

Erection of 5 Houses and 4 Flats

KEY INFORMATION

Ward West End

Address

51 Magdalen Yard Road
Dundee DD1 4LQ

Applicant

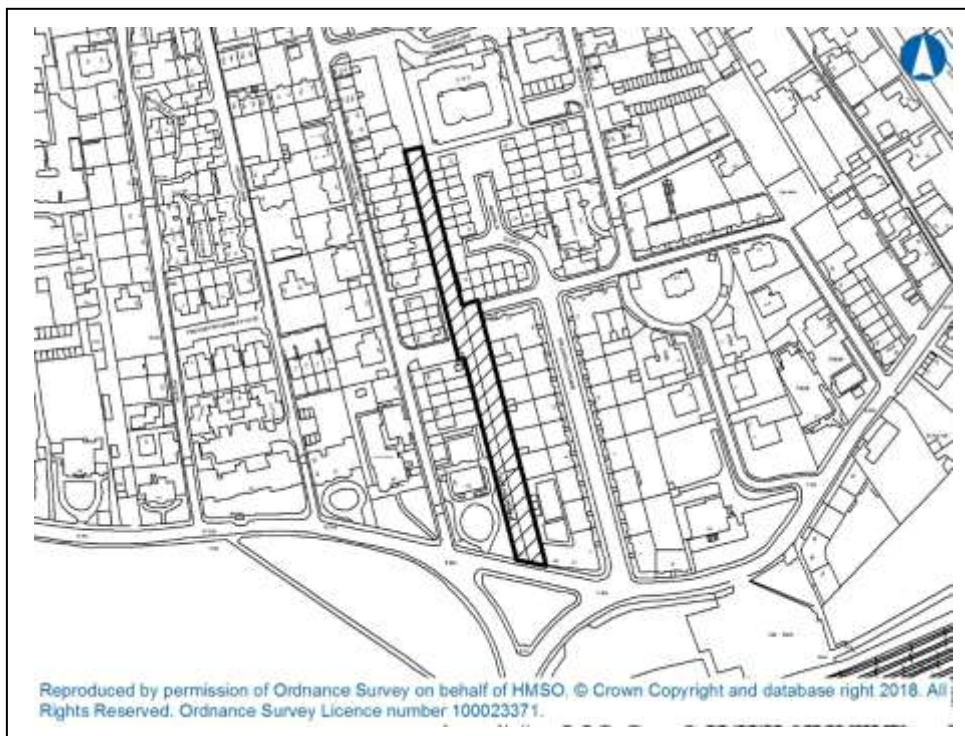
F & H Developments
55 Commissioner Street
Crieff PH7 3AY

Agent

Denholm Partnership
Architects
11 Dunira Street
Comrie PH6 2LJ

Registered 29 May 2018

Report by: Executive
Director of City Development



SUMMARY OF REPORT

- This application seeks planning permission for the development of 5 houses and 4 flats. The proposed houses comprise four 3 bedroom houses and one 2 bedroom house. The proposed flats comprise two 1 bed flats, one 2 bed flat and one 3 bed flat.
- The site of the former Tay Rope Works comprises two long narrow strips of land bounded by housing to the east and west. The site is predominantly vacant and derelict with a southern elevation to Magdalen Yard Road comprising the Category C Listed façade of the original Tay Rope Works building.
- There is a long history of planning applications for residential development on all or parts of the site dating back to 1993. Most recently, in May 2018 the Planning Committee resolved to grant planning permission for 5 houses and 2 flats subject to a Section 75 Agreement under 18/00127/FULL.
- The proposal site is within the West End Lanes Conservation Area.
- The Council has carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Thirteen objections were received from neighbours raising concerns in relation to the loss of boundary walls, design of the proposals, overshadowing and impact on privacy.
- The application is referred to the Planning Committee for determination at the request of elected members, as more than 6 valid objections have been received and the application requires a legal obligation in respect of HMO occupation.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/>.

RECOMMENDATION

The application fails to fully comply with Policy 9 (Design of Housing) in relation to amenity space provision. There are material considerations which weigh in support of the application. It is recommended that the application be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of 5 detached houses and 4 flats.
- 1.2 The flatted development comprises a 3 storey block of flats, with one, two and three bedroom units proposed. Access to the flats would be via a communal entrance to the rear of the proposed building. The proposal has been designed to include modern and traditional elements which maintain the appearance of the existing Tay Rope Works façade and incorporate a modern glazed element. The façade of the western element of the flatted development would be finished in stone and designed to replicate the style and appearance of the existing façade including “Tay Rope Works” signage and replication of window proportions. The eastern portion would be of modern appearance with a glazed frontage framed by a zinc edging. The third floor flat would benefit from a balcony to the south elevation.
- 1.3 Towards the centre of the site 3, three bedroom detached houses are proposed. They will be L shaped with a smaller upper floor providing 2 bedrooms and a large open plan lounge/kitchen/diner with a master bedroom and garage on the ground floor. Each house has an additional parking space. The first floor sections of the proposed dwellings have shallow pitched roofs and ground floor sections pitched roofs, finished in zinc. The houses each have between 75 and 83m² of private garden ground.
- 1.4 Within the north of the site 2 houses are proposed. They are single storey and designed to be set between the existing flanking walls of the former Rope works buildings. This ensures that there are no windows to overlook properties on either side. The houses have two parking spaces each and private garden ground of 60 and 62m².
- 1.5 The access at Magdalen Yard Road is one way due to the restricted visibility resulting from the proposed frontage and existing development to the east and west of the site. Seafield Road will be two way with a turning area for vehicles and will be the exit point for the one way system. Only one house at the north of the site will gain access via Seafield Road. The roads within the site will remain private and will not be adopted by the City Council.
- 1.6 Within the northern section of the site, the applicant proposes to lower the existing brick walls of the Tay Rope Works factory and to create dwarf walls with timber fencing above. Within the south of the site, the east boundary is to be defined by a timber fence as there is presently an inconsistent boundary treatment, to the west the existing boundary walls are to be retained.

