

Proposed Exterior Seating at Unit 4, Shore Terrace

KEY INFORMATION

Ward Maryfield

Address

Footpath at 4 Shore Terrace,
Dundee

Applicant

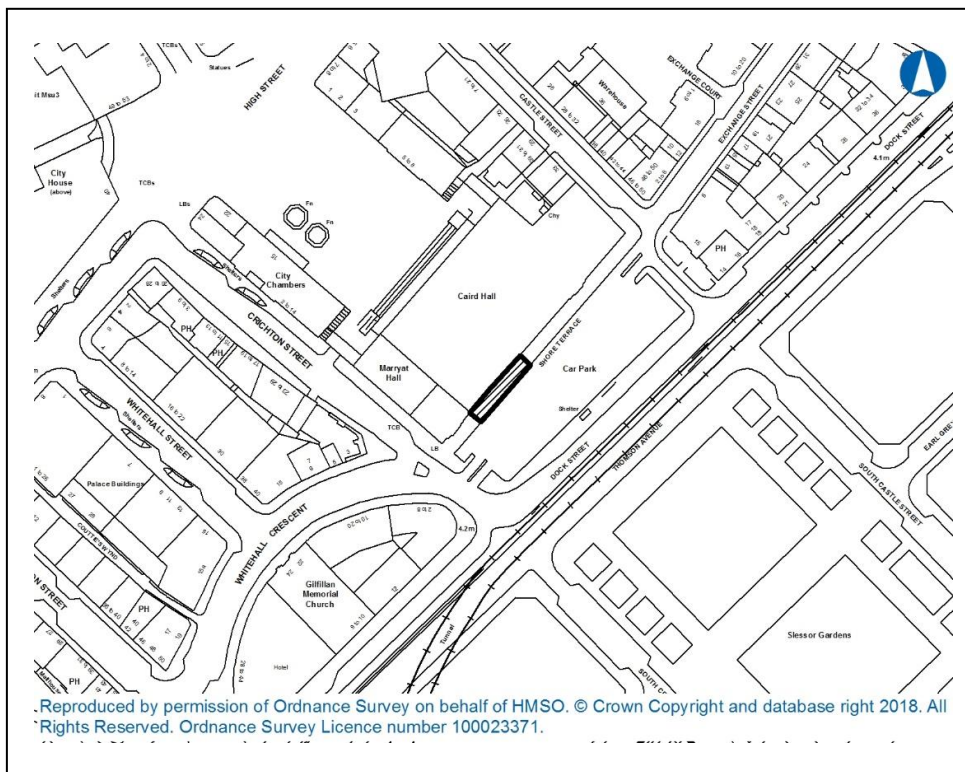
Tayone Food Ltd
97B Fort Street
Broughty Ferry
Dundee DD5 1D

Agent

Jon Frullani
Unit 5, District 10
25 Greenmarket
Dundee DD1 4QB

Registered 6 June 2018

Report by: Executive
Director of City Development



SUMMARY OF REPORT

- The application is for an area of outdoor seating on the main street frontage of a restaurant in the city centre. The outdoor seating proposed consists of two rows of 8no tables and 2no chairs to provide seating for up to 32 patrons.
- The application site is an area of public footway (19700mm x 4925mm) on Shore Terrace which runs parallel to the rear (south) elevation of the Category A listed Caird Hall.
- The application site is within the Central Conservation Area.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as an objection was received from a statutory consultee and the application is recommended for approval subject to conditions.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>.

RECOMMENDATION

The proposed exterior seating at Unit 4, Shore Terrace is recommended for **APPROVAL** subject to conditions.

