condition in stark contrast to the surrounding residential properties.
- Dundee Local Plan 2005 Policy 1; Policy 2; Policy 4; Policy 55; Policy 60 and Policy 61 all apply. The Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 is of relevance. There is a long planning history including previous appeals for housing development.
- 46 objections have been received and 24 letters of support. Modern developments in traditional environments always result in strong views. This is a difficult site which is semi-derelict and does not make a positive contribution to the character of the Conservation Area. It demands an innovative and creative design in order to provide a high quality development. It is considered that the high quality design of the layout and the buildings complies with the Local Plan and the Council's declared objectives to support good urban design.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of two blocks providing 7 flats (south) and 4 flats (north), the erection of 4 single storey houses with access and parking and environmental improvements to boundary walls. The flats are all 2 bedroom. Both blocks will continue the existing blank gable walls of the tenement flats on Magdalen Yard Road and Seafield Road. In the southern block, 4 of the 7 flats have 2 balconies or terraces and 1 flat has a single south facing terrace. In the northern block, each of the 4 flats have a screened, south facing balcony. The 2 northern houses are of modern, flat roofed design to sit within the flanking walls and ensure no overlooking to adjacent properties. They have 3 bedrooms, 1 en-suite a glazed interior courtyard and a large lounge with floor to ceiling doors opening on to a south facing deck. They have gardens of 51 and 55 square metres in addition to the courtyard. The 2 central houses have pitched roofs and each has 3 bedrooms, 1 en-suite with private gardens of 75 square metres, including a deck accessed from two of the bedrooms.

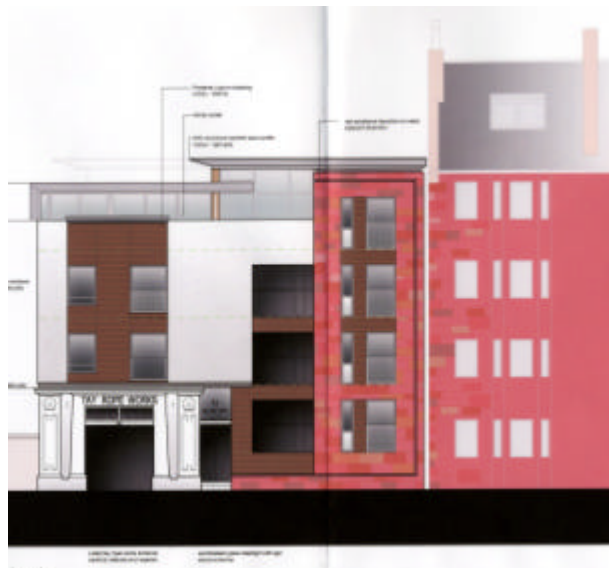
The site will be accessed from Magdalen Yard Road, via a one way lane and a two way road access from Seafield Road will serve the centre of the site. All of the roads will be private and will not be adopted by the City Council for maintenance. One house will gain access from the car park to the north. All of the units have two parking spaces.

The development is of modern design to complement rather than copy the surrounding tenemental properties. The materials are red brick, white render, red sandstone and timber cladding with galvanised steel detailing with light grey sarna roofing to the flats and zinc roofing to the houses. The existing boundary walls will be retained and repaired with red brick. The parking areas will be brown and red block paving. Lighting is proposed to illuminate crowns of trees and the boundary walls.

SITE DESCRIPTION

The site was originally occupied by the Tay Rope Works which dated from mid 19th Century. The site, as required by the manufacture of rope, is

extremely long and narrow, the southern part being predominantly 12 metres wide by 130 metres and the northern section being generally 8 metres wide by 80 metres. It slopes down from north to south between the rear gardens of the residential properties which front on to Thomson Street to the west and Bellfield Avenue and Seafield Close to the east. There are 3 access points at Magdalen Green to the south, Thomson Street and Seafield Road at the mid point. The northern end of the site abutts the car park off Seafield Lane.