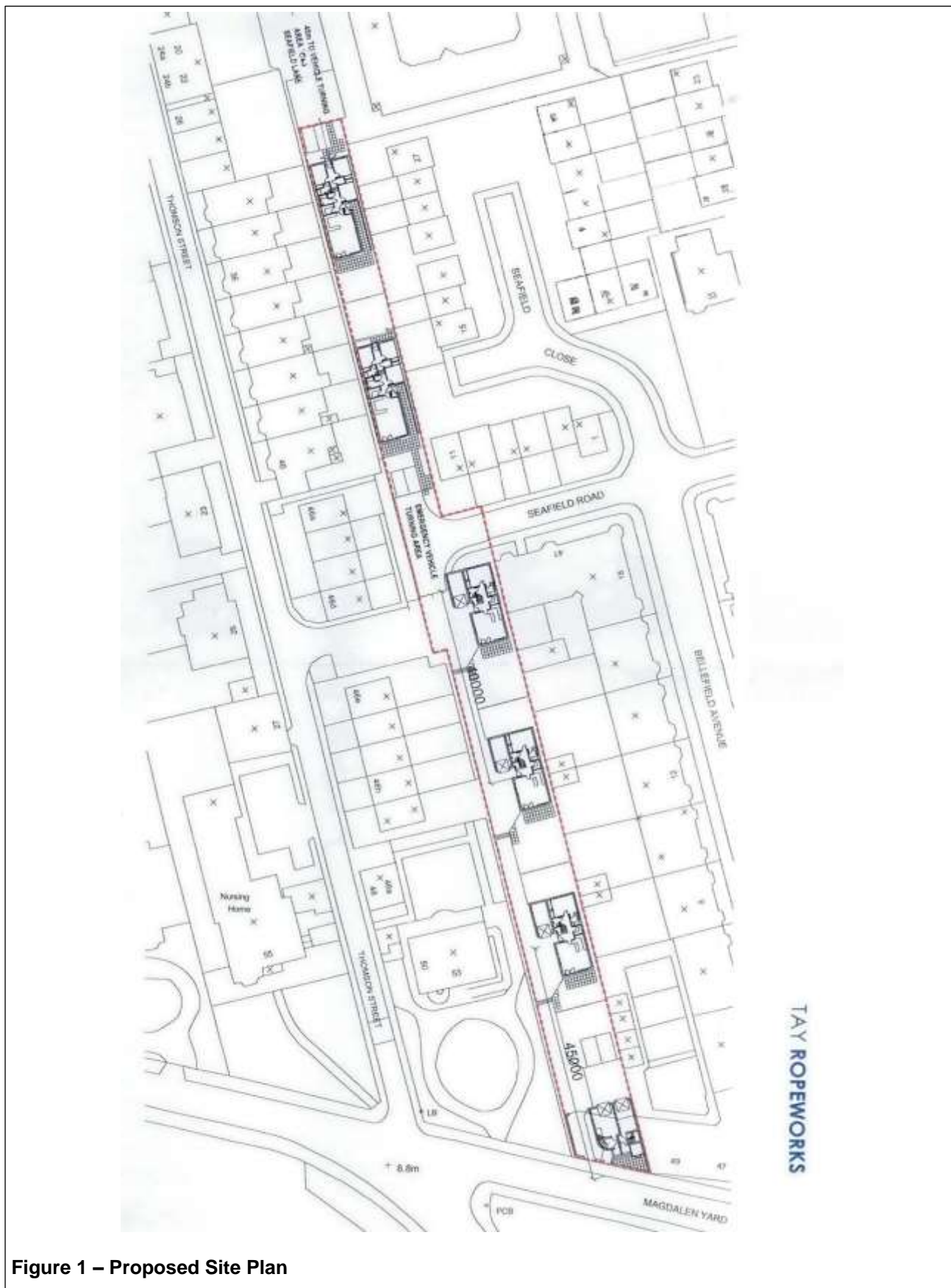


Figure 1 – Proposed Site Plan



Figure 2 – Proposed Frontage

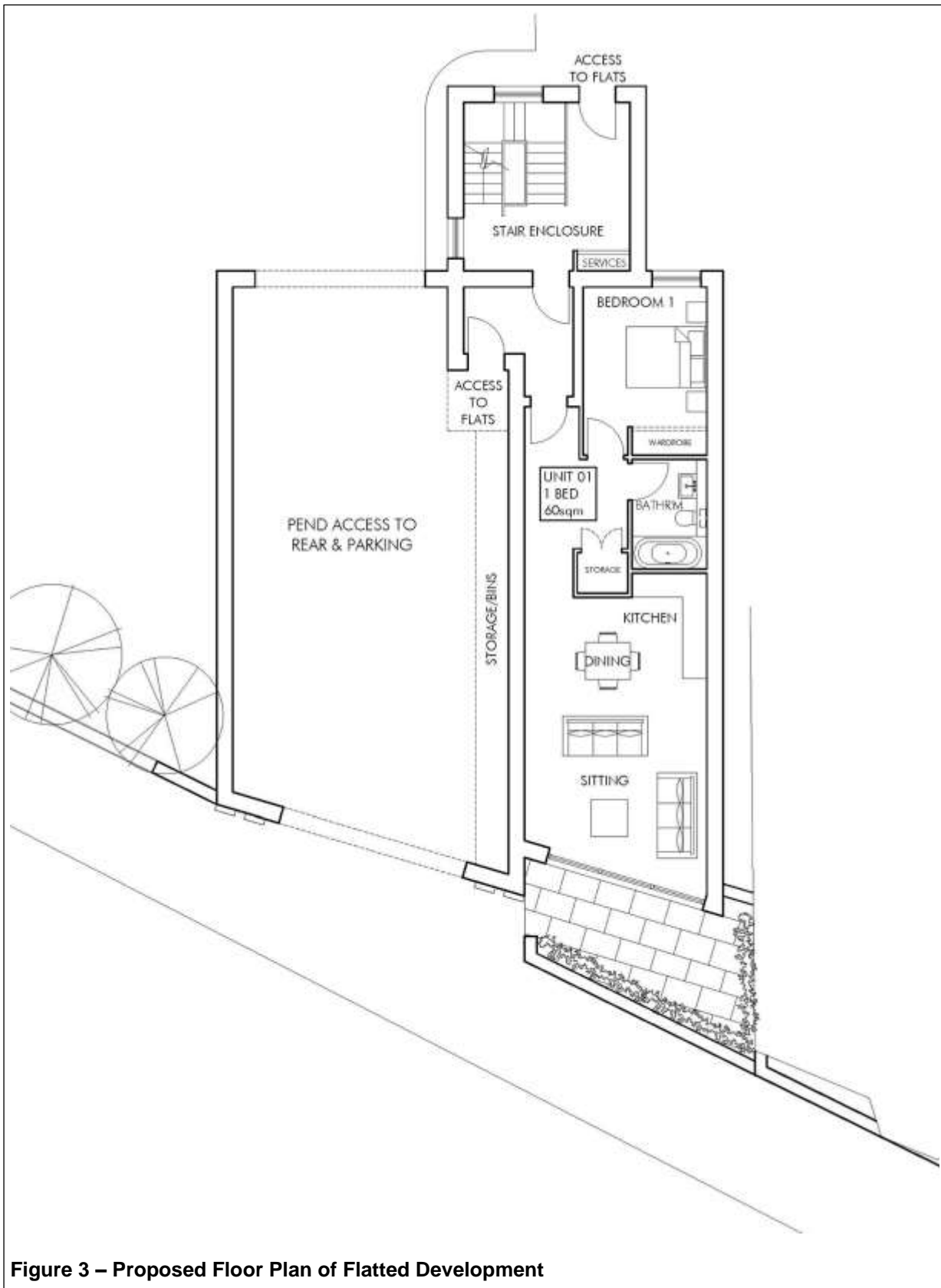


Figure 3 – Proposed Floor Plan of Flatted Development

2 SITE DESCRIPTION

- 2.1 The site was originally occupied by the Tay Rope Works which dated from the 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 long and the northern section being generally 8 metres wide by 80 metres long. 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 midpoint. The northern end of the site abuts the car park off Seafield Lane.
- 2.2 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 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.
- 2.3 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 which will be retained. The site is very overgrown with self-sown trees of varied species and ages which will be removed. 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 with corrugated sheeting and slate roofs.



Figure 4 – Site Photo



Figure 5 – Site Photo

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN 2014

Policy 7: High Quality Design

Policy 8: Housing Land Release

Policy 9: Design of New Housing

Policy 15: Houses in Multiple Occupation

Policy 29: Low and Zero Carbon Technology in New Development

Policy 35: Protected Species

Policy 38: Trees and Urban Woodland

Policy 42: Sustainable Drainage Systems

Policy 45: Land Contamination

Policy 49: Demolition of Listed Buildings and Buildings in Conservation Areas

Policy 50: Development In Conservation Areas

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN

Policy 1: High Quality Design and Placemaking

Policy 9: Housing Land Release

Policy 10: Design of New Housing and Appendix 4 Standards

Policy 16: Houses in Multiple Occupation
Policy 34: Protected Species
Policy 35: Trees and Urban Woodland
Policy 37: Sustainable Drainage Systems
Policy 41: Land Contamination
Policy 48: Low and Zero Carbon Technology In New Buildings
Policy 50: Demolition of Listed Buildings and Buildings in Conservation Areas
Policy 51: Development In Conservation Areas

- 3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 The following applications are of relevance:
- 14/00616/FULL sought to renew an existing planning permission (11/00110/FULL) for the erection of the residential development. 14/00616/FULL was approved subject to a Section 75 Agreement and conditions in March 2015;