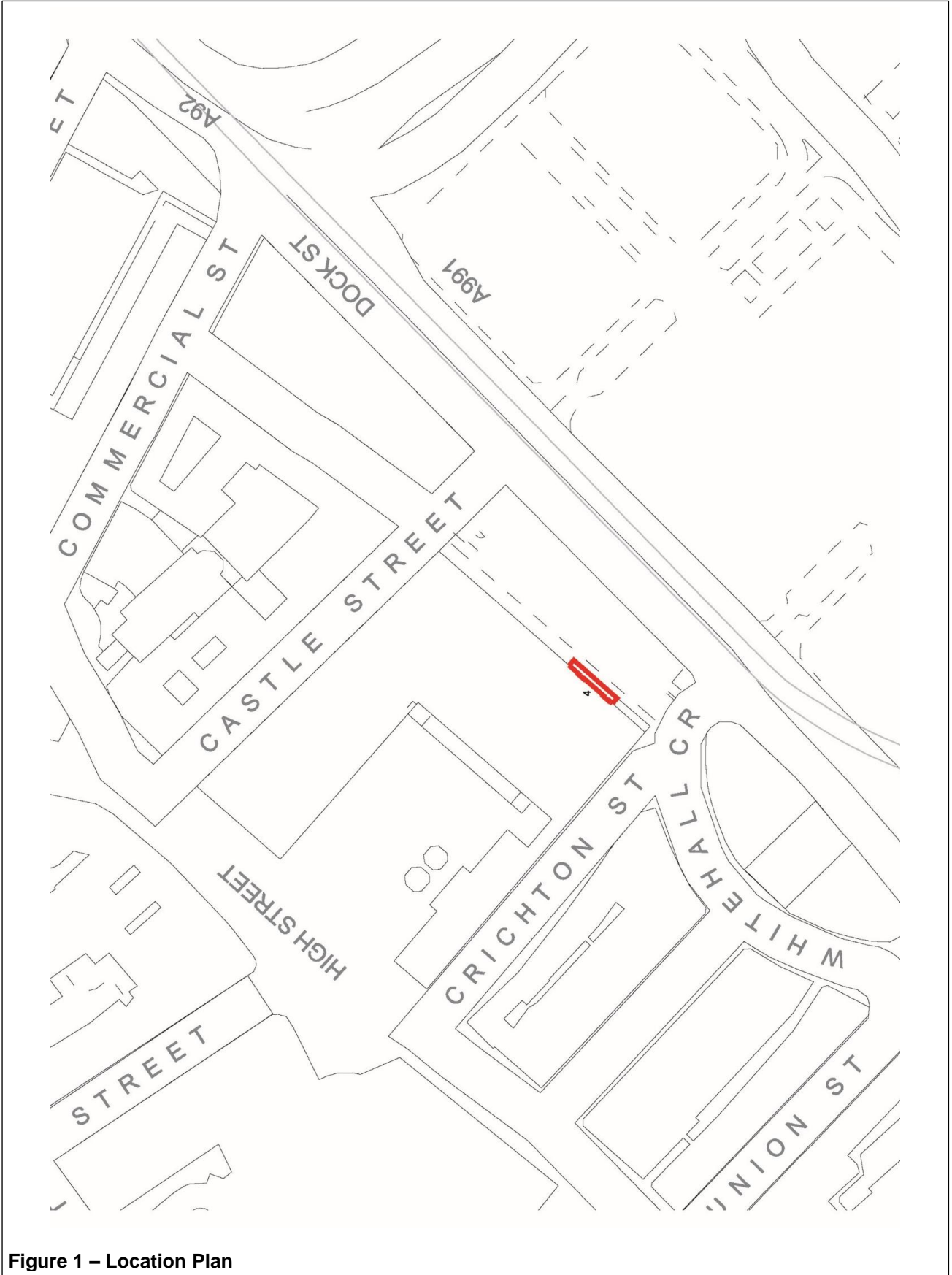
