

Erection of 12 Flats and One Shop Unit

KEY INFORMATION

Ward Coldsid

Address

Land to the North of 222 Hilltown, Dundee

Applicant

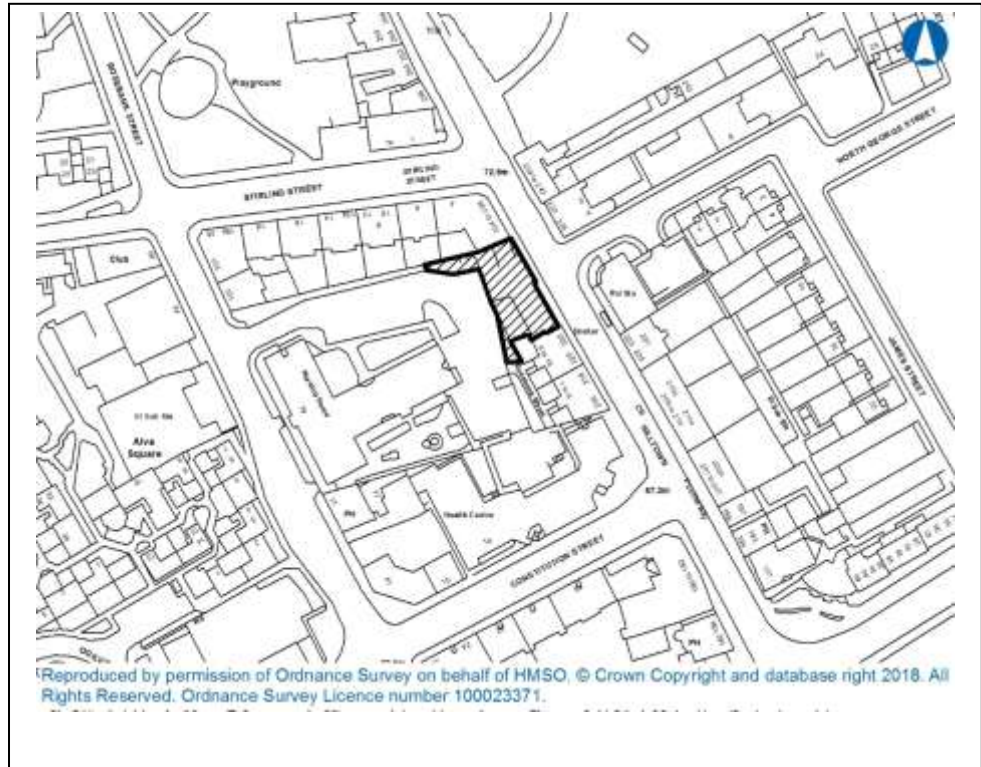
Sydhur Properties (Dundee) Ltd, Nether Kinfauns Church Road, Kinfauns Perth PH2 7LD

Agent

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Registered 22 Aug 2018

Report by: Head of Planning and Economic Development



SUMMARY OF REPORT

- Planning permission in principle is sought for the erection of 12 flats and one Class 1 retail shop unit. Indicative plans have been submitted, however, the detailed layout and design are not for consideration as part of this application.
- The statutory neighbour notification procedure was undertaken and the application was advertised in the local press. Four letters of objection have been received, and one letter of representation neither objecting nor offering support.
- The application does not fully comply with the Dundee Local Development Plan 2014 as it does not meet the required standards in relation to parking or garden ground provision. However, there are material considerations due to the particular site constraints that are of sufficient weight to justify a departure in this instance.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee at the request of an elected member.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>.

RECOMMENDATION

The application does not fully comply with to the Dundee Local Development Plan 2014 in terms of parking and lack of garden ground. There are material considerations of sufficient weight to justify approval of the application. It is therefore recommended that the application is APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 The application seeks planning permission in principle for the erection of 12 residential flats and 1 retail unit, as a renewal of planning permission 15/00370/PPPL, which expired in August, 2018. Indicative plans have been submitted with the application documents which illustrate a 4/5 storey development, with a retail unit and one flat to the ground floor, three flats to each of the first, second and third floors and two flats to the fourth floor. The indicative montage shows a building of modern design with balcony space and a small communal garden area. No off-street parking provision is proposed.
- 1.2 This is an application for planning permission in principle and the indicative layout and design are not for consideration at this stage. Should Committee approve planning permission in principle, these matters would be considered in a further application for matters specified in condition.