The southern elevation on to Magdalen Green includes the ground floor gateway of the original building with a later stone facade at upper level. The entablature at the facade is dated 1885. The original building was partly destroyed by fire in 1986. The remaining buildings have been used for an architectural antique business for approximately 10 years. The original red brick building in the north part of the site has also been removed but the walls remain with the distinctive arched details with some traces of upper storey window cills. This site has been used for open storage.

The walls vary in character and quality with red brick to the west and a partially demolished sandstone wall to the east with areas of fencing infill. There is an oak tree located part way up the site with several self sown trees of varied species and age.

The site is overgrown and in poor condition in stark contrast to the surrounding residential properties. The buildings to the south are in a poor

state of repair and comprise a mixture of rubble sandstone, red brick and steel forming the workspaces with corrugated sheeting and slate roofs.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

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

Dundee Local Plan 2005

The following policies are of relevance:

Policy 1 Vibrant and Sustainable Communities

Policy 2 Housing Land Release

Policy 4 Design of New Housing

Policy 55 Urban Design

Policy 60 Alterations to Listed Buildings

Policy 61 Development in Conservation Areas

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

SPP 3: Planning for Housing.

The SPP highlights that the aim of planning is to provide well-located, high quality new housing. The new housing should make a positive contribution to the built environment and should be designed and laid out to provide lasting benefits.

NPPG18: Planning and the Historic Environment

The NPPG indicates that planning authorities should have regard to the acceptability of the proposal in terms of preserving and enhancing the character or appearance of the area and should be assessed in terms of their impact on the area.

The Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 is of relevance to this application.

Non Statutory Statements of Council Policy

The following policy statements are of relevance:

Dundee Urban Design Guide

In terms of design the guide indicates that new buildings and developments must present a design solution appropriate to the site and context.

SUSTAINABILITY ISSUES

It is considered that the proposed development raises no concerns in relation to the Council's sustainability policies.

SITE HISTORY

The site has previously been in 2 ownerships and has been the subject of separate planning applications.

North Site:

04/00918/FUL - Planning application for the erection of 2 houses was refused by Committee on 29/08/05 and was then the subject of an appeal. The Reporter granted planning permission for the northern house, gaining access from the car park to the north but refused permission for the southern house, gaining access from Thomson Street. The date of the appeal decision was 22/02/06.

South Site:

In 1985 and 1986 there were applications to change the site into a car showroom and a bathroom showroom.

D18355/93 - Outline application for residential development was withdrawn by applicant 25/06/93.

D19023/93 - Rebuilding of workshop and erection of two dwelling houses on part of Former Tay Rope Works. Planning permission was refused by the council on 21/02/94. The application went to appeal and was dismissed on 11/04/95.

D20182/94 - Change of use from workshop to house was approved.

D/22932/97 - Change of use from picture framing to architectural antiques retailing was approved.

05/01078/FUL - Planning application for the erection of two blocks of flats and 2 single storey houses. Access was taken from Magdalen Yard Road

and Thomson Street. The application was withdrawn by the applicant on 19/07/06 and replaced by this current application which combines the two parts of the former Rope Works. The development of the 2 blocks of flats and the 2 houses is virtually the same although access is no longer taken from Thomson Street.

06/00019/LBC - Part demolition of listed facade and redevelopment as part of new frontage for proposed residential development. This application has yet to be decided and may be found elsewhere on this agenda.

PUBLIC PARTICIPATION

The application was the subject of statutory Neighbour Notification and was advertised as an application potentially contrary to the Development Plan and also affecting the setting of a Conservation Area and a Listed Building.

45 objections have been received and 24 letters of support.

The grounds of objection are:

Design and materials out of character with Conservation Area; traffic and parking problems; access; loss of light or overshadowing; loss of privacy; increased noise and air pollution; damage to natural environment; overdevelopment/too many flats; lack of amenity space; not in accordance with Local Plan. One objector advised that bats are regularly seen at the site and as a result, a bat survey was carried out. This is discussed in the Observations below.

The grounds of support are:

Good design and materials; development will enhance the character of the area and City; development sensitive to history of site; no increase in traffic; the design considers the potential impact on neighbours; developer will repair walls.

