

KEY INFORMATION

Ward West End

Proposal

Residential development comprising of 7 flats to south, 4 flats to north and 3 houses and environmental improvements to boundary walls

Address

Land at Former Tay Rope Works
Magdalen Yard Road
Dundee

Applicant

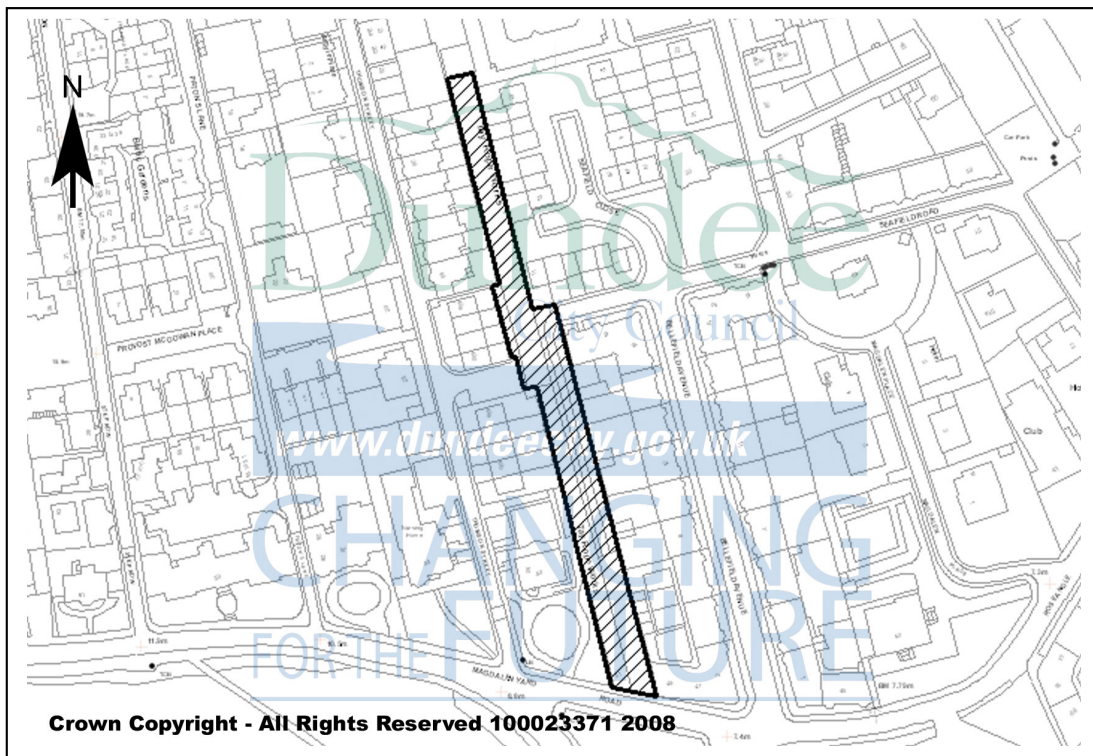
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Registered 14 April 2008

Case Officer Eve Jones



Amended Proposals for Residential Development at Tay Ropeworks Site

The residential development comprising 7 flats to the south, 4 flats to the north and 3 houses and environmental improvements to boundary walls is **RECOMMENDED FOR APPROVAL** subject to **conditions**. Report by Director of Planning and Transportation

RECOMMENDATION

A previous similar application was refused on appeal in 2007. The Reporter's comments have been taken into account and this amended application complies with policies in the Dundee Local Plan Review 2005 and other material considerations. The objections are not supported and subject to a Section 75 agreement to prevent HMO use, the application is recommended for **APPROVAL** subject to conditions.

SUMMARY OF REPORT

- Planning permission is sought for the erection of 11 x 2 bedroom flats in two blocks, 3 single storey 3 bedroom houses with access and parking and environmental improvements to boundary walls. The site will be accessed from Magdalen Yard Road, via a one way lane and a two way road access from Seafeld Road will serve the centre of the site. The site is extremely long and narrow, 12 metres wide by 130 metres and 8 metres wide by 80 metres at the northern part.
- The development is of modern design and the materials are sandstone, smooth buff render, zinc cladding and light grey sarna roofing. The ground floor gateway to the original building on Magdalen Green will be retained and incorporated into the new building. The existing boundary walls will be retained and repaired with red brick to retain the elongated form of part of the former Rope Works and create a new lane which is characteristic of the Perth Road Lanes Conservation Area.
- 50 objections have been received; 2 letters of support and 1 representation. The West End Community Council notes that the application borrows heavily from the previous rejected application and as such shares many of its faults.
- A previous similar application was considered at a Public Inquiry on 26 - 27 June 2007 and the appeal was dismissed. The Reporter identified the shortcomings of the site as follows: Density; High levels of car parking; Lack of communal or private open space and Design particularly the materials.
- It is considered that the terms of the Reporters decision support the principle of the style and form of the proposed development and the amendments which have been made in direct response to the appeal decision now render the development acceptable in terms of the development plan policies and all other material considerations.

DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of two blocks providing 7 flats (south) and 4 flats (north), the erection of 3 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, 5 of the 7 flats have south facing terraces. The ground floor flat has 30m² of private garden and the other flats share 108m² of enclosed private garden. In the northern block, the ground floor flat has 17m² of private garden and the flats share 100m² of private garden.

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 60 and 58m² in addition to the courtyard. The central, 3 bedroom house has a pitched roof with private gardens of 125m² plus 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 houses have two parking spaces of which one is a possible garage space. The flats have parking provided at 145% with 16 spaces for 11 flats.

The development is of modern design to complement rather than copy the surrounding tenemental properties. The materials for the south block are sandstone to the front and side elevations with smooth buff render to the rear with zinc cladding; galvanised steel detailing; gunmetal grey windows and light grey sarna roofing. The north block has the same materials package with sandstone to the large west elevation and buff render with zinc

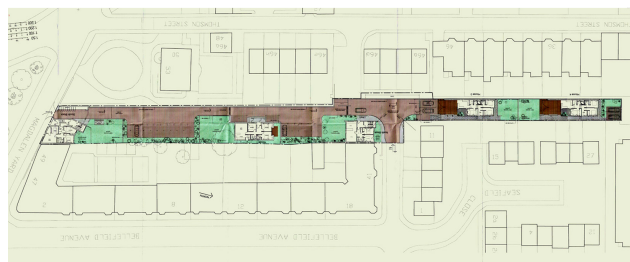
panels to the north and south elevations.

The 2 northern houses are between the original boundary walls which will be repaired with red brick. The limited materials visible will be large areas of glass with brick and timber detailing. The central house will be predominantly red brick to the internal lane with buff render and timber to the north and south elevations and a pitched zinc panel roof.

The existing boundary walls will be retained and repaired with red brick to



echo the remnants of the original Rope Works buildings. The parking areas will be brown and red block paving. Lighting is proposed to illuminate crowns of trees and the boundary walls.



The applicant's Statement of Support indicates that the proposals have been amended and fully address the points raised by the Reporter who dismissed the appeal against refusal of a previous application for a similar development on this site.

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 abuts 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 sills. 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. The site is very overgrown with self sown trees of varied species and age. The area accessed off Seafield Road has been subject to fly tipping. The site is 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 and south of the Seafield Road access.

North Site

04/00918/FUL - Planning application for the erection of 2 houses was refused by Committee on 29 August 2005 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 February 2006.

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 June 1993.

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 February 1994. 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. The application was withdrawn by the applicant on 19 July 2006 in order to submit an application which combined the two parts of the former Rope Works site as detailed above.

Whole Site

06/00703/FUL - Planning application for the erection of 11 flats in 2 blocks of 7 and 4 units, the erection of 4 single storey houses, access road and environmental improvements to boundary walls. The application was refused by the Development Quality Committee on 30 October 2006. The applicant lodged an appeal and the application was considered at a Public Inquiry on 26 - 27 June 2007. The appeal was dismissed on 19 July 2007. The findings of the Reporter will be considered elsewhere in this report.

06/00019/LBC - Partial demolition of facade and redevelopment within frontage of proposed residential flats.

This listed building application dealt solely with the proposed alterations to the Category C(s) listed frontage to the former Rope Works. The application was approved by the Development Quality Committee on 30 October 2006.

08/00293/LBC - Partial demolition of facade and redevelopment within frontage of proposed residential flats. This application has yet to be determined and will be considered elsewhere in 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.

50 objections have been received; 2 letters of support and 1 representation.

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.

The grounds of support are:

Will improve the appearance and value of the local area; will enhance the area and eliminate blight, improved materials and amenity space more in keeping.

These issues are discussed in the Observations below.

CONSULTATIONS

The Head of Environmental Health and Trading Standards recommends that appropriate conditions in respect of contaminated land 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 borrows heavily from the previous rejected application and as such shares many of

its faults. It considers that the site is not best served by a flatted solution, the new through road is unacceptable, a previous appeal for 2 houses at the north of the plot was rejected because of excessive density and that there were no circumstances where 2 houses would be acceptable. The improved amenity space was welcomed but the repeated cycle of applications was condemned. 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, the removal of balconies "internal" to the site which may overlook adjacent properties or gardens, the lowering of the roof profile on the southern flatted block to minimise overshadowing. The houses are low profile and designed to minimize any impact on adjacent dwellings by overshadowing or overlooking.