Figure 1 – Indicative Site and Floor Plans



Figure 2 – Indicative Hilltown Elevation

2 SITE DESCRIPTION

- 2.1 The application site measures 436m² and is located on the Hilltown, within the Hilltown District Centre and Retail Frontage Area, to the north of the city centre. The site is allocated within the Dundee Local Development plan and identified as H21, 224/232 Hilltown, with an indicative capacity for 10 units. The site is also within the Hilltown Physical Regeneration Framework Area and is located on the Hilltown spine. The vacant site was formerly shops with flats over, which were demolished following a fire. The site is currently boarded for safety and contains steel supports for the adjoining buildings. Surrounding land uses are commercial and residential, with adjacent tenement style buildings ranging from two to four storeys. The adjoining tenement to the north of the application site is category B listed.



Figure 3 – Site Photo

3 POLICY BACKGROUND

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

ADOPTED DUNDEE LOCAL PLAN 2014

Policy 7: High Quality Design
Policy 8: Housing Land Release
Policy 9: Design of New Housing
Policy 21: District Centres Retail Frontages
Policy 29: Low and Zero Carbon Technology in New Development
Policy 42: Sustainable Drainage Systems
Policy 45: Land Contamination
Policy 47: Environmental Protection
Policy 55: Accessibility of New Developments

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN 2

Policy 1: High Quality Design and Placemaking
Policy 9: Housing Land Release
Policy 10: Design of New Housing
Policy 21: Town Centre First Principle
Policy 23: District Centres Retail Frontages
Policy 37: Sustainable Drainage Systems
Policy 39: Environmental Protection
Policy 41: Land Contamination
Policy 48: Low and Zero Carbon Technology in New Development
Policy 49: Listed Buildings
Policy 54: Safe and Sustainable Transport

NON STATUTORY STATEMENTS OF COUNCIL POLICY

The Hilltown Physical Regeneration Framework 2008

- 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 application 11/00023/PPPL sought planning permission in principle for the erection of 12 flats and 1 shop. The application was refused at committee in May 2011, the decision then overturned and allowed at appeal in August, 2011.
- 4.2 Planning application 15/00370/PPPL sought the renewal of planning permission in principle 11/00023/PPPL for the erection of 12 flats and 1 shop. This was approved under delegated powers in August, 2015.

5 PUBLIC PARTICIPATION

- 5.1 Four letters of objection have been received along with one letter neither objecting nor supporting the proposals. Concerns have been raised in relation to the lack of car parking,

disruption during construction, encouragement of antisocial behaviour, the need for the development and lack of progress since 2011.

6 CONSULTATIONS

- 6.1 **The Head of Community Safety and Protection** – has recommended that a preliminary risk assessment for contaminated land is submitted, given the former uses of the application site. A noise impact assessment is also recommended, predominantly to assess road traffic noise.

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** – requires all development to contribute positively to the quality of the surrounding environment, with reference to climate change adaptation. The design and siting of development should respect the character and amenity of the place and improve connectivity. Proposals should also incorporate new landscape and planting works appropriate to the development. Proposals should also:
- 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;
 - existing 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.
- 7.3 The application is for planning permission in principle and the detailed layout and design are not for consideration as part of this application. However, the application has submitted indicative site layout and elevation plans to show a modern 4/5 storey high development that directly fronts the street.
- 7.4 The application site relates to a gap site within an active street frontage and the indicative plans submitted with the application documents illustrate that an appropriate solution can be achieved in response to the urban streetscape. Whilst the proposed plans are indicative, they demonstrate that a design and layout of an appropriate scale, massing and design could be achieved through consideration of a further application.