CONSULTATIONS

The Forestry Officer seeks appropriate tree protection measures for the retained trees under BS 5837:2005 and details of proposed landscaping. This can be the subject of conditions should Members be minded to approve the application.

The Head of Environmental Health and Trading Standards recommends that appropriate conditions should be imposed if Members are minded to approve the application. These would require investigations of contaminated land and the carrying out of any required remediation works for the redevelopment of this former industrial site.

The West End Community Council notes that the application is very similar to the previous application and maintains its opposition to the proposal on the grounds of over intensive development with tiny flats outnumbering tiny houses; lack of garden ground; use of materials inappropriate to the Conservation Area; overshadowing by the southern block of flats; removal of the northern block is suggested. These issues will be addressed in the Observations below.

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 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.

The design and layout of the proposed housing development seeks to minimise the impact on the adjoining properties by the configuration of windows and use of screens to protect

privacy, the lowering of the roof profile on the southern flatted block to minimise overshadowing and the restriction of the height of the new houses to one storey to limit overshadowing or overlooking. Shadow plans have been submitted to demonstrate the shadows cast on to adjoining properties by both the existing buildings and the proposed blocks of flats in both summer and winter at 9am, midday, 3pm and 6pm. They show that the southern block makes no significant increase in the shadows cast by the existing buildings on to the existing dwellings due to the low profile of the roof. The northern block casts an increase shadow on adjacent properties in winter but makes limited increased impact at other times. The houses are low profile and designed to minimize any impact on adjacent dwellings by overshadowing or overlooking.

All of the units have two parking spaces, which is in excess of the requirements of the Local Plan, due to the pressures on parking in surrounding street. The access at Magdalen Yard Road is one way due to the restricted visibility resulting from the retention of the listed frontage. The bin stores are by the entrance to minimise the need for access by refuse vehicles. The middle part of the site has two way traffic using Seafield Road and allowing a turning area for service vehicles to access the bin stores. Only the one house at the north of the site will gain access via the car park off Seafield Road. It is considered that these access and traffic movement proposals will minimise the impact on neighbours. There is no issue with regard to smell as these are residential properties. The introduction of vehicle traffic into this area to the rear of existing properties will result in some increase of noise. However, this is the inner city where residential densities are quite high and there is traffic noise in the area. The access road is narrow and one way and traffic is unlikely to attain high speeds or generate high levels of noise.

The site at present is semi-derelict in parts, the boundary walls are in varying states of repair, the site is overgrown and does not provide a secure boundary to adjacent residential properties. It is considered that for these reasons, the proposed development would improve the

environmental quality enjoyed by local residents.

Provided the proposal complies with other policies in the Plan, the application is considered to comply with Policy 1 as it has sought to minimise the affect on the environmental quality enjoyed by local residents.

Policy 2 Housing Land Release

Proposals for housing land release additional to the Finalised Local Plan allocations will be acceptable where:

- a a housing development is in accordance with all other policies in the Local Plan; and
- b it will make a positive contribution to quality and choice of housing available in the local area; and
- c it satisfies all of the housing standards contained in Appendix 1 of the Local Plan or those in any site planning brief approved by the City Council; and
- d it will improve tenure mix in areas where there is limited choice and contribute to wider community regeneration objectives.

This site is not identified as a brownfield housing site and therefore falls to be considered under the terms of Policy 2 with regard to the principle of the use of the site for residential development. Criteria a) and c) will be assessed at the end of the report when other policies have been considered. Criteria b); the development will make a positive contribution to quality and choice with the provision of new two bedroomed flats and single storey houses; properties which are of limited supply in this part of the City. With regard to criteria d), this is not an area where there is limited tenure choice or community regeneration objectives. Subject to a) and c), the proposal complies with Policy 2.

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.

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 20 mph or less. New housing should have regard to opportunities to maximise energy efficiency and promote sustainable waste management.

The explanatory text to Policy 4 details the Council's intention to promote and encourage good quality new housing developments. This recognises that in certain very small scale development proposals, compliance with Appendix 1 is not practical and some flexibility will exist where the proposal is of exceptional quality.