 - 14/00617/LBC sought to renew listed building consent 11/00111/LBC for the dismantling and rebuilding of the façade of the former Tay Rope Works. 14/00617/LBC was approved subject to conditions in April 2015;
 - 18/00127/FULL sought to renew 14/00616/FULL for the erection of 5 houses and 2 flats. Planning committee resolved to approve 18/00127/FULL subject to a Section 75 Agreement and conditions in May 2018;
 - 18/00146/LBC sought to renew listed building consent 14/00617/LBC for the dismantling and rebuilding of the facade to be incorporated into the new development proposed under 18/00127/FULL. 18/00146/LBC was approved subject to conditions in May 2018; and
 - 18/00372/LBC is the current Listed Building Consent application for the demolition of the Tay Rope Works façade. 18/00372/LBC is to be determined by the Planning Committee.

5 PUBLIC PARTICIPATION

- 5.1 The Council has carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The application was also advertised in the Dundee Evening Telegraph as a departure to the Development Plan and as affecting a Conservation Area.
- 5.2 13 letters of objection have been received. The detailed concerns raised by the objectors relate to the following issues:
- detrimental impact on privacy and security through overlooking and the loss and alteration of boundary walls;
 - detrimental impact on residential amenity through overshadowing, increased noise and overdevelopment of the site;
 - detrimental impact on parking provision; and

- detrimental impact on the character of the West End Lanes Conservation Area.

5.3 Members will have had access to these letters and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

6.1 **The Head of Community Safety and Protection** – has requested that a Preliminary Risk Assessment be submitted. It is recommended the submission of a Preliminary Risk Assessment and the undertaking of any associated remediation works are subject of planning conditions should members be minded to grant planning permission.

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. The site lies within the Inner City and has no specific allocation within the Plan.

DUNDEE LOCAL DEVELOPMENT PLAN

7.2 **Policy 7: High Quality Design** - requires that the design and siting of development should respect the character and amenity of the place and should create and improve links within the site and into the surrounding area beyond the site. Proposals should incorporate new landscape and planting works appropriate to the local context and the scale and nature of the development.