- 7.5 **The proposal could satisfy Policy 7.**
- 7.6 **Policy 8: Housing Land Release** - seeks to ensure that there is a five year effective supply of housing land maintained over the plan period.
- 7.7 The principle of residential development on this site has been established through its status in the Dundee Local Development Plan (2014) Appendix 2 as brownfield housing site H21 224/232 Hilltown, which has an indicative capacity for 10 units. Appendix 2 provides capacities for each housing allocation site to ensure that sufficient land is allocated. While capacities for each site are provided, it is still incumbent on any proposed development to demonstrate that the design and layout is in accordance with the Local Development Plan policies. It is therefore accepted that the number of units that can actually be accommodated may increase or decrease from the identified given capacity. It has been demonstrated in this case that a minor increase to 12 units can be accommodated on the site.
- 7.8 **The proposal satisfies Policy 8.**
- 7.9 **Policy 9: Design of New Housing** - advises that the design and layout of new housing developments in Dundee should create places that enhance the identity of the different parts of the city. Within the terms of Policy 9, all new housing development is also required to conform to the guidance set out in Appendix 3 of the Adopted Local Development Plan.
- 7.10 The application seeks planning permission in principle and therefore many of the details associated with Policy 9 (Design of New Housing) of the Dundee Local Development Plan 2014 cannot be fully assessed at this time and will therefore be dealt with by a further application for the approval of matters specified in conditions of the current application. However, the principle of flats on the site can be considered in the context of Policy 9 as follows.
- 7.11 The site is located within the Inner City area as defined by the Dundee Local Development Plan 2014. In terms of the Inner City standards set by Appendix 3, flats are permitted where identified in a site planning brief, site specific circumstances demand a flatted solution or conversion of an existing building of merit is proposed. Due to the townscape nature of the area where most of the buildings fronting Hilltown are of tenement style of two storeys or more, a flatted development is considered to be most appropriate for this site and would allow any development to be in keeping with the urban grain. Additionally, it is relevant to note that the proposed development would replace a former commercial use with flats above within a gap site and this also justifies flats on the site in this instance.
- 7.12 Appendix 3 requires that flats should have a minimum of two bedrooms or a gross floor space of 60m². Whilst this is not a matter for which permission is sought at this time the indicative floor plans indicate that site could be developed with 12 flats that would be capable of meeting this requirement. The principle of developing flats at this location is therefore acceptable.
- 7.13 The parking standards for the Inner City area state that generally, private flats should have 130%. This may be reduced depending on the provision of on-street parking. The applicant proposes no off street parking spaces within the curtilage of the site. There are on street parking restrictions in front of the site and the on street parking provision within the vicinity of the site is well used. The lack of proposed parking provision does not fully comply with Policy 9.
- 7.14 In terms of cycle parking, this is a matter of detailed design that would be assessed in any further application for matters specified in condition. However, the indicative floor plans

illustrate an indoor cycle parking area on the ground floor of the development and that demonstrates that the proposal could comply with the requirements of Appendix 3.