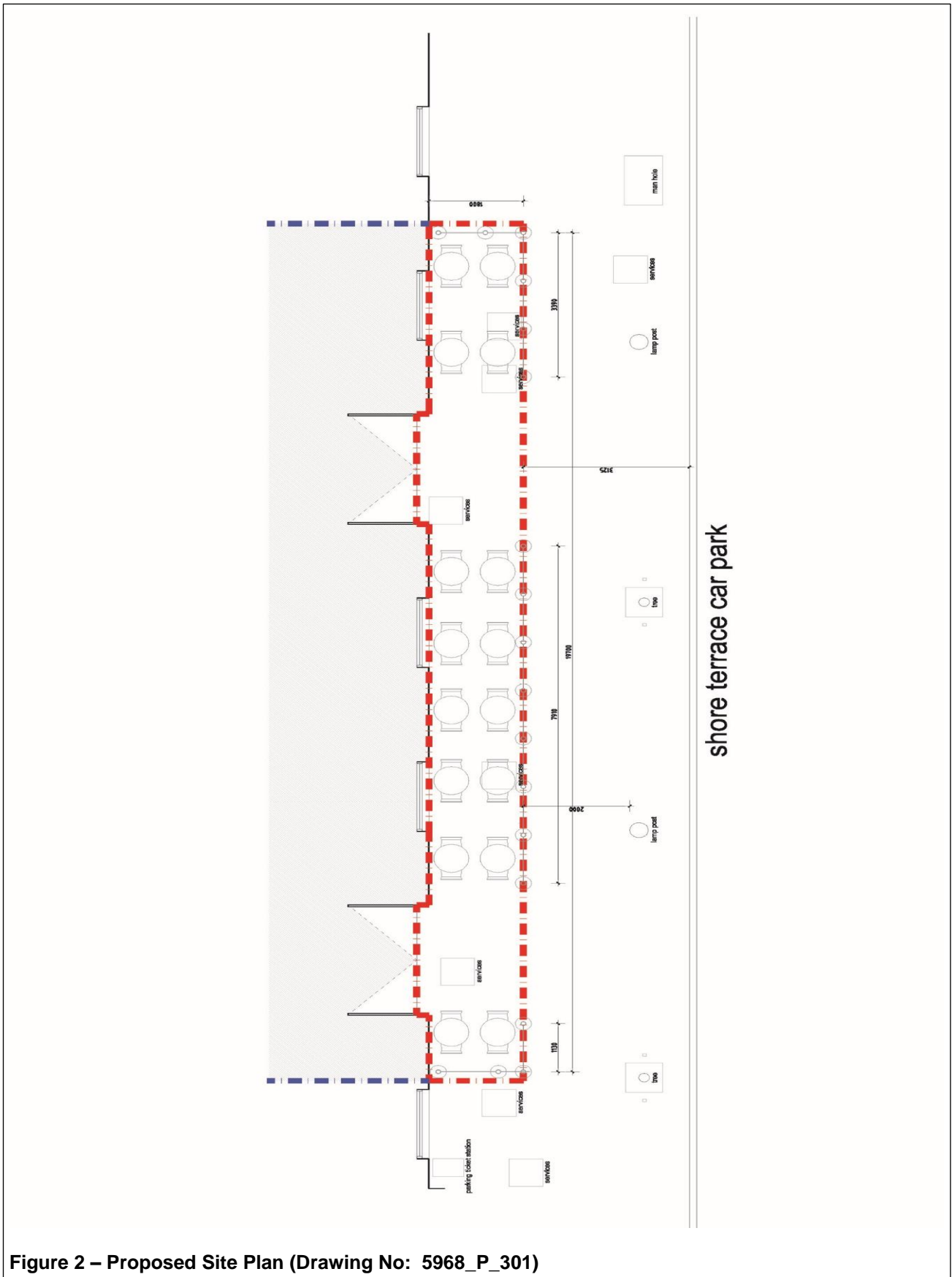