The site lies within the Inner City and Appendix 1 provides the required criteria for houses which is met by the 4 houses proposed other than the parking within the curtilage and space for a garage in 40% of the houses. Two of the houses have parking adjacent to the curtilage and in this particular development, the provision of garages would adversely affect the design and layout. Accordingly, it is considered that the houses as proposed comply with Policy 4.

With regard to the proposed flats, Appendix 1 states that flats will only be permitted under certain specific criteria. One of the criteria is that "site specific circumstances demand a flatted solution".

The principle of a flatted development on this site is addressed in the supporting Design Statement. It notes that the site in its physical linear form is extremely challenging. The adjoining tenement property to the east, facing Magdalen Yard Road, is an imposing 5 storey stone building. The adjacent property to the west is a large villa of 3 storeys. The development provides a transition between the two. The tenement to the north requires similar attention.

The planning history demonstrates that development of the whole site for conventional housing is not appropriate due to the physical constraints. It is considered that the principle of blocks of flats located at the blank walls of the existing large tenement blocks at the north and south end of the lower half of the site is

accepted, given the elongated, narrow form of the site.

Having accepted the principle of the form of the development, it must be assessed against Policy 4 in respect of the type of unit, the provision of parking, amenity/garden space, privacy and design.

If acceptable, flats should have a minimum gross internal floor area of 60m², a minimum of 130% parking which may be increased in light of provision nearby, usable private communal garden area of 100m² or 10m² per flat whichever is the larger or garden provision may be reduced if balconies that are usable and attractive in terms of size and outlook are provided.

The North block flats are 60m² and the South block flats have 2@60m², 1@63m² and 4@67m². All units have 2 car parking spaces ie 200% provision. Cycle storage racks are proposed at each flatted unit.

The North block balconies are south facing and 5.4m² in area. In the South block, 4 of the 7 flats have 2 balconies or terraces totalling 8 square metres; one of which faces south overlooking the open space, and a top floor flat with a single south facing terrace of 5m² with floor to ceiling sliding doors from a bedroom and lounge. The majority of the flats have south facing balconies, with a very attractive outlook from the Southern block. Magdalen Green is very close to the site and the provision of remote communal amenity space in the centre of the site would be unlikely to be of beneficial use to residents. It is considered that the provision of balconies and terraces is acceptable and use of the flexibility provided by Policy 4 for developments of exceptional quality is appropriate in this particular case.

Given the narrow nature of the site, the appearance of a private access and the one way system it is likely that only local vehicles will use the lane and traffic speeds will be low in accordance with the Policy.

Bin stores are located at both accesses to accommodate sustainable waste management facilities.

As the site has formerly been in industrial use, the developer will require to ensure that the potential for contamination is investigated and any remedial works carried out before any

dwellings are occupied. This can be the subject of appropriate conditions if Members are minded to approve the application.

It is considered that the proposed development achieves the requirements of Policy 4, given the exceptional quality of the design.

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 ground floor gateway is all that remains of the original building, the stone urns and pediment which are shown in early photographs were removed and replaced by the current stone facade on the upper floor around 1910.

Historic Scotland has commented on a pre-application consultation as follows; "Although the second storey of the elevation is to be removed, this is a later addition and of lesser interest; its removal, and that of the structure to the rear, is mitigated by retention and repair of the brick boundary walls, which are important in maintaining the linear character of the former rope walk." It is considered that the proposals comply with Policy 60.

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.

The pre-application consultation reply from Historic Scotland also comments that; "With regard to the impact of the development on the character of the Conservation Area, we would consider that proposed development conforms to the policy on new development in Conservation Areas as set down in the Memorandum of Guidance." Policy

61 reflects the contents of the Memorandum of Guidance on Listed Buildings and Conservation Areas.

The policy requires that developments preserve or enhance the character of the area and retain features which contribute to its character. The proposed development retains the original frontage, retains and repairs the original brick walls, retains the elongated form of the former Rope Works and creates a new lane similar to the many lanes which are a characteristic of the Perth Road Lanes Conservation Area. The development removes an area of dereliction which has been partly vacant for many years and of little benefit to the character of the Conservation Area. The new development is modern but it is of good design and proportions, it is not a pastiche or fake Victorian tenement. The materials seek to relate to the existing tenements by the use of red sandstone but the construction is of its time and using modern materials and construction methods. It is considered that for these reasons, the proposed development complies with Policy 61.