- 7.15 Regarding amenity/garden ground, there should be an area of 100m² of communal garden ground or 10m² per flat, whichever is greater, for a development of this nature. Drying areas are required in addition. Private communal garden provision may be reduced if balconies that are useable and attractive in terms of size and outlook are provided. The indicative plans show that a communal area of 33m² is proposed. In addition, a private courtyard area measuring approximately 45m² is proposed for the ground floor flat. Whilst 45m² would be acceptable for the ground floor flat, the 33m² would not meet the required standard for the other 11 flats. No drying areas are shown on the indicative drawings. The indicative plans do indicate that it will be possible to provide each of the upper floor flats with an outdoor balcony space but again, that would be a matter of detailed design for consideration in any further application for matters specified in condition. The proposals does not fully meet the requirements of the policy in this instance.
- 7.16 In terms of privacy, the standards require a minimum of 18m between the facing windows of habitable rooms. Again this is a matter of detailed design which will be considered in any further application for matters specified.
- 7.17 The application does not fully comply with the standards of Appendix 3 in relation to parking and provision of amenity/garden ground.
- 7.18 **The proposal does not fully accord with the provisions of Policy 9.**
- 7.19 **Policy 21: District Centres Retail Frontages** - states that within the District Centre Retail Frontage Areas defined on the Proposals Map and Appendix 6 of the adopted Local Development Plan, uses within Class 1, 2 and 3 which would contribute to the vitality and viability of the district centre will be encouraged, other uses will not be supported.
- 7.20 In this case, the site is located within the District Centre. A retail unit is proposed to the ground floor of the development, which would fully accord with the terms of Policy 21. A residential flat is also illustrated to the ground floor on the indicative drawings, which would not comply with policy. However, the detailed design and layout of the proposal are not for consideration as part of this application and are reserved for the consideration of an application for Matters Specified in Condition.
- 7.21 **The proposed ground floor retail unit satisfies Policy 21.**
- 7.22 **Policy 29: Low and Zero Carbon Technology in New Development** - requires that, for specified developments, carbon emissions will be reduced by defined percentages through the installation and operation of zero-carbon generating technologies. An appropriate condition is proposed that would ensure that a Statement is submitted in accordance with the terms of Policy 29.
- 7.23 **With the addition of a planning condition, the proposal would satisfy Policy 29.**
- 7.24 **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.
- 7.25 The application is for planning permission in principle and drainage design details are matters that are for consideration as part of a future application for Matters Specified in

Condition. It is considered that an appropriate drainage design could be developed with the submission of detailed plans for the site.

- 7.26 **With the addition of planning conditions, the proposal could satisfy Policy 42.**
- 7.27 **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.
- 7.28 The Head of Community Safety and Protection has recommended that a preliminary risk assessment for contaminated land is submitted, given the former uses of the application site, including a dye works and laundry. These have the potential to leave residual contamination. Conditions to ensure that a contaminated land assessment is submitted are recommended to any planning permission granted.
- 7.29 **With the addition of planning conditions, the proposal could satisfy Policy 45.**
- 7.30 **Policy 47: Environmental Protection** - asks that all new development that would generate noise, vibration or light pollution is required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New 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 the viability of existing businesses or uses.
- 7.31 The Head of Community Safety and Protection has recommended that a noise impact assessment is undertaken, predominantly due to the potential for the proposed flats to be affected by road traffic noise. Other noise sources should also be considered, including any proposed plant/equipment for the retail unit. There should be a demonstration that compliance with noise requirements can be achieved. It is recommended that a planning condition is appended to any planning permission in principle, ensure that the development would not be adversely affected by noise and would not have a detrimental impact on any other adjacent properties.
- 7.32 **With the addition of a planning condition, the proposal could satisfy Policy 47.**
- 7.33 **Policy 55: Accessibility of New Developments** - seeks that all development proposals which generate travel should be designed and well served by all modes of transport and development proposals are required to incorporate facilities for walking, cycling and public transport networks. Proposals should also comply with Dundee City Council's road design standards.
- 7.34 In this case, the application site is demonstrated to be accessible by all modes of transport, with public transport provision close at hand, the site is easily accessible from the city centre by foot or bus. The site is also located within a District Centre, with access to a full range of goods and services.
- 7.35 Current road design standards require that 130% parking provision should be provided for the development. This requirement may be increased or decreased in light of on street and off street parking provision nearby. The application proposes that no parking provision is made, which does not fully comply with the requirements of Policy 55.
- 7.36 **The proposal does not fully accord with the provisions of Policy 55.**

- 7.37 It is concluded from the foregoing that the proposal does not fully comply with the provisions of the development plan.