7.3 Proposals should also:

- consider and respect site topography and any surrounding landmarks, views or skylines;
- contribute to a sense of identity by developing a coherent structure of streets, spaces, and buildings that are accessible and respect the existing building lines;
- the design should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours;
- all buildings, streets and spaces should create safe accessible inclusive places for people which are easily navigable particularly on foot, bicycle and public transport and designed with future adaptability in mind; and
- existing buildings, structures and natural features that contribute to the local townscape should be retained and sensitively integrated into proposals.

7.4 The proposal for five houses and four flats incorporates different house types with a mixture of in curtilage parking and integrated garages. The applicant states that the finishing materials of the proposed houses would generally comprise of smooth white render with sections of

timber cladding. The façade of the proposed flats would include modern and traditional elements. The western portion of the façade would be finished in stone to reflect the character of the existing Tay Rope Works façade. The eastern section is of modern design, with glazing enclosed by a zinc surrounding and balcony to the second floor. The proposed façade is of an appropriate design, to ensure finish materials are of a suitably high quality it is recommended full details are controlled by condition.

- 7.5 The design and form of the proposed residential development is of a high quality and would result in an attractive development. The houses are low profile and designed to minimise any impact on adjacent dwellings by overshadowing or overlooking. To ensure the streetscape is of a high quality, it is recommended boundary treatments and full landscaping details are controlled by condition should Planning Committee be minded to grant planning permission.
- 7.6 The proposed development is of high quality design which creates a new lane incorporating the form of the former Tay Rope Works site whilst complementing and respecting the surrounding buildings. The proposed lane through the application site would be private and provide access to the proposed dwellings only. As plot 1 within the north of the site takes access through a private car park, a planning condition is recommended to ensure no development commences on that plot until confirmation is submitted to the Council that access is agreed with the relevant land owners.
- 7.7 The proposed residential development respects the sites topography, views and skylines. The proposed houses would have no impact on surrounding landmarks and the dwellings are of a height, massing and finish which is in keeping with the residential character of the surrounding area.
- 7.8 Overall, the proposed development will make a positive contribution to the character and amenity of the area and bring a vacant site into use.
- 7.9 **The proposal satisfies Policy 7, subject to a condition being attached.**
- 7.10 **Policy 8: Housing Land Release** - seeks to ensure that there is a five year effective supply of housing land maintained over the plan period. Housing land release on brownfield sites, in addition to the allocations set out in Appendix 2, may be acceptable where it can be demonstrated that it will improve the tenure mix in an area where existing choice is limited and would make a positive contribution to the regeneration objectives of the area.
- 7.11 This site is not identified as a brownfield housing site and therefore falls to be considered under the terms of Policy 8 with regard to the principle of the use of the site for residential development. The site has been subject of planning permission for residential development since 2011.
- 7.12 It is considered that the proposed development will make a positive contribution to the quality and choice of residential development within the local area through the provision of 5 houses and 4 flats, all with off street parking. The development would also contribute to the regeneration of the area by returning a long standing derelict site to use. The proposals are of a density and form which are appropriate to this narrow site and would enhance the quality and amenity of the surrounding area.
- 7.13 The principle of re-developing this brownfield site for residential development is considered to be in accordance with requirements of Policy 8.
- 7.14 **The proposal satisfies Policy 8.**

- 7.15 **Policy 9: Design of New Housing** - states that the design and layout of all new housing in Dundee should be of high quality and contribute to creating places that build on and enhance the distinct character and identity of the city. In seeking to achieve this, the policy requires proposals to comply with the requirements of Appendix 3 of the Local Development Plan.
- 7.16 The proposed development would be of high quality for the reasons explained above in the context of Policy 7.
- 7.17 The development of the site for residential use is acceptable as the site lies within a residential area of the city. The design and layout of the proposed development seeks to minimise the impact on the adjoining properties by the limited scale of the southern block and the configuration of windows. The application site is required to meet the following Inner City Standards set out in Appendix 3.
- 7.18 **Appendix 3 General Requirements** - the general requirements require that appropriate provision is made for waste and recycling, provision for electric charging vehicles should be incorporated into communal parking areas and that in flatted developments the inclusion of storage areas in addition to cycle storage should be incorporated. The proposals meet the general requirements of Appendix 3 with bin storage areas to be provided at each dwelling and within the pent for the flats. Dedicated storage spaces are to be provided within the landing areas of the proposed flats for the use of residents. A condition is proposed to be attached to secure provision for charging points for electric vehicles should Members be minded to approve the application.
- 7.19 **Appendix 3 Standards for Houses** - the relevant Appendix 3 standards require proposed houses to provide a minimum of 2 bedrooms, at least 1 parking space, garden ground of at least 50m² and a minimum window separation distance of 18 metres. The proposed houses meet the requirements of appendix 3.
- 7.20 **Appendix 3 Standards for Flats** - with regard to the proposed flats, Appendix 3 states that flats will only be permitted under certain specific criteria. One of the criteria is that "site specific circumstances demand a flatted solution".
- 7.21 The flats support a viable development within the long standing derelict site which is subject to a number of constraints including its narrow form, varying topography and proximity to neighbouring residential properties. These various constraints have resulted in dwellings requiring to be of a unique form and nature.
- 7.22 The principle of the form of the southern block 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 4 and a half storey stone building. The adjacent property to the west is a large villa of 3 storeys. The development provides a transition between the two.
- 7.23 The proposed flatted element of the residential development would fit within the narrow southern end of the site and provide a frontage onto Magdalen Yard Road which maintains the scale and form of the existing. The inclusion of flats is therefore acceptable in this instance.
- 7.24 The Appendix 3 standards for flats requires all flats to have a minimum of 2 bedrooms or a minimum gross internal floor area of 60m², generally 130% parking provision for private flats, secure indoor cycle storage, 100m² of usable private communal garden area and a minimum of 18 metres between the facing windows of habitable rooms.
- 7.25 The provision of 1, 2 and 3 bedroom flats, with minimum floor areas of 60m² and associated parking spaces meet the criteria of Appendix 3.

