

Two Storeys of Residential Accommodation above the Glass Pavilion

KEY INFORMATION

Ward The Ferry

Address

The Glass Pavilion, The Esplanade, Broughty Ferry

Applicant

Perth Road Investments
52A Church Street
Broughty Ferry
Dundee DD5 1HB

Agent

John Frullani Architect
7 Arnhall Gardens
Dundee DD2 1PH

Registered 12 Aug 2013

Case Officer Eve Young



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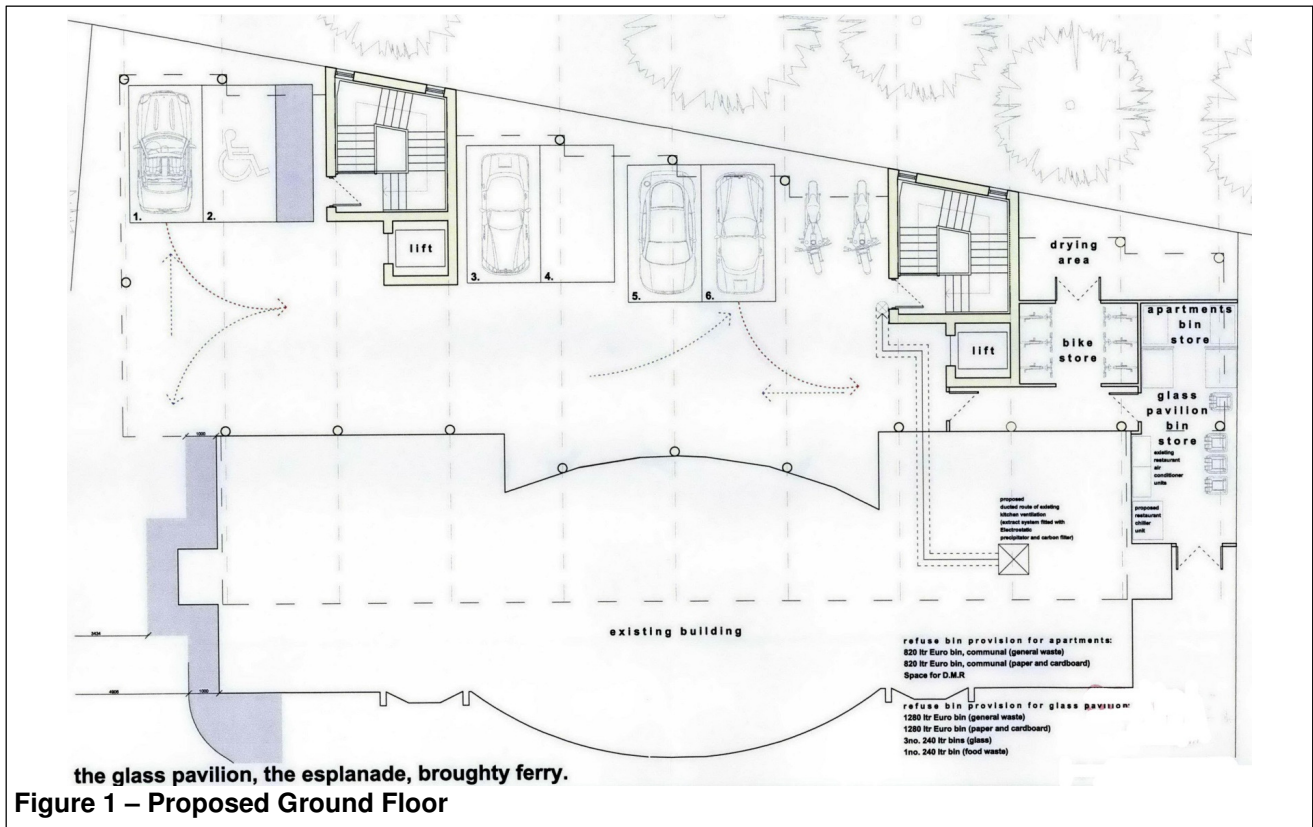
SUMMARY OF REPORT