The houses have two parking spaces, one of which provides space for a garage in accordance with Appendix 1

requirements. Parking is provided in excess of the minimum standards required by the Local Plan for the flats, 16 spaces for 11 units. 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.

This lane will be a private road, with restricted access for vehicles. 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 general area. The access road is narrow and one way, with a barrier to north and south 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 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 3 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 m.p.h. 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 3 houses. 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 1@60m² and 6 between 62.5 and 66m². Car parking at 145% is provided. Cycle storage racks are proposed at each flatted unit.

In the southern block, 5 of the 7 flats have south facing terraces. The ground floor flat has 30m² of private

garden and the other flats share 108m² of enclosed private garden. In the northern block, the ground floor flat has 17m² of private garden and the flats share 100m² of private garden.

Given the narrow nature of the site, the restricted private access and the one way system it is likely that traffic speeds will be low in accordance with the Policy.

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

The proposal complies with the requirements of Appendix 1 to Policy 4.

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 commented on a pre-application consultation prior to application reference 06/00703/FUL which is very similar to this application in respect of the proposed alterations to the listed frontage. The comment stated ; "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 policy requires that developments preserve or enhance the character of the area and retain features which contribute to its character. The unique character of the Perth Road Lanes Conservation Area is described in its title. The street patterns and narrow lanes with the architectural character all combine to create the environment enjoyed by residents and visitors. The area is densely developed and characterised by tenements or terraces dwelling with large villas in generous grounds.

There were historically two rope works in this part of the City. One between Union Place and Step Row has left little imprint on the current landforms as the site has been incorporated into new developments, gardens and open space and is now lost. The Tay Rope Works site is now a unique but virtually unseen and unappreciated feature which by the nature of the rope making technique, required long narrow buildings. The footprint and the red brick boundary walls remain as an important part of the City's industrial heritage.

The proposed development retains the original frontage, retains and repairs the original brick walls, retains the elongated form of part 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 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."

New development with Conservation Areas need not and indeed should not be a pastiche or copy of past styles of building. The new development is modern but it is of good design and proportions. The scale of development relates well to the taller adjoining

tenements on Magdalen Yard Road and Seafield Road. The materials 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 61 reflects the contents of the Memorandum of Guidance on Listed Buildings and Conservation Areas.

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 requires 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 and this is discharged in the Observations above.

The Memorandum of Guidance on Listed Buildings and Conservation Areas - this 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.

Appeal Decision - as noted in earlier in this report, this application follows a Public Inquiry at which an appeal against refusal of an earlier, very similar development was considered and the appeal subsequently dismissed by the Reporter. Members are advised that the appeal decision on such a similar development can be regarded as a strong material consideration in the determination of this application.

The applicant's Statement of Support indicates that the proposals have been amended and fully address the points raised by the Reporter.

The Reporter identified the shortcomings of the site as follows:

- density;
- high levels of car parking
- lack of communal or private open space; and
- Design; particularly the materials.

These have been addressed by the removal of one house in the central area of the site and the reduction in the number of car parking spaces available for the flats in line with the requirements of Appendix 1 to Policy 4 of the Dundee Local Plan. In particular, the Reporter stated that "The amount of car parking provided (200%) places considerable constraints on the land use". The houses retain 2 spaces, one of which could be a garage. As a result of these measures, additional private space has been provided to the remaining central house and additional communal space has been provided to the two flatted blocks. All units now have in excess of the minimum area required for amenity space.

The Reporter took particular exception to the materials proposed for the principle elevations of the flatted blocks. He stated that "... in my view, the use of white render and timber cladding would be alien here" and suggested a more homogenous treatment through materials and composition. He did accept the neutrality and texture of the proposed roof materials. He concluded by stating that "... the architectural form is generally well-considered and acceptable although the materials are not". The revised proposals have no white render or timber cladding and the main elevation to Magdalen Green is red sandstone.

With regard to other policies in the Dundee Local Plan Review 2005, in respect of use of the site for flats rather than houses as contained in Policy 4, Design of New Housing, the Reporter stated that; "... an element of flatted development is understandable, if not unavoidable here, particularly on the Magdalen Yard Road frontage. I can also see the logic and advantages of continuing the tenement scale and form in the central flatted block. For these reasons, the principle of flats is acceptable and compliant with the terms of Appendix 1."

It is considered that the terms of the Reporter's decision support the principle of the style and form of the proposed development and the amendments which have been made in direct response to the appeal decision now render the development acceptable in terms of the development plan policies.

Representations - following the Public Inquiry, this application has similarly 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.

50 objections, 1 representation and 2 letters of support have been received.

Many objectors consider that the developer has not changed the proposed development sufficiently to comply with the Reporter's decision. Objectors reiterated many of the issues previously raised but the two most commonly mentioned were the impact on traffic, access and parking and the design being inappropriate or out of character with the area with the density of development being the third most common objection.