- 7.26 In terms of parking, 130% off-street parking provision is required for 4 flats and to the nearest number spaces that equates to 5 spaces. The applicant proposes five private spaces to the rear of the proposed flats and this complies with the standard.
- 7.27 The applicant has not proposed any secure indoor storage for cycles. It is proposed to attach a condition to ensure that such storage is secured should Members be minded to grant planning permission.
- 7.28 In terms of communal garden ground, the proposed flats would not benefit from any private or communal amenity space and therefore fail to meet the minimum requirements of Appendix 3.
- 7.29 It is considered that the proposal fails to comply with the requirements of Appendix 3 to Policy 9 in respect of the provision of sufficient amenity space for the 4 flats.
- 7.30 **It is considered that the proposal fails to comply with the requirements of Appendix 3 to Policy 9 in respect of the provision of sufficient amenity space for the 4 flats.**
- 7.31 **The proposal fails to satisfy Policy 9.**
- 7.32 **Policy 15: Houses in Multiple Occupation** - states that the occupation of new mainstream residential developments as HMOs will be prevented in certain circumstances, in certain areas of the city. This part of the city lies close to the University of Dundee and has traditionally contained a high percentage of HMOs in flats and houses. The policy states that where appropriate, the occupation of dwellings in new residential developments by 3 or more unrelated persons will be prevented through the use of Section 75 Agreements.
- 7.33 As the proposals include properties with 3 bedrooms it would be appropriate in this instance to restrict the use of the properties as HMO's. Such a restriction should be by means of a legal obligation as was the case with previous planning permissions 11/00110/FULL, 14/00616/FULL and 18/00127/FULL.
- 7.34 The existing Section 75 legal obligation relates only to 14/00616/FULL and has not been updated since the approval of 18/00127/FULL by Planning Committee in May 2018. A new section 75 agreement will therefore be required in relation to the present application 18/00353/FULL should members be minded to grant planning permission.
- 7.35 **The proposal satisfies Policy 15, subject to a Section 75 agreement.**
- 7.36 **Policy 29: Low and Zero Carbon Technology in New Development** - states proposals for all new buildings will be required to demonstrate that at least 10% of the carbon emissions reduction standard set by Scottish Building Standards (2007) will be met through the installation and operation of zero-carbon generating technologies. This percentage will increase to 15% from the beginning of 2016 and will be reviewed in 2018.
- 7.37 A statement will be required to be submitted demonstrating compliance with this requirement. In the interests of reducing carbon emissions associated with the proposed development, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request a sustainability statement.
- 7.38 **The proposal would satisfy Policy 29 subject to a condition being attached.**
- 7.39 **Policy 35: Protected Species** - states that proposals likely to have a significant effect on a European protected species will not be supported unless there are no satisfactory alternatives and the development is required for preserving public health or safety or for other imperative

reasons of overriding public interest or which have beneficial consequences of primary importance for the environment.

- 7.40 The proposal seeks to demolish the façade and an existing building within the south of the site and remove a number of trees and bushes. A previous bat survey which was undertaken in 2006 concluded that there was no direct evidence of any former or current bat presence at the site but further investigation is required.
- 7.41 As there have been no significant changes to the application site and the existing buildings which provide limited roosting potential, a further bat survey is not required. It is recommended further investigation of potential roosting sites prior to demolition of any derelict buildings or felling of trees should be controlled by condition should members be minded to grant planning permission.
- 7.42 **The proposal would comply with Policy 35 subject to a condition being attached.**
- 7.43 **Policy 38: Trees and Urban Woodland** - requires that new development must ensure the survival of existing healthy mature trees through sensitive site layout both during and after construction. Where appropriate, development proposals must be accompanied by a tree planting and landscape scheme.
- 7.44 The application site contains a number of trees including a mature Oak Tree and younger self seeded trees. The proposed development would result in the loss of the majority of the self seeded trees and areas of shrubbery.
- 7.45 To mitigate the impact of the proposed development on the character of the site it is proposed to retain the mature Oak Tree and to undertake landscaping works. The retention of the mature Oak tree and appropriate landscaping including compensatory planting would ensure that the proposal has no detrimental impact on mature planting within the site and maintains the character of the site and surrounding area.
- 7.46 It is recommended that Members agree to condition these matters should they be minded to approve the application.
- 7.47 **The proposal would satisfy Policy 38 subject to a condition being attached.**
- 7.48 **Policy 42: Sustainable Drainage Systems** - states that surface water from new development must be treated by a Sustainable Urban Drainage System (SUDS), which should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300mm below floor level. Proposals are encouraged to adopt an ecological approach.
- 7.49 Surface water from residential developments is required to be treated by a Sustainable Urban Drainage System (SUDS). The applicant has provided a Preliminary Porosity Assessment which demonstrates the site could accommodate a SUDS system. However, the developer is required to fully demonstrate how surface water and road water will be dealt with prior to the commencement of any development. Given the location of the site in the Inner City and relatively close to the river, use of SUDs may not be appropriate. It is recommended that planning conditions are applied to ensure full details of the sites drainage system are agreed before any development can commence.
- 7.50 **The proposal would satisfy Policy 42 subject to a condition being attached.**
- 7.51 **Policy 45 Land Contamination** - requires that development of potentially contaminated land will be considered where a site investigation has been submitted and establishes the nature

and extent of the contamination, and where remediation is proposed that it would adequately address contamination risks and be suitable for the planned use.