Figure 1 – Location Plan



1 DESCRIPTION OF PROPOSAL

- 1.1 The application is for an area of outdoor seating on the main street frontage of a restaurant in the city centre. The proposed outdoor seating consists of two rows of 8no tables and 2no chairs to provide seating for up to 32 patrons. A post and base barrier measuring 1,125mm in height is proposed between the outdoor seating area and the public footway.

2 SITE DESCRIPTION

- 2.1 The application site is an area of public footway (19,700mm x 4,925mm) on Shore Terrace. It is located on the main street frontage of a ground floor unit (Unit 4 Shore Terrace) on the rear (south) elevation of the Caird Hall.
- 2.2 Planning permission was granted in August 2015 to convert the former ground floor offices at the rear of the Caird Hall on Shore Terrace for Class 1 (Retail), Class 3 (Food and Drink) or Sui Generis (Public House) purposes.
- 2.3 Brassica, a Class 3 (Food and Drink) Use, recently opened within Unit 4.
- 2.4 The application site is within the city centre. The Caird Hall is category A listed and is located in the Central Conservation Area.





Figure 4 – Shore Terrace Looking West

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 47: Environmental Protection

Policy 50: Development in Conservation Areas

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN 2

Policy 1: High Quality Design and Placemaking

Policy 39: Environmental Protection

Policy 49: Listed Buildings

Policy 51: Development in Conservation Areas

NON STATUTORY STATEMENTS OF COUNCIL POLICY

Dundee Waterfront Masterplan (2001)

Dundee City Council – Streets Ahead – A Design Guide (2005)

- 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 Planning permission was granted in August 2015 to convert the former ground floor offices at the rear of the Caird Hall on Shore Terrace for Class 1 (Retail), Class 3 (Food and Drink) or Sui Generis (Public House) purposes.
- 4.2 A restaurant (Brassica) opened in June 2018 at 4 Shore Terrace and applications for signage for this unit were approved (18/00293/LBC and 18/00294/ADV).

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.
- 5.2 The application was also advertised in the Dundee Evening Telegraph as affecting the setting of the Central Conservation Area and an A-listed building.
- 5.3 One letter of support was received which commented that: *“It would be great to see some more café/restaurant/life on the streets in Dundee – more of this please! The proposal will greatly improve the interest on-street and vibrancy in the area.”*
- 5.4 One letter of objection was received from the City Centre & Harbour Community Council on the grounds that the double tables will cause excessive blockage of the pavement.

6 CONSULTATIONS

- 6.1 **The Head of Community Safety and Protection** – was consulted and due to the proximity of residential accommodation requested conditions are attached to any planning permission

granted to ensure there is no amplified music or vocals provided/performed and the hours of operation of the outdoor seating area are restricted to the following times:

- September to June – 08:00 – 21:00 hours; and
- July and August – 08:00 – 22:00 hours.

6.2 **City Centre & Harbour Community Council** – raised an objection to the proposal on the grounds that the double tables will cause excessive blockage of the pavement.

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 DEVELOPMENT PLAN

- 7.2 **Policy 7: High Quality Design** - this policy requires all development to contribute positively to the quality of the surrounding built and natural environment and to respect the character and amenity of the place. The policy adopts a design criteria approach which requires development proposals to consider and respect site topography and any supporting important landmarks, views or skylines; contribute to a sense of identity; complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours; existing buildings structures and natural features that contribute to the local townscape should be retained and sensitively integrated into the proposals.
- 7.3 The proposal is acceptable in respect of design and location. The width of the public footpath on Shore Terrace is 3,925mm and the proposed outdoor seating area is 1,800 mm wide. As part of the proposal a 2,000mm clearance for users of the public footpath is allowed for between the proposed seating area and existing street furniture.
- 7.4 The outdoor seating respects the character and amenity of the place and will create an active street frontage promoting street dining and a vibrant café culture in the city centre.
- 7.5 **The proposal satisfies Policy 7.**
- 7.6 **Policy 47: Environmental Protection** - all new development or an extension to an existing development that would generate noise, vibration or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area.
- 7.7 New development or an extension to an existing development in close proximity to existing sources of noise, vibration or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses.
- 7.8 The Head of Community Safety and Protection was consulted and recommends that given the proximity of residential accommodation conditions are attached to any planning permission

granted to restrict the hours of operation of the outdoor seating area and to ensure no amplified music or vocals be provided/performed.

- 7.9 Scottish Government guidance on the use of conditions is set out in The Use of Conditions in Planning Permissions Circular 4/1998. This states that imposing planning conditions needs to be exercised in a manner which is fair, reasonable and practicable. It outlines that planning conditions should only be imposed where they are necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise and reasonable in all other aspects.
- 7.10 The proposal will create an active street frontage promoting street dining and a vibrant café culture in the city centre. The recommendation to restrict the hours of operation of the outdoor seating area is unnecessary and unreasonable given that the application site is located within the city centre and there is no residential accommodation immediately above or adjacent to the site. It fails to meet Scottish Government guidance set out in Circular 4/1998 outlined above.
- 7.11 The nearest residential property is located on the south-east corner of Whitehall Crescent over 35 metres from the application site. A condition to ensure no amplified music or vocals be provided/performed within the outdoor seating area is fair and reasonable and meets Scottish Government guidance set out in Circular 4/1998 outlined above.
- 7.12 **With the inclusion of a condition the proposal satisfies Policy 47.**
- 7.13 **Policy 50: 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 that contribute to the character and appearance of the conservation area.
- 7.14 The application site is located in the Central Conservation Area. The proposal will create a vibrant streetscape in the city centre and enhance the character of the surrounding area.
- 7.15 **The proposal satisfies Policy 50.**
- 7.16 **It is concluded from the foregoing that the proposal complies with the provisions of the development plan.**