- Planning permission is sought to construct 6 apartments on 2 floors above the existing restaurant with car parking, bin and bike stores below. The 5 x 2 bed and 1 x 3 bed flats will have glazed southern elevations leading on to balconies at both levels, overlooking the beach.
- The existing restaurant will be largely unchanged but the development will include renovations and repairs to the building which comprises the extended and altered former Beach Shelter, a Category C listed building.
- Planning permission was granted for a similar development of holiday let flats with an extension to the restaurant which is still valid.
- The Broughty Ferry Community Council and 15 local residents have objected for a number of reasons including overdevelopment and impact on the building.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/simpleSearchResults.do?sessionId=CCED9F82184D39BDD8E37599B837C454?action=firstPage>.

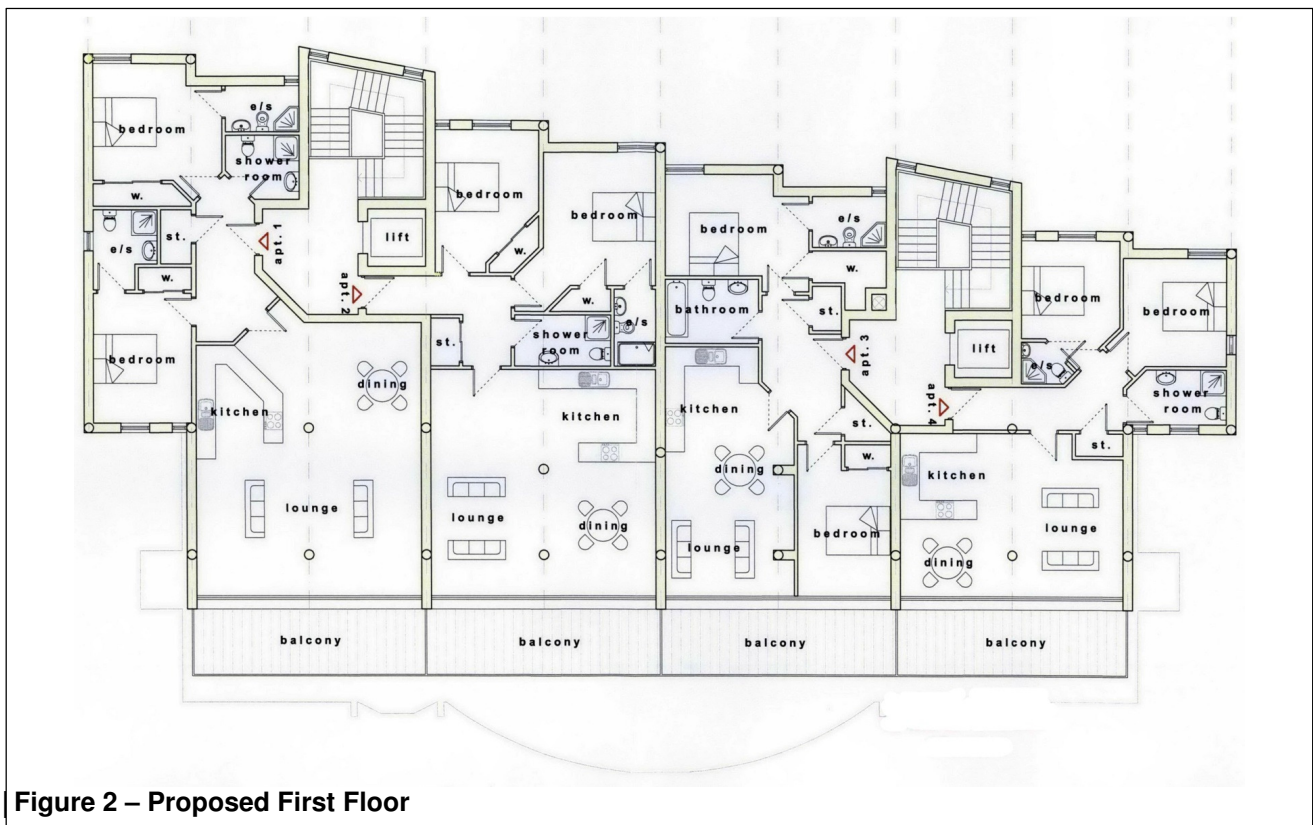
RECOMMENDATION

The application is contrary to Policy 4 of the Dundee Local Plan 2005 as the case for flats has not been made in accordance with the terms of the policy. However, the material consideration of the planning history and the overall design of the development support the approval of planning permission. The application is therefore recommended for APPROVAL subject to conditions.

1 DESCRIPTION OF PROPOSAL



1.1 Planning permission is sought to construct 2 upper floors of residential accommodation comprising 6 apartments. The building will be constructed to the rear and partially to the sides of the existing restaurant and will project above its roof. Below the apartments, the development will have 6 parking spaces, bike stores, drying area and bin stores for both the restaurant and the residents. The extract flue from the restaurant kitchen will be ducted through the new building to exit at roof level.



- 1.2 The first floor accommodation would provide 4 x 2 bedroom apartments with between 75 and 116m² of floorspace. This level is set back some 5 metres from the front elevation of the building with outdoor external terraces of 17m² per flat provided on the southern elevation.



Figure 3 – Proposed Second Floor