- 7.52 Due to the industrial history of the site, the Head of Community Safety and Protection has requested a Preliminary Risk Assessment is submitted. As was the case with previous applications for residential development at this site, planning conditions to ensure that site investigations are carried out and remediation proposals approved before any development can commence are proposed to be attached to the decision.
- 7.53 **The proposal would satisfy Policy 45 with the addition of appropriate planning conditions.**
- 7.54 **Policy 49: Demolition of Listed Buildings** - states applications for the demolition of a listed building or an unlisted building that is worthy of retention in a conservation area must be fully supported by reports on the condition and marketing history of the building along with a feasibility study which explores the viability of retaining the building in active use. Applications for demolition shall be required to be in accordance with Historic Scotland's "Scottish Historic Environment Policy". Where the demolition of a building is acceptable, applications must be supported by acceptable proposals for the redevelopment or treatment of the cleared site.
- 7.55 The facade is the only part of the building which is listed Category C. It is not possible to retain the facade in its current form as the access is too narrow for safe access by modern vehicles including emergency vehicles and the buildings to the rear are in poor condition. The application therefore proposes the demolition of the façade.
- 7.56 Planning permission was previously granted under applications 11/00110/FULL, 14/00616/FULL and 18/00127/FULL for the demolition and rebuilding of the façade. The principle of demolishing the façade is therefore established.
- 7.57 The applicant has submitted a Structural Report and Stone Condition Report with the application. The reports state that lower areas of the external façade have been adversely affected by the application of exterior paint which has prevented the stone from breathing, trapping water and consequently causing the structural deterioration of the saturated sandstone due to frost and constant wetting and drying. In addition, growth and foliage are present over the façade whose roots shall have caused damage to the masonry elements. There may be some sandstone freestone elements which may be salvaged and used in other building work. However, the bulk of the brickwork, concrete blockwork, random rubble masonry and freestone shall only be suitable for recycling by crushing on down taking.
- 7.58 The reports conclude that the down taking the façade would result in poor recovery of structurally reliable usable freestone. The existing stonework is therefore not suitable for re-use and would not allow for the reconstruction of the façade in its pre-existing form.
- 7.59 As the existing stone is not of a sufficient quality to be used in the proposed development, the applicant proposes to demolish the existing façade and build the flats within the south of the site from modern materials.
- 7.60 The proposed flats which would occupy the site would be of a design which reflects the form and character of the Tay Rope Works façade. Whilst the proposals would result in the loss of the Category C listed façade, the proposal would allow for the redevelopment of the application site and bring a vacant site into use.
- 7.61 The stone of the existing façade may not be suitable for re-use, however there is scope for features such as the existing 'Tay Rope Works' signage to be retained and used in the

proposed development. This would support the preservation of historic features within the façade.

- 7.62 The applicant has provided reports on the condition of the building which demonstrate the re-use of the existing stone is no longer viable. The demolition of a building is acceptable as it is supported by proposals for the redevelopment of the cleared site.
- 7.63 The demolition of the facade is the subject of a separate Listed Building Consent application 18/00146/LBC which is to be determined by Planning Committee.
- 7.64 **The proposal would satisfy Policy 49.**
- 7.65 **Policy 50: Development in Conservation Areas** - requires developments to preserve or enhance the character of the area and retain features which contribute to its character.
- 7.66 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 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. The proposed development would therefore improve the environmental quality of the Conservation Area.
- 7.67 The proposed development incorporates a façade onto Magdalen Yard Road which seeks to maintain the character of the existing façade whilst including modern materials and design. The proposals are for a frontage which is of a similar scale and form to that previously approved at the site. The proposed frontage is of an appropriate design, subject to the provision of high quality finish materials to ensure the frontage onto Magdalen yard Road integrates into the existing streetscape and contributes positively to the character of the Conservation Area.
- 7.68 The proposals would see various alterations to the existing boundary walls and factory walls to provide a minimum of 1.8 metres high boundary treatments. Within the south east of the site the existing low walls are in poor condition and the applicant proposed to replace these with timber fencing. Within the south west of the site the existing brick walls are to be retained. Within the north of the site the applicant proposes to lower sections of the former factory walls and add fencing to create a 1.8 metre high boundary. To preserve the character of the site and Conservation Area the existing factory walls should be retained and repaired where required. To ensure the boundary treatments are of an appropriate height and quality the submission of further details of all alterations and repairs for agreement with the Council will be subject of a planning condition should Members be minded to grant planning permission.
- 7.69 The proposals would retain the elongated form of the application site and create a new lane similar to the many lanes which are a characteristic of the Perth Road Lanes Conservation Area. The development would also remove a long standing area of dereliction which has been partly vacant for many years.
- 7.70 The scale of the south most block relates well to the taller adjoining tenement on Magdalen Yard Road and the detached villa to the west. The proposed design of the south elevation which seeks to replicate the appearance of the Tay Rope Works façade and incorporate a modern glazed element incorporates a mix of traditional and modern finishes such as zinc and stone. Within the site dwellings are to be finished in modern materials such as wet dash render. The inclusion of "Tay Rope Works" signage within the proposed development would contribute positively to the character of the proposed development and wider conservation area. Full details of the incorporation of the signage from the existing façade within the proposed development can be controlled by condition.

- 7.71 The West End Lanes Conservation Area is characterised by its street patterns and narrow lanes. The streets and character of residential development in the local area create a unique environment of densely developed residential tenements and terraces with large villas in generous grounds.
- 7.72 **The proposal satisfies Policy 50.**
- 7.73 **It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.**

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)(SCOTLAND) ACT 1997

- 7.74 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.
- 7.75 Section 64 of the Act requires that the Council have special regard to any buildings or other land in a conservation area and special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the area.
- 7.76 It is considered, for the reasons set out above that sufficient justification has been provided for the demolition of the Tay Rope Works façade to facilitate the development of a long standing derelict site and to demonstrate re-use of the existing stone would no longer be feasible. The proposed residential development, including the modern and traditional elements of the proposed frontage onto Magdalen Yard Road are considered to preserve the character of the Conservation Area.
- 7.77 For similar reasons to those set out under the assessment of the proposals against the requirements of Policy 48 and Policy 50 above, the application complies with the relevant provisions of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- 7.78 **It is concluded from the above assessment that by approving the application the Council would be discharging its statutory duties in an appropriate manner.**

OTHER MATERIAL CONSIDERATIONS

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

A - VIEWS OF OBJECTORS

Thirteen letters of objection were received, raising the following concerns.