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.

The introductory paragraph of the Urban Design section of the Dundee Local Plan Review 2005 sets out the Council's views on urban design.

"A quality environment is dependent upon the inter-relationship between building form and use, architectural style, streetscape spaces, places and movement patterns. New quality development should create successful, meaningful and memorable buildings

and spaces and successfully contribute to the image of Dundee".

The application is supported by a detailed Design Statement which is accepted. As detailed above, it is considered that the proposed development is of high quality design which creates a new public lane incorporating and enhancing the architectural and historic features of the former Rope Works whilst complementing and respecting the surrounding buildings. It is considered that the development will create memorable modern buildings which will make a positive contribution to the constantly improving image of Dundee, in accordance with Policy 55.

With reference back to Policy 2, it is concluded that the development complies with the relevant policies in the Dundee Local Plan Review 2005 and therefore complies with criteria a) and c) of that policy.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

Other Material Considerations

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

SPP 3: Planning for Housing.

The SPP highlights that the aim of planning is to provide well-located, high quality new housing. The new housing should make a positive contribution to the built environment and should be designed and laid out to provide lasting benefits. It is considered that the proposed development complies with this requirement.

NPPG18: Planning and the Historic Environment

The NPPG indicates that planning authorities should have regard to the acceptability of the proposal in terms of preserving and enhancing the character or appearance of the area and should be assessed in terms of their impact on the area. It is considered that the proposed development complies with this requirement.

The Memorandum of Guidance on Listed Buildings and Conservation Areas

The Memorandum contains guidance on applications for developments which affect Listed Buildings. The

proposed amendments to the listed frontage are the subject of a separate Listed Building application which is considered elsewhere on this agenda.

The memorandum advises that new development in Conservation Areas should be well designed, respect the character of the area and contribute to its enhancement. Planning authorities are advised that the first priority in the consideration of any proposed development is to have regard to the special architectural and visual qualities which gave rise to the area's designation as a Conservation Area. Any proposal which could erode these qualities should be refused. The historic landscape character of the setting of properties should be safeguarded. As noted, Historic Scotland considers that the proposal complies with the national guidance on development and the historic environment.

It is considered that the proposed development accords with the guidance in the Memorandum for a site within and a Conservation Area.

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

Section 59 of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the planning authority shall have special regard to the desirability of preserving the building or its setting. As noted above, the proposal is considered to preserve and enhance the listed building and its setting. It is concluded from the foregoing that the statutory duty set out in Section 64 of the Act, to preserve or enhance the character or appearance of the Conservation Area would be satisfied by the approval of this proposal.

Dundee Urban Design Guide

In terms of design the guide indicates that new buildings and developments must present a design solution appropriate to the site and context. As noted above, the design is considered to be of high quality design incorporating and enhancing the architectural and historic features of the former Rope Works whilst complementing and respecting the surrounding buildings.

Representations

This is an application which has generated a high level of response from the public, both immediate neighbours and other interested parties.

The application was the subject of statutory Neighbour Notification and was advertised as an application potentially contrary to the Development Plan and also affecting the setting of a Conservation Area and a Listed Building.

45 objections have been received and 24 letters of support.

The grounds of objection are considered as follows

- design and materials out of character with Conservation Area and surrounding buildings,

As noted above, this is a modern development, not a copy or pastiche which tries to replicate the design and construction of the adjacent buildings. It seeks to complement the neighbouring buildings with references of scale and materials whilst using design features to try to minimise the impact on neighbouring residents. It is recognised that residents have strong objections to the design but it is considered that the design is of high standard and will enhance the Conservation Area. This view is supported by Historic Scotland.