- 1.3 The second floor accommodation would provide 1 x 2 bedroom and 1 x 3 bedroom apartment with floorspace of 82 and 147m² respectively. This level is set back approximately 10.5 metres from the front of the building and these apartments each have external terraces of 43m².
- 1.4 The proposed materials are white smooth polymer render on the west, north and east elevations, the southern elevation being predominantly glazing. Windows on the north elevation will be triple glazed to achieved sound reduction from any railway noise. The terraces will have glass balustrades.
- 1.5 The development will include works to repair and renovate the existing restaurant building, particularly the roof. The steel structure with gates at the front of the restaurant will be removed. The existing access to the west will be amended to provide safe access to the rear but the terraces on the south side of the restaurant will be retained.
- 1.6 The application must be considered by the Development Management Committee due to the level of objections, including an objection from the Community Council, in circumstances where the application is recommended for approval.

2 SITE DESCRIPTION

2.1 The site is an extended former beach shelter now known as the Glass Pavilion restaurant. The original building is a Category C listed structure built in 1934 in art deco style with brick walls, a flat concrete roof and decorative wrought iron grilles. A large curved glass extension to the south creates the main dining area with other additions to the rear. To the rear of the building there is a service yard and a small play area.

2.2 To the west is a subdivided stone villa known as "Eastcott". To the east is a site formerly occupied by Jacques Night Club which is currently being developed for flats comprising two storeys of accommodation above ground floor parking. Land to the north was formerly occupied by a railway track (Dundee to Forfar line) and further to the north is the existing Inter City Dundee to Aberdeen railway track. Further to the north again, on the other side of the railway, is housing at Yewbank Avenue. To the south of the site, across the Esplanade, is open grassland and the beach.