- 7.80 **Objection** - the proposals would have a detrimental impact on privacy and security through overlooking and alteration of boundary walls.
- 7.81 **Response** - windows of the proposed flats would afford views into the application site and onto Magdalen Yard Road to the south. The orientation of the windows ensures there is no significant overlooking of neighbouring property. The houses are low profile and designed to minimise any impact on adjacent dwellings by overshadowing or overlooking. Whilst there are some proposed windows on the east and west sides of the houses, they are at ground floor level and the boundary walls will prevent any significant overlooking. Whilst the applicant proposes to lower a number of the boundary walls, this will not be appropriate. Conditions are therefore proposed to seek full details of all boundary treatments in order to ensure that the walls are kept to an appropriate height. In order to ensure that the ground and floor levels are

appropriate relative to the boundaries, a condition is proposed to seek details of existing and proposed ground levels and finished floor levels relative to surround land and buildings. On that basis there would not be any significant impact on privacy.

7.82 **Objection** - the proposals would have a detrimental impact on residential amenity through overshadowing, increased noise and overdevelopment of the site.

7.83 **Response** - the scale and design of the proposed low profile houses ensures there is no significant overshadowing of neighbouring property. The proposed flats would not result in any significant increase in overshadowing or overlooking due to their form and the position of windows. The proposed residential development is of a density and layout which would be appropriate to the surrounding area and form of the application site. Noise associated with the proposals would be in keeping with a residential development within an established residential area.

7.84 **Objection** - the proposals would have a detrimental impact on parking provision in the surrounding area and increase existing parking pressures.

7.85 **Response** - the proposal is for 9 units with three access points. Each dwelling is to have dedicated parking provision, and an off-street communal parking area is proposed for the flats in accordance with the requirements of Policy 9 of the Local Plan. It is considered that there will be a minimal increase in traffic generation and congestion resulting from the occupants of these 9 dwellings. The accesses to the north and east of the site would have no impact on existing parking provision. The proposals would require an access to be formed onto Magdalen Yard Road however this would not result in any significant loss of on street parking provision.

7.86 **Objection** - the proposals would have a detrimental impact on the character of the West End Lanes Conservation Area.

7.87 **Response** - the new development addresses the frontage to Magdalen Yard Road and will maintain the character of the former Rope works facade. The glazed element of the Magdalen Yard Road frontage is of an appropriate modern design which integrates into the site and wider street scene. The detached houses are designed to fit into the narrow site of the former Rope works, without affecting the privacy of the surrounding properties. The applicant proposes to lower sections of the former factory wall within the north of the site to form dwarf walls with timber fencing above. This would reduce the height of the boundary treatments from up to 4 metres to 1.8 metres. This would not maintain the character of the site and could have a detrimental impact on privacy. To ensure the proposed boundary treatments and alterations of existing walls maintain privacy and the character of the West End Lanes Conservation Area the submission of further details of all alterations and repairs for agreement will be the subject of a planning condition.

7.88 The views of the objectors are not of sufficient weight to justify refusal of the application.

B - JUSTIFICATION FOR DEVELOPMENT

7.89 This is a unique application site in terms of form and layout, with a planning history of residential development.

7.90 This site has remained vacant and semi-derelict for a number of years and does not make a positive contribution to the character of the West End Lanes Conservation Area. It bounds a number of residential properties with varying impact on their amenity and security. It is a site which requires a unique and innovative design in order to provide a high quality development.

The proposals fail to comply with the Policy 9 in the Dundee Local Development Plan 2014 as there is no private communal amenity space for the proposed flats.

- 7.91 The site lies close to Magdalen Green which provides high quality open space and the proximity, quality and size of this open space is sufficient to offset the requirement for 100m² of communal garden ground in this particular instance. It is also considered that the 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. Whilst the façade of the Tay Rope Works will be lost, the design of the proposed flats within the south of the site will contribute positively to the character and setting of the Conservation Area. These are sufficiently strong material considerations to offset the deficiency in amenity space within one part of the development.
- 7.92 These are material considerations of sufficient weight to justify approval of the application contrary to the Development Plan.

C - DUNDEE LOCAL DEVELOPMENT PLAN 2

- 7.93 The Proposed Dundee Local Development Plan 2 was approved by the Council on 21 August 2017. It sets out the spatial strategy that will guide future development up to 2029.
- 7.94 The proposed Dundee Local Development Plan 2 will in time replace the Dundee Local Development Plan 2014. Approval of the Proposed Dundee Local Development Plan 2 represents the Planning Authority's settled view as to what the final adopted content of the Plan should be. Whilst the Dundee Local Development Plan 2014 (along with TAYplan) constitutes the statutory Development Plan, the Proposed Dundee Local Development Plan 2 has the status of a material planning consideration to be taken into account in the assessment of planning applications.
- 7.95 The provisions of the Proposed Dundee Local Development Plan 2 relevant to the determination of this application are specified in the Policy background section above.
- 7.96 There are no material changes to these policies which would affect the outcome of the present planning application.
- 7.97 **It is concluded from the foregoing that there are material considerations support the approval of planning permission.**

8 CONCLUSION

- 8.1 The proposal fails to satisfy the requirements of the Policy 9 of the Local Development Plan in relation to the amenity space afforded to the proposed flats. However, the proposals would provide a high quality residential development within close proximity to Magdalen Green and result in the re-development of a long standing derelict site within the West End Lanes Conservation Area. These are material considerations of sufficient weight to justify approval of the application subject to conditions and the recording of a of an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997, between the Council and parties with appropriate interests in the land.

9 RECOMMENDATION

Recommendation 1

- 9.1 This planning permission shall not be issued unless and until an obligation 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 obligation will relate to the prohibition of any of the dwellings hereby approved becoming a house in multiple occupation in accordance with the Development Plan.

Recommendation 2

- 9.2 It is recommended that consent be GRANTED subject to the following conditions:

- 1 **Condition** - development shall not begin until a Preliminary Risk Assessment is completed and, if required, an Intrusive Investigation 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 assessment of the risks associated with contaminant sources, pathways and receptors specific to the proposed use of the site, and if necessary;
- ii a remediation Implementation Plan detailing measures to treat/remove contamination and mitigate risks to ensure the site is fit for the proposed use;
- iii measures to deal with contamination during construction works; and
- iv verification sampling, testing, certification and monitoring of the site to demonstrate suitability for the proposed use on completion of remediation measures.