Design and materials out of character with Conservation Area and surrounding buildings - it is recognised that these residents have strong objections to the design but as discussed above, it is considered that the design is of high standard and will enhance the Conservation Area. This view is supported by Historic Scotland.

Traffic, parking problems and increased noise - 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. This is exacerbated by commuters parking in this area beyond the payment zone and walking to work. As a result, new development is normally 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 145% parking which is acceptable. It is considered that the proposed development will not result in sufficient impact on the existing traffic flows and existing parking problems in the area such as to justify refusal of the application. 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

environmental quality in the area such as to justify refusal of the application.

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.

Overdevelopment/too many flats, density, 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.

A few objectors raised issues of loss of privacy/overshadowing, lack of open space and damage to natural environment.

The buildings have been designed to minimise loss of privacy to adjacent occupiers. There are no directly facing habitable rooms which are closer than the defined minimum of 18 metres to the habitable rooms of existing properties. All terraces are on the south facing elevation of the southern block with no overlooking impact. The issue of overshadowing has been considered in the Policy section above.

One representation was received from an adjoining resident concerned about the impact of the development on the original walls to the Rope Works which form her rear garden boundary and she has now had discussions with the developer to address these concerns which are legal matters between adjoining private owners.

The grounds of support are that the development will enhance the character of the area and the improved amenity space and materials in this revised application.

It is considered that the high quality design of the layout and the buildings complies with the Council's declared objectives to support good urban design and 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.

Bats - the previous application included a bat survey following representations from an objector. No evidence of bats was identified. However some time has elapsed since that survey in 2006 and as a precautionary measure, an appropriate condition is suggested to highlight this issue to any developer of the site.

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 contrary to the provisions of the Development Plan.

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 and with the material considerations. The applicant has amended the proposals in accordance with the comments of the Reporter's decision on the previous appeal. It is considered that the high quality design of the layout and the buildings complies with the Council's

declared objectives to support good urban design and creates a new lane within the Conservation Area which reflects an important element of the City's industrial heritage. The objections are not supported for the reasons given and the developer has agreed to conclude a Section 75 legal agreement to restrict possible HMO uses on the site.

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 consent 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 Development shall not begin until the investigation and risk assessment proposed in the submitted Environmental Site Assessment, Phase I Desk Study are completed and a scheme to deal with contamination at 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:
 - I the nature, extent and type(s) of contamination on the site;
 - II measures to treat/remove contamination to ensure the site is fit for the use proposed;
 - III measures to deal with contamination during construction works; and
 - IV condition of the site on completion of decontamination measures.

- 3 Before any unit is occupied the measures to decontaminate the site, if necessary, shall be fully implemented and a validation report should be submitted to and approved by the planning authority".
- 4 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.
- 5 Prior to the commencement of development, tree protection fencing in accordance with BS5837:2005 shall be erected around the tree to be retained to the satisfaction of 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.
- 6 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.
- 7 The landscaping scheme as detailed in condition 06 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.
- 8 Alterations and improvements to the external boundaries of the whole site shall be completed in accordance with the details on the approved plans prior to the occupation of the last dwelling hereby approved.
- 9 The new road accesses 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 DCC specifications.
- 10 Vehicles within the site shall travel only in a northerly direction from the Magdalen Yard Road entrance and shall exit the site at the turning area off Seafield Road. Appropriate signs shall be installed to clearly identify this requirement.
 - 11 Each flat shall be allocated one parking space in perpetuity.
 - 12 Before the any of the residential units is first occupied the bin stores, cycles stores, car parking and manoeuvring areas indicated on the approved drawings shall be provided and thereafter kept available for use at all times.
 - 13 In order to ensure that there are no bats roosting on the site, 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.
 - 14 Full details of the proposed remote access barriers at the north and south ends of the one way lane shall be submitted to the City council for approval and if approved, the works shall be carried out in accordance with such approved details prior to the first occupation of any unit south of Seafield Road.
- 5 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.
 - 6 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
 - 7 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
 - 8 In the interests of the amenities of surrounding neighbours and future residents and the visual appearance of the surrounding 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 highway safety.
 - 11 In the interests of traffic and pedestrian safety in the surrounding area where there is a shortage of off street parking capacity.
 - 12 In order to ensure that these facilities are available to the first residents in the interests of their future amenities.
 - 13 To ensure that appropriate precautionary measures are undertaken in the event that bat habitats have become established on the site.
 - 14 In order to prevent access by unauthorised vehicles and ensure that vehicles travel in a south to north direction only.

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 In order to safeguard the appearance of the statutorily listed building and the visual amenity of the Conservation Area.