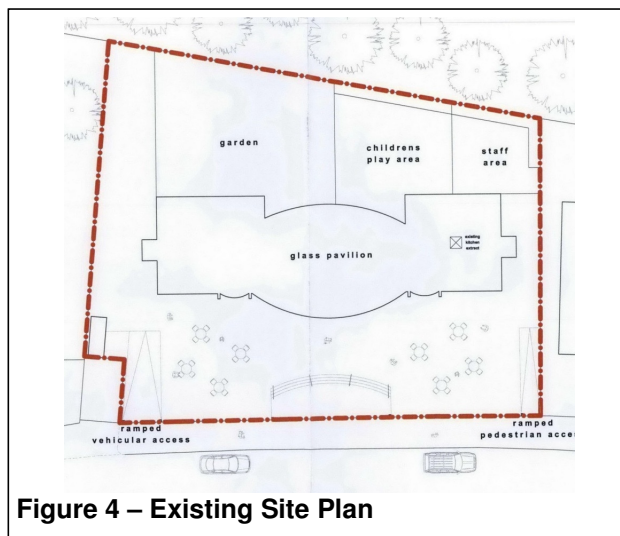


Figure 4 – Existing Site Plan

3 POLICY BACKGROUND

3.1 The following plans and policies are considered to be of direct relevance:

DUNDEE LOCAL PLAN REVIEW 2005

Policy 4 – Design of New Housing

Policy 55 – Urban Design

Policy 60 – Alterations to Listed Buildings

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN

Policy 7 – High Quality Design

Policy 9 – Design of New Housing

Policy 48 – Listed Buildings

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS

Scottish Historic Environment Policy

3.2 Other plans, policies and non-statutory statements are not considered to be of direct relevance.

4 SITE HISTORY

4.1 Planning permission and listed building consent were granted in 2004 to convert and extend the beach shelter to form a shop and café - applications 04/00462/COU and 04/00478/LBC refer.

- 4.2 In 2005 planning permission was granted to amend conditions on the original planning permission to permit, amongst other matters, extended hours of operation and a wider range of cooking operations - application 05/00456/FUL refers. The restaurant has since been operating on this extended basis.
- 4.3 In January 2007 planning permission and listed building consent were granted for substantial extensions to this building to provide an extended restaurant over 2 floors of accommodation. Applications 06/00925/FUL and 06/00924/LBC refer. This development was not carried out.
- 4.4 Planning permission and listed building consent were granted for the extension of the restaurant at ground floor level and the construction of two floors of holiday let apartments on the upper floors - applications 08/00863/FUL and 08/00864/LBC refer. The applications were approved by the Development Quality Committee on 16 February 2009 subject to a Section 75 legal agreement to ensure that the apartments would be holiday lets only. This agreement was signed and the planning permission was issued on 21 March 2012.
- 4.5 12/00310/FULL - a planning application was submitted for the construction of two upper floors of flats comprising 4 flats on the first floor and 2 on the second floor, a development very similar in scale and general design to this current application. The application and its associated listed building application 12/00311/LBC were both withdrawn on 31 July 2012 before they could be referred to the Development Management Committee for determination.
- 4.6 13/00469/LBC is the listed building application associated with this planning application and is also considered on this agenda.

5 PUBLIC PARTICIPATION

- 5.1 The application was notified to 6 adjacent neighbours and adjoining land owners. It was also advertised in the local press.
- 5.2 15 objections were received from local residents.
- 5.3 The objections are on the following grounds:
- overdevelopment having an adverse impact on the listed building and the Esplanade;
 - flats contrary to Local Plan;
 - insufficient parking;
 - adverse impact on trees;
 - loss of facilities for restaurant/impact on restaurant use; and
 - loss of privacy and amenity of adjacent residents
- 5.4 Members will already have access to these representations. The objections will be considered in the Observations section below.

6 CONSULTATIONS

- 6.1 **The Head of Environmental Protection** – notes that, as the site is located close to the main railway line to Aberdeen, there is the potential for noise from the trains to affect residents. The agent has proposed the use of triple glazing to a specified standard and air vents with acoustic reduction to mitigate the noise impact on north facing facades. This can be the subject of an appropriate condition.
- 6.2 A high level flue was requested to deal with odours from the restaurant kitchen. This is detailed on the plans. Mechanical and electrical services will also be the subject of an appropriate condition to control noise impact on residents and neighbours.
- 6.3 **The Broughty Ferry Community Council** – objects to the proposed development on the grounds that the proposed development would smother and ruin the appearance of this listed building of local importance. The impact of the height, scale and design will not be ameliorated by the setting back of the upper floors. The development will have an adverse impact on the Esplanade with an unbroken wall of development which will hide or adversely affect the tree to the north. The children's play area will be lost to the detriment of the attractiveness of the restaurant and it is considered that the functioning of this popular restaurant will be adversely affected. The development will threaten the listed building which may result in it being de-listed. Flats are contrary to the Local Plan and there is insufficient parking.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