Reason – in the interests of the amenities of the future occupants of the residential accommodation.

- 2 **Condition** - before any unit is occupied any measures to decontaminate the site required by compliance with Condition 1 shall be fully verified and approved in writing by the planning authority.

Reason – in the interests of the amenities of the future occupants of the residential accommodation.

- 3 **Condition** – prior to the commencement of work on site, details of the proposed finishing materials of the development hereby approved shall be submitted to the Council for written approval. Thereafter, the proposed development shall be finished in strict accordance with the details approved by this condition.

Reason – to ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.

- 4 **Condition** – prior to the commencement of development, tree protection fencing in accordance with BS5837:2012 shall be erected around the tree which is 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 Council prior to any movement of the fencing.

Reason – 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 **Condition** – prior to the commencement of development, a scheme of landscaping shall be submitted to and approved by the Council, and it shall include indications of all existing trees and hedgerows on this land, and details of any to be retained, together with measures for their protection in the course of development in accordance with BS5837:2012. Full details of new planting and landscaping shall also be submitted to and approved by the planning authority prior to the commencement of 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.

Reason - to ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.

- 6 **Condition** – the alterations and repairs to the boundary treatments of the whole site shall be completed in accordance with details (including a timescale) which shall be submitted to the City Council for approval prior to the commencement of development. The works shall be carried out only in accordance with such approved details. For the avoidance of doubt, the proposed dwarf walls with timber fencing above are not approved and repairs to boundary walls shall be carried out using matching materials. For any sections of the wall which require to be demolished, full details of the proposed replacement boundary treatment and a time scale for the completion of the works, shall be agreed in writing prior to the commencement of the works. Thereafter, the approved boundaries shall be retained and maintained to be the approved height.

Reason - in order to safeguard the visual amenity of the Conservation Area and to protect the amenities of neighbours.

- 7 **Condition** – details of the proposed vehicle accesses must be agreed prior to any works on site and the accesses must be formed and constructed to Dundee City Council specifications.

Reason - in the interests of vehicle and pedestrian safety.

- 8 **Condition** – any existing accesses that are no longer required as part of the proposed development must be made good as footway to Dundee City Council specifications. Details of these alterations must be agreed prior to any works on site.

Reason - in the interests of vehicle and pedestrian safety.

- 9 **Condition** – a Street Lighting system must be provided by the applicant to Dundee City Council standards and specifications.

Reason – in the interests of vehicle and pedestrian safety.

- 10 **Condition** - the hard surface within the site should be made of porous materials or provision should be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

Reason - to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

- 11 **Condition** – unless permission has been granted in writing by the City Council, the garages hereby approved shall be retained for the parking of a motor vehicle and shall not be converted to form additional living accommodation associated with the dwelling.

Reason - in the interests of the safety of residents and in order to prevent access by unauthorised vehicles due to the restricted nature of the site and the access and exit points.

- 12 **Condition** – before the any of the residential units is first occupied the car parking and manoeuvring areas indicated on the approved drawings shall be provided and thereafter kept available for use at all times.

Reason – the site is very restricted, with a narrow, one way, private road serving the dwellings. Each unit must retain two parking spaces to ensure that there is sufficient "off street" parking for residents and visitors in the interests of the amenities of all residents.

- 13 **Condition** – full details of the proposed garden boundary treatments shall be submitted for approval prior to the commencement of the development and if approved, the boundaries shall be completed in accordance with the approved details prior to the first occupation of the relevant dwellings.

Reason - in order to safeguard the visual amenity of the Conservation Area.

- 14 **Condition** – no works in respect of the construction of the house on plot 1, which gains access, both pedestrian and vehicle, from the car park off Seafield Lane, shall commence unless there is a binding legal agreement to allow such access, in perpetuity, and the applicant has confirmed such details, to the Council, in writing.

Reason - in the interests of the amenities of the future occupants of the dwelling on plot 1.

- 15 **Condition** – prior to the commencement of any development, full details of the proposed means to deal with surface water on this site shall be submitted to the Council for approval and if approved, the works shall be carried out only in accordance with such approved details. The full design details of the drainage system shall include appropriate calculations, written confirmation that the design is acceptable to Scottish Water and information on the future maintenance of the system.

Reason – in order to ensure that surface water is dealt with in an acceptable manner in accordance with statutory requirements.

- 16 **Condition** – 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.

Reason - to ensure that appropriate precautionary measures are undertaken in the event that bat habitats have become established on the site.

- 17 **Condition** – prior to the commencement of development, full details for the safe removal, storage and subsequent reinstatement of the Tay Rope Works signage into the development hereby approved shall be submitted to the Council for written approval. For the avoidance of doubt, the information shall include a timetable and method statement

for the reinstatement of the signage. Thereafter, the signage shall be finished in strict accordance with the details approved by this condition.

Reason - in order to safeguard the visual amenity of the Conservation Area.

- 18 **Condition** – prior to the commencement of the development hereby approved, cross sections through the site showing existing and proposed ground levels and proposed finished floor levels relative to surrounding land and buildings shall be submitted to and approved in writing by the Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and be maintained as such thereafter.

Reason - in the interests of minimising the impact on privacy and amenity.

- 19 **Condition** – prior to the commencement of the development hereby approved, full details of provision for secure indoor cycle storage for the flats shall be submitted to and approved in writing by the planning authority. Thereafter, the approved storage shall be implemented prior to the occupation of any of the flats hereby approved and be retained as such thereafter.

Reason - in order to promote sustainable means of transport.

- 20 **Condition** – prior to the commencement of the development hereby approved, full details of provision for charging points for electric vehicles within the communal parking area shall be submitted to and approved in writing by the planning authority. Thereafter, the approved charging points shall be implemented prior to the occupation of any of the flats hereby approved and be retained as such thereafter.

Reason - in order to promote the renewable energy technology in the interests of the environment.