- traffic and parking problems,

This is an inner City site, close to the University, where many of the tenement properties have no off street parking. Despite this lack of parking, many residents have cars and on street parking is a particular problem in the area. As a result, any new development is required to provide more than the 1.3 spaces per unit or 130% parking which is the minimum standard in the Local Plan. This development provides 2 spaces per unit/200% parking which is acceptable. It is considered that the proposed development will not result in sufficient impact on the existing traffic flows in the area such as to justify refusal of the application.

- loss of privacy/overshadowing

the buildings have been designed to minimise loss of privacy to adjacent occupiers. There are no directly facing habitable rooms or balconies which are closer than the defined minimum of 18 metres to the habitable rooms of

existing properties. The issue of overshadowing has been considered in the Policy section above.

- increased noise and air pollution,

noise has been covered in Policy 1 above. As this is an Inner City location, there is existing traffic and it is considered that the proposed development will not result in sufficient impact on the existing air quality in the area such as to justify refusal of the application.

- damage to natural environment,

the site is overgrown with self-seeded vegetation for the most part. The best tree will be retained and will be a focus for the centre of the site. Following receipt of information regarding bats on the site, a survey was carried out by the applicant's consultant ecologist. There was no evidence of bat roosts in the buildings or trees. Given the time of year of the survey, bats may use the site at other times and if planning permission is granted, a precautionary method of demolition and site clearance should be employed. Members are advised that bats are protected by law and all developers should be aware of this. However it can also be the subject of an appropriate condition to emphasise the requirements.

- overdevelopment/too many flats,

this has been addressed in the Policy section above and the scale and form of development is considered to be acceptable. Many objectors refer to the need for new development to comply with a 75%houses/25% flats split. These figures were part of the relevant policies in the Dundee Local Plan 1998 which is now superseded by the Dundee Local Plan Review 2005. There is no specific ratio or quota in the current policy.

- lack of amenity space,

this has been addressed in the Policy section above and the scale and form of development is considered to be acceptable.

- not in accordance with Local Plan,

this has been addressed in the Policy section above.

- access.

the redevelopment of this site and the access and traffic circulation proposals have been assessed and are considered to be acceptable. There is no access to

or from Thomson Street and the wall will be reinstated at that point.

The grounds of support are:

- Good design and materials,

as noted above, it is considered that the design reflects the existing tenemental character of Bellfield Street in a modern design. The chosen materials include both traditional and modern, combining stone and red brick with render and timber. The use of a staggered horizontal roof to the set back upper storey on the southern block limits the impact of the building.

- development will enhance the character of the area and City,

several respondents praise recent developments in Dundee which reflect the regeneration of the City and its economy and consider developments of this type to be part of that process.

- development sensitive to history of site,

the retention and incorporation of the listed gateway, the repair of the arched brick walls, the formation of a new lane, the use of materials complementary to adjoining buildings and the repeated use of rope in the detailing of gates etc are all supported.

- no increase in traffic,

no significant increase in traffic is expected.

- the buildings have been designed to minimise the impact on neighbours,

- developer will repair walls.

a local neighbour is very supportive of the repair of the walls and the increase security it provides.

It is considered that on balance, the high quality design of the layout and the buildings complies with the Council's declared objectives to support good urban design and it is considered that the objections are of insufficient strength to justify the refusal of this application.

HMO use

With regard to the matter of the potential of the new houses to be used for Houses in Multiple Occupation purposes, the applicants are fully aware of the concerns that have previously been expressed by the Committee about the conversion of residential units in the city centre and

the west end of the city to HMO's with resulting adverse impacts on residential amenity. In September 2005, the Planning and Transportation Committee approved draft supplementary guidance for controlling HMO's for consultation. This states that within a specific area of the City, the occupation of dwellings in new residential developments by 3 or more unrelated persons will be prevented through the use of Section 75 Agreements.

It is therefore considered that it would be appropriate in this instance to restrict the use of the houses as HMO's. Such a restriction by means of a legal agreement has been discussed with the applicants and their acceptance of this has been obtained.

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

Design

Design issues have been extensively considered in the foregoing report.