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

DUNDEE LOCAL PLAN REVIEW 2005

- 7.2 **Policy 4: Design of New Housing** – Policy 4 and its associated Appendix 1 seeks to ensure that the design and layout of all new housing is of a high quality. The site does not lie within Central Broughty Ferry as defined in the Plan and the site is considered to be Suburban.
- 7.3 Appendix 1 states that flats may be acceptable through conversion of buildings of merit. As the development does not involve conversion of the Listed building, the justification available in the policy does not apply. It is concluded that the principle of flats on this site has not been established in accordance with Policy 4.
- 7.4 With regard to the criteria in Policy 4 and Appendix 1, the proposed development has been assessed in respect of the other relevant criteria for new housing.



Figure 5 – From South West

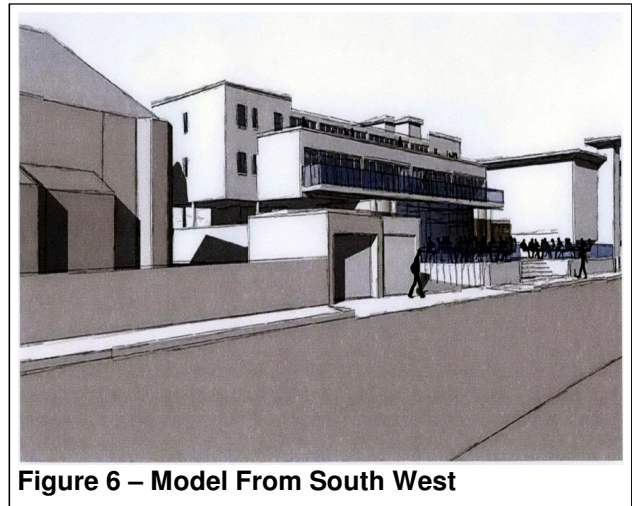


Figure 6 – Model From South West

- 7.5 With regard to the provision of car parking, the policy seeks a minimum of 150% but notes that the provision may be increased or decreased in light of site specific circumstances. It is considered that the 100% parking proposed is acceptable in this particular case as the road is wide with capacity for parking on both sides and there is also public car parking nearby.
- 7.6 The provision of amenity/garden ground is considered on the merits of each case. In this development, the flats all have south facing terraces of 17m² on the first floor and 43m² on the second floor. In addition, the site is close to both formal and informal recreation space on both sides of the Esplanade. It is concluded that the requirements in respect of amenity/garden space are met in this particular case.



Figure 7 – Front View

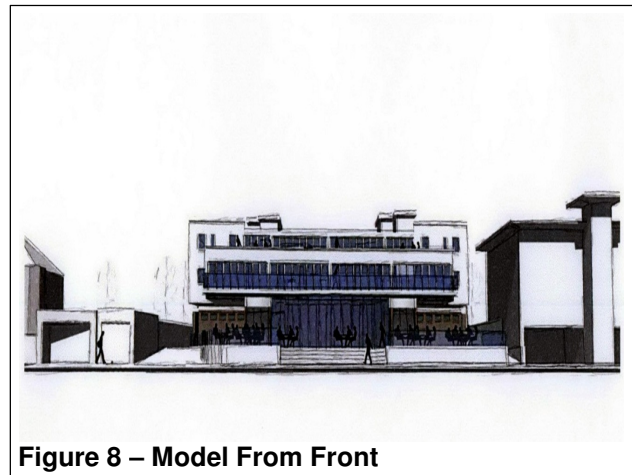


Figure 8 – Model From Front

- 7.7 It is considered that the proposed flats meet the Suburban standards in all other respects.
- 7.8 **The proposal contravenes Policy 4.**
- 7.9 **Policy 60: Alterations to Listed Buildings** - alterations should preserve or enhance the architectural or historic character of listed buildings. The original art deco bathing shelter was a very low profile pavilion style building which provided public toilets at each end and an open loggia which formed the beach shelter. It was brick construction with a concrete flat roof. Only the original building is listed Category C and this has been significantly altered by the addition of the large, glass fronted dining area and extensions to the rear. There has been no further review of this Listed Building since 1991 and the alterations which have already taken place may result in the building being de-listed when the next review is carried out.