OTHER MATERIAL CONSIDERATIONS

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

A - JUSTIFICATION FOR A DEPARTURE FROM POLICY IN RELATION TO PARKING AND AMENITY/GARDEN GROUND

- 7.39 The applicant has stated that the proposed development would fill a gap site and replace the former restaurant and shops with flats above, which were demolished following a fire at the site. Due to the townscape nature of the area, where most of the buildings fronting Hilltown are of tenement style and are of two storeys or more, a flatted development is considered to be the most appropriate for this site and would allow any development to be in keeping with the urban grain. In certain circumstances it is recognised that it is difficult to fully achieve all Policy requirements, particularly when sites are constrained as this one is.
- 7.40 The buildings in this part of the Hilltown are located hard onto the street and it is anticipated that the siting of any new building should be the same in the interests of good urban design. In terms of the urban form it is desirable that any new development on this site respects the existing hard urban edge street form. This is the preferred form of development in terms of appearance and this further impacts upon the ability of the site to realistically provide on site car parking.
- 7.41 In addition, the site is easily accessible from the city centre by foot or bus and represents a location where reliance on the motor vehicle could be limited. It is also located within the Hilltown District Centre where there are a variety of services and shops within close vicinity. The site is therefore extremely accessible and occupiers would have access to a full range of goods and services within walking distance.
- 7.42 A justification for the lack of parking has been submitted by the applicant. Undercroft parking was considered during the determination of planning permission in principle application 11/00023/PPPL as unsuitable, as it would not preserve the active street function and could create an anti-social environment. As such, the particular site constraints here demonstrate that it would not be possible to provide the required parking provision within the curtilage of the site. It is also relevant to note that a flatted development without parking was also previously granted planning permission at the appeal of the original application in 2011, and again granted planning permission in 2015. On that basis, the lack of parking provision is considered to be acceptable.
- 7.43 In terms of amenity/garden ground, it is not considered possible to add a new building onto this site that both responds to the townscape needs and to the requirements of Appendix 3 of the DLDP in terms of garden ground, drying green provision and private car parking facilities. Balconies have been shown on the indicative plans which could provide either a fully enclosed or fully open area. It is considered that given the location and site constraints, the potential for a development on this site to fall short of the full requirements in relation to amenity/garden ground is justified in this instance.
- 7.44 These are material considerations of sufficient weight to justify approval of planning permission in principle contrary to the requirements of Appendix 3 and Policy 9.

B - PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN 2

- 7.45 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.
- 7.46 The proposed Dundee Local Development Plan 2 will in time replace the adopted 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.
- 7.47 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.
- 7.48 Policy 21 Town Centre First Principle states that all new or expanded uses that would generate significant footfall should be located in the City Centre or District Centre first, unless it can be established that there are no suitable sites in the City or District Centre and that there would be no adverse effect on the vitality or viability of the centres. The application relates to a gap site within the Retail Frontage Area of a District Centre. The proposals would comply with the terms of Policy 21.
- 7.49 Policy 49 Listed Buildings seeks that development in close proximity to a listed building should have regard to the preservation or enhancement of the setting of the listed building.
- 7.50 In this case the adjoining tenement property to the north of the application site is category B listed. The proposals would bring a vacant gap site back into use and which would positively affect the setting of the listed building. The indicative plans illustrate that an appropriate solution could be achieved to enhance the setting of the listed building. However, the detailed design of the building is a matter for consideration as part of any future application for matters specified in condition. The proposal could satisfy Policy 49.
- 7.51 There are no other material differences in Policy and the requirements of the Proposed Dundee Local Development Plan are also satisfied.

C - HILLTOWN PHYSICAL REGENERATION FRAMEWORK

- 7.52 The framework seeks to ensure that new development increases housing choice across a range of sectors and tenures and to enhance the area as an attractive place to live. The proposed development would add to the choice of housing and is appropriate for the gap site. The indicative plans illustrate that the development would integrate visually within the street scene and adjacent developments. The application proposes new modern accommodation to a vacant gap site and this would improve the character and appearance of the area.
- 7.53 The proposal is in line with the Regeneration Framework.

D - VIEWS OF OBJECTORS

- 7.54 Four letters of objection and one letter raising concerns which is not objection or support have been received in relation to the proposals on the following grounds:
- lack of car parking;
 - disruption during construction;

- encouragement of antisocial behaviour;
- the need for the development; and
- lack of progress.

