

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