- 7.10 It is accepted that the significant development currently proposed around this building will further increase its original scale and massing substantially. However the setting back of the upper floors, the lightness of these extensions which is achieved by the predominantly glazed appearance of the principal south elevation and the use of white render on the other elevations, means that the brick elevations and decorative features of the original building will still remain significant. It is concluded that this is a case where a listed building has already been altered from its original use and design and the proposed additions can be made without detracting from the original features, marked by the decorated brick and concrete detailing. It is concluded that the design of the proposed extensions complements that of those part of the listed building which remain visible.
- 7.11 **The proposal satisfies the requirements of Policy 60.**
- 7.12 **Policy 55: Urban Design** - the policy requires design quality which reflects features of the site, enhances views and vistas and respects the setting of listed buildings. A Design Statement has been submitted as required by this policy.
- 7.13 The Design Statement notes that the massing of the proposed extension is arranged to respect the remnants of the historic facade in order to ensure that the extended Art Deco single storey beach pavilion is, as far as possible, uncompromised. The glazed southern elevations of the apartments both take advantage of the site and views and complement the existing modern curved façade of the restaurant. The glass will reflect light and minimize the visual impact of the upper floors. The redevelopment will include the repair and refurbishment of the existing listed building.
- 7.14 It is noted that, in the context of this site, there is a large domestic dwelling set at a higher level on the west side of the building. To the east, less than 2 metres from the boundary of the site, a block of flats is currently under construction. This development is set substantially forward of the front building line of the former bathing shelter and comprises a 3 storey block with 2 storeys of flats above ground floor parking and garages. The set back design of the proposed development will be partly screened by these buildings in views along the Esplanade when approached from either direction. The proposed building will be viewed from an angle and the stepped nature will be very evident. On the west side of this complex of buildings, the Esplanade supports formal recreation use including tennis courts and a putting green.
- 7.15 The Design Statement in support of the application is acceptable in compliance with Policy 55. It is concluded that, in the context of the location and the design, the proposed development will comply with the requirements of Policy 55 and will result in an attractive, modern building which will complement the existing development in this part of the Esplanade.
- 7.16 **The proposal satisfies the requirements of Policy 55.**
- 7.17 **It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.**
- 7.18 **Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997** - Section 59 of the planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities, in considering applications that affect listed buildings, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which they possess.
- 7.19 The impact upon the Listed Building has been discussed in relation to Policy 60 of the Dundee Local Plan Review 2005 above where it was concluded that the design of the

proposed extensions complements that of those part of the listed building which remain visible. The statutory duties laid out above are therefore considered to be discharged.