OTHER MATERIAL CONSIDERATIONS

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

A - PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN 2

- 7.18 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.
- 7.19 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.
- 7.20 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.

- 7.21 There is a material change with the introduction of Policy 1 (High Quality Design and Placemaking) which requires new development to meet Scottish Planning Policy's six qualities of successful place. The scale, nature and location of the development will determine the extent to which the qualities are appropriate to the assessment process.
- 7.22 In respect of this proposal, there is one relevant quality, 'Safe and Pleasant', which requires development to create vibrant and attractive places with a sense of security through encouraging activity. It promotes active frontages and encourages social and economic interaction and activity.
- 7.23 In line with this, the proposal will create an active street frontage promoting street dining and a vibrant café culture in the city centre. The proposal satisfies Policy 1.
- 7.24 A further material change is Policy 49 (Listed Buildings) which now considers development in close proximity to a listed building or within the curtilage which could affect the setting of the listed building.
- 7.25 The application site is an area of public footway located on the rear (south) elevation of the Caird Hall, a category A listed building.
- 7.26 The small scale and non-permanent nature of the proposal will not affect the setting of the A-listed building. The proposal satisfies Policy 49.
- 7.27 There are no other material changes. The proposal complies with the provisions of the Proposed Dundee Local Development Plan 2.

B - STATUTORY DUTY

- 7.28 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that special regard is given to the desirability of preserving listed buildings or their setting or any features of special architectural interest which they possess when determining applications for planning permission. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 7.29 For the reasons set out above the proposed development complies with national planning guidance with regard to development affecting a Conservation Area or the setting of a listed building.
- 7.30 The statutory duty set out in Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 would be discharged through the approval of planning permission.

C - CAIRD HALL CIVIC SPACE – DUNDEE WATERFRONT

- 7.31 Located to the south of the Caird Hall complex between Crichton Street and Castle Street, this space within Dundee Waterfront, which is currently used for car parking, has been designed as a multi-use area hosting self-contained events or for use as a temporary extension to activities such as conferences associated with the Caird Hall complex.
- 7.32 Looking onto the space, the former Dundee City Council housing offices below the Caird Hall have been vacated and converted to commercial units. The street level frontages offer an opportunity to create active frontages and contribute to the areas character and placemaking.

- 7.33 The Brassica restaurant opened in June 2018 and the second unit is anticipated to be occupied in 2018 by The St Andrews Brewing Company.

D - VIEWS OF OBJECTORS

- 7.34 **City Centre and Harbour Community Council** – raised an issue with regards to the double tables and commented that this will cause excessive blockage of the pavement.

- 7.35 **Response** - the width of the public footpath on Shore Terrace is 3,925mm and the proposed outdoor seating area is 1,800 mm wide. As shown on a drawing submitted with the application (Figure 2: Drawing No 5968_P_301), a 2000mm clearance for users of the public footpath is allowed for between the proposed seating area and existing street furniture. This is in line with the Council's Streets Ahead (2005) document.

- 7.36 The concerns of the objector are not of sufficient weight to justify refusal of the application.

E - LETTER OF SUPPORT

- 7.37 One letter of support was received which commented that: *"It would be great to see some more café/restaurant/life on the streets in Dundee – more of this please! The proposal will greatly improve the interest on-street and vibrancy in the area."*

- 7.38 **It is concluded from the foregoing that are no material considerations of sufficient weight to justify refusal of planning permission.**

8 CONCLUSION

- 8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

- 9.1 It is recommended that consent be GRANTED subject to the following condition:
- 1 **Condition** - at no time shall amplified music or vocals be provided/performed in the outdoor seating area hereby approved.

Reason - in the interests of safeguarding residential amenity.