7.55 The points raised have been addressed earlier in this report. The lack of car parking has been justified based on the particular site constraints and the preservation of an active street frontage within a district centre. The need for the development is established by the inclusion of the site as a brownfield housing site as H21 and part of the five year effective supply of housing land. Disruption during construction, anti-social behaviour and lack of development to date are not relevant material planning considerations.

7.56 The issues raised in the letters of objection have been considered and addressed in the report and are not of sufficient weight to justify refusal of planning permission.

7.57 **It is concluded from the foregoing that there are material considerations of sufficient weight to justify the approval of planning permission.**

8 CONCLUSION

8.1 The proposal does not fully comply with the requirements of the Development Plan. There are material considerations that would justify approval of planning permission in terms of site specific circumstances for flatted accommodation with no parking provision or the required amount of amenity/garden ground. 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 the following conditions:

- 1 **Condition** - a further application for the Approval of Matters Specified by Condition shall be submitted for the written permission of this Planning Authority, in accordance with the timescales and other limitations set out in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended), together with the requisite detailed plans which shall include:
 - a a location plan of all the site to show generally the site, any existing boundary markers, layout of the roads and the position of all buildings;
 - b a detailed plan showing the site contours, the siting of the proposed buildings, finished floor levels, and details of any proposed boundary treatment;
 - c detailed plans, sections and elevations of the building(s) proposed to be erected on the site, together with details of the proposed finishing materials and a method statement to illustrate any works that would affect the adjacent listed building;
 - d a detailed plan to illustrate site drainage; and
 - e a detailed plan to illustrate refuse and recycling storage and collection areas.

The written permission of this Planning Authority shall be sought for these proposals prior to the commencement of any works on site.

For the avoidance of doubt, the illustrative plans submitted with the application are not hereby approved.

Reason – to ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

- 2 **Condition** – prior to the commencement of any works on site, a Sustainability Statement demonstrating the extent to which the development will meet the requirements of Policy 29 of the Adopted Dundee Local Development Plan (2014) shall be submitted for the approval of the Council and the works shall be completed in accordance with the approved Statement.

Reason – in order to demonstrate that the new development will meet the required carbon emissions reduction standards in the interests of the environment.

- 3 **Condition** – prior to the commencement of any works on site, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in section 26.7.1 of the CIRIA SUDS Manual (C753), and where appropriate SEPA comments shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

Reason – in the interests of flood protection.

- 4 **Condition** – prior to the commencement of any works on site, details of measures proposed to manage surface water run-off from the site during construction shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to construction works commencing on any part of the development hereby approved.

Reason – in the interests of flood protection.

- 5 **Condition** – prior to the commencement of any works on site, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDS features shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.

Reason – in the interests of flood protection.

- 6 **Condition** – prior to the commencement of any works on site, evidence of Scottish Water approval for the proposed drainage system for the development hereby approved shall be submitted to the Council for written approval.

Reason - the interests of flood protection.

- 7 **Condition** – prior to the commencement of any works on site, an appropriate remediation strategy shall be submitted to and approved in writing by this planning authority. The strategy shall contain proposals to deal with contamination to include:

- a the nature, extent and type(s) of contamination on the site;
- b measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
- c measures to deal with contamination during construction works; and
- d verification of the condition of the site on completion of decontamination measures.

Reason - in the interests of providing a site suitable for future development.

- 8 **Condition** – before any unit is occupied the remediation strategy shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation strategy have been achieved shall be submitted to and approved by the planning authority.

Reason - in the interests of providing a site suitable for future development.

- 9 **Condition** – prior to the commencement of any works on site, a Noise Impact Assessment shall be submitted to and approved in writing by this planning authority. The development shall thereafter be implemented in accordance with the details of the approved Noise Impact Assessment.

Reason – in order to ensure a satisfactory standard of amenity for occupiers of the units.