OTHER MATERIAL CONSIDERATIONS

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

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN

- 7.20 The proposed Dundee Local Development Plan has been the subject of Examination by Reporters from the Directorate for Planning and Environmental Appeals. Their Report of Examination does not recommend any changes in the allocation of this site or the policies affecting it. A report recommending adoption of the Plan is to be submitted to the October City Development Committee for approval and in these circumstances considerable weight should be given to the Proposed Plan which will shortly become the adopted Local Development Plan for the city.
- 7.21 The relevant policies in the proposed plan are detailed in the policy section above. These policies do not differ from the equivalent policies in the Dundee Local Plan 2005 in any significant way but any changes will be noted below.
- 7.22 **Policy 48: Listed Buildings** - Section B of the policy relates to Alterations to Listed Buildings and requires alterations to have regard to the preservation or enhancement of the architectural or historic character of the building. As noted above, the original listed building has been significantly altered to form the current restaurant premises affecting its architectural integrity and its historic interest is unclear. The development of the flats behind and above the building will alter its context but retain the architectural detailing of the original brick elevations and there will be no substantial alterations to the restaurant in its extended form.
- 7.23 **Policy 7: High Quality Design** - the policy requires that all developments contribute positively to the quality of the surrounding built and natural environment and meet a series of design criteria. Criteria 3 and 5 are most relevant to this development.
- 7.24 3 requires that the design complements its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours. As noted above, the design is acceptable in the context of the adjacent flats and the large house to the west. The setting back of the upper floors also minimises the visual impact.
- 7.25 5 requires that existing buildings that contribute to the local townscape should be “retained and sensitively integrated into proposals”. It is concluded that this criteria is met by the proposed development.
- 7.26 **Policy 9: Design of New Housing** – the policy broadly reflects the requirements of Policy 4 in the existing Local Plan Review and it is considered that for the same reasons as discussed above the proposals fail to comply with the proposed policy.
- 7.27 The requirements of Policy 7 and Policy 48 of the Proposed Dundee Local Development Plan are satisfied but Policy 9 is not satisfied for the same reasons as discussed in relation to Policy 4 of the Dundee Local Plan Review 2005.

PLANNING HISTORY

- 7.28 As noted in the site description, flats are currently under construction on the site immediately to the east of the application site as part of a development originally approved in 2006. Flats

were considered to be appropriate to this site because of its configuration, its location fronting the beach, the scale and nature of a flatted development compared with a line of houses and the opportunity to provide a modern development close to but not within the more traditional townscape of Broughty Ferry taking maximum advantage of the site and situation.

- 7.29 With respect to the application site, as noted above, planning permission has previously been granted for substantial extensions to provide an extended restaurant over 2 floors and also for the construction of two floors of holiday let apartments on the upper floors, providing 4 flats on the first floor and 2 on the second. The upper floors were to be set back from the listed building with extensive glazing and the ground floor extension to the restaurant meant there was no on site parking provided. The application was approved in 2009 and issued in March 2012 when the legal agreement was concluded. The permission is valid until March 2015.
- 7.30 The current application is for a development very similar in character and scale to the approved holiday let apartments but the building is wider. However, the proposal does include on-site, protected parking, bin stores, bike storage and drying area. The principle of extending this building by the addition of two floor of accommodation has previously been established.

SUPPORTING STATEMENT

- 7.31 The design elements of the supporting information are assessed in respect of Policy 55 elsewhere in this report. The statement notes that the aim of the proposal is to secure the future of the Glass Pavilion restaurant as a viable investment but no details are provided. The introduction of more people living on the Esplanade, in addition to the new flats currently under construction on the adjoining site, will add to the rejuvenation of the area and will improve the security of the existing restaurant. The development will include the removal of the existing steel structure and gates currently required for security which will improve the aspect to the Esplanade. The applicant states that there is no demand for short term holiday lets, as approved in the existing planning permission.
- 7.32 These additional matters include commercial issues which are not quantified and cannot be the subject of any planning conditions to ensure the continued use of the restaurant. Accordingly, this document is neutral in support of the application.

VIEWS OF OBJECTORS

- 7.33 15 objections were received. The assessment of the objection will follow each heading in turn:
- 7.34 **Overdevelopment having an adverse impact on the listed building and the Esplanade** - this issue has been considered in the foregoing report and it is considered that there will not be an adverse impact sufficient to justify refusal of the application.
- 7.35 **Flats contrary to Local Plan** - this issue has been considered and will be assessed in the conclusion when all material considerations will be taken into account.
- 7.36 **Insufficient Parking** - it is concluded that in this particular location, the required parking standard can be reduced and the proposal is acceptable.
- 7.37 **Adverse Impact on Trees** - there are no trees on the site and no protected trees adjacent to the site. This objection is not supported.