CONCLUSION

Modern developments in traditional environments always result in strong views, both for and against. This is a difficult site and, as its planning history demonstrates, it has been the subject of unsuccessful development proposals in the past. The site is semi-derelict and does not make a positive contribution to the character of the Conservation Area. It is a site which demands an innovative and creative design in order to provide a high quality development. The proposals comply with the relevant policies in the Dundee Local Plan which allows flexibility in the application of development criteria for developments of exceptional quality. It is considered that on balance, the high quality design of the layout and the buildings complies with the Council's declared objectives to support good urban design. The objections are not supported and the developer has agreed to conclude a Section 75 legal agreement to restrict possible HMO uses on the site.

It is therefore recommended that planning permission be granted with conditions subject to the recording of a Section 75 agreement.

RECOMMENDATION

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 prohibition of any of the dwellings hereby approved becoming a house in multiple occupation.

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 Prior to the commencement of development a comprehensive Site Investigation Report in accordance with PAN 33 Development of Contaminated Land shall be submitted to and approved by the City Council.
- 3 Prior to the commencement of development any required remediation measures identified in the Site Investigation Report to be approved in accordance with Condition 2 shall be carried out and the completion of the works shall be notified in writing to the City Council for verification. No construction of dwellings can commence until the verification process has been completed in writing.
- 4 Prior to the commencement of development, tree protection fencing in accordance with BS5837:2005 shall be erected on site in accordance with details which have previously been submitted to and approved by the City Council and such fencing shall be retained in place throughout the construction period. Relocation of any fencing to allow construction works to proceed shall be agreed with the Forestry and

Enforcement officers prior to any movement of the fencing.

- 5 Prior to the commencement of development, a comprehensive landscaping scheme for hard and soft landscaping shall be submitted for approval and if approved, the works shall be carried out only in accordance with such approved details.
- 6 The landscaping scheme as detailed in condition 5 shall be fully implemented in accordance with the approved details within 6 months of the completion of the development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.
- 7 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.
- 8 All boundary treatments shall be completed in accordance with the approved details prior to the first occupation of the dwellings hereby approved.
- 9 The new accesses to the adopted roads must be constructed in accordance with details which have previously been submitted to and approved by Dundee City Council as Roads Authority in accordance with the Council's specifications.
- 10 Before the any of the residential units is first occupied the bin stores, cycles storage, car parking and manoeuvring areas indicated on the approved drawings shall be provided and thereafter kept available for use at all times.
- 11 This permission shall operate only to enable development to be carried out in accordance with the details shown on the approved drawings and in the application documentation or contained in any approved amending document. Unless permission has been granted by the City Council, no further development shall take place within the site

other than the painting of the exterior of the building. For the avoidance of doubt any other permitted development rights, in terms of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 as amended, which would normally apply following the grant of this consent are hereby removed.

- 12 The survey found no evidence of bats on the site. However, in order to ensure that there are no bats roosting on the site at the time of demolition, the demolition of the roof should be done by hand and tree felling should be carried out carefully in sections. In the event that bats are encountered during this process, work should stop immediately and Scottish Natural Heritage advised. A licensed bat worker should be employed on an on-call basis for this period and called to site immediately if bats are discovered.

Reasons

- 1 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 2 In the interests of the amenities of the future occupants of the residential accommodation.
- 3 In the interests of the amenities of the future occupants of the residential accommodation.
- 4 To protect those trees which are of significant amenity value to the area and which would ensure an enhanced and satisfactory standard of appearance of the development.
- 5 To ensure a satisfactory standard of appearance of the development.
- 6 To ensure a satisfactory standard of appearance of the development.
- 7 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 8 To ensure that the proposed development has a satisfactory external appearance in the

- interests of the visual amenities of the area.
- 9 To ensure the provision of a satisfactory access to serve the development in the interest of road safety.
 - 10 In the interests of the amenities of the future occupants of the residential accommodation.
 - 11 In order to control the erection of extensions or domestic buildings within this restricted site, which could otherwise be permitted development, and to ensure that any such developments are located in such a position that they do not affect the amenities of neighbours or the character of the buildings.
 - 12 Bats are a European Protected Species under the terms of the Wildlife and Countryside Act 1981 and these precautionary methods of demolition required will ensure no damage to bats or their roosts.