- 7.38 **Loss of Facilities for Restaurant/Impact on Restaurant Use** - this is a commercial matter for the operator/owner of the restaurant to take into consideration. The application has been submitted on behalf of the owner of the site who can assess the impact on this commercial activity. The supporting statement advises that the development will include renovations and repairs to the restaurant building and that the new development will support the continued restaurant use but there is no evidence provided.
- 7.39 **Loss of Privacy and Amenity of Adjacent Residents** - as noted above this issue is assessed as one of the criteria for new housing in the Proposed Dundee Local Development Plan and the development does allow some overlooking from the side of 2 of the 6 balconies.
- 7.40 It is considered that the issues raised by the objectors have been addressed in the foregoing report and are not supported.
- 7.41 **The concerns of the objectors are not supported.**

SCOTTISH HISTORIC ENVIRONMENT POLICY - SHEP

- 7.42 The SHEP notes that work which affects the character of a listed building will require listed building consent. It is concluded that the SHEP supports developments which ensure the retention of listed buildings. For the reasons given above in the assessment of the development in accordance with the Development Plan, it is considered that these objectives have been met by this proposed development.

ASSESSMENT OF MATERIAL CONSIDERATIONS

- 7.43 It was concluded above that the application is contrary to Policy 4 of the Dundee Local Plan 2005 as the case for flats has not been made in accordance with the terms of the policy. The relevant material considerations are noted above and are assessed in strength as follows:
- 7.44 **Planning History** - planning permission is already in place, valid until 2015, for a very similar development of 6 holiday let flats over two floors but including a significant extension to the restaurant and fewer facilities for residents. It is concluded that this is a strong material consideration in support of the application.
- 7.45 **Objections** - the objections are not supported as material considerations of sufficient weight to support refusal of the application.
- 7.46 **Supporting Statement** - the statements and opinions, other than the design matters in accordance with Policy 55, are considered to be neutral material considerations.
- 7.47 **It is concluded from the foregoing that the material considerations, in particular the planning history and the design of the development, support the approval of planning permission. The application is therefore recommended for approval subject to conditions.**

8 CONCLUSION

- 8.1 The proposal does not satisfy the requirements of the Development Plan. However, there are material considerations of sufficient strength to justify approval of the application contrary to the Plan and insufficient material considerations that would justify refusal of planning

permission. Therefore, it is therefore recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

9.1 It is recommended that consent be GRANTED subject to conditions:

- 1 Prior to the commencement of any development, the applicant shall take such steps and carry out such works, including the erection of protective fencing, which shall, during the progress of the works, secure the safety and stability of the existing building which is to be retained. Details of the protective measures shall be provided to the City Council for approval prior to the commencement of any development and if approved, the protective measures shall remain on site during the development works hereby approved.
- 2 All window openings, including all window vents, on the north façade, facing the railway line, will be triple glazed to achieve a sound reduction in excess of 40 dB. The details of the products to be installed shall be submitted to the City Council for approval and the works shall be carried out only in accordance with the approved details.
- 3 The total noise from the extraction system and all other M & E services shall not exceed NR 35 during the night and NR 45 during the day as measured 1 metre external to the facade of adjacent residential accommodation and, furthermore, shall not exceed NR 25 within any adjoining residential property.

For the avoidance of doubt night time shall be 23.00 to 07.00 hrs and day time shall be 07.00 to 23.00 hrs.

- 4 Before any of the residential units is first occupied the access; car parking and manoeuvring areas; bin stores; bike stores and drying area indicated on the approved drawings shall be provided and thereafter kept available for use at all times.
- 5 Before any of the residential units is first occupied, details of the proposed boundary treatment to the northern boundary of the site shall be provided and the boundary shall be formed in accordance with the approved details

REASONS

- 1 Given the restrictions on the site and the nature of the proposed development, measures are required in order to protect the fabric of the existing building which is to be retained.
- 2 To mitigate noise impact from the railway on future residents,
- 3 In order to protect the amenities of future residents of the apartments and the amenities of residents of adjoining properties.
- 4 In order to protect the amenities of the future residents and surrounding neighbours.
- 5 In the interests of the amenities of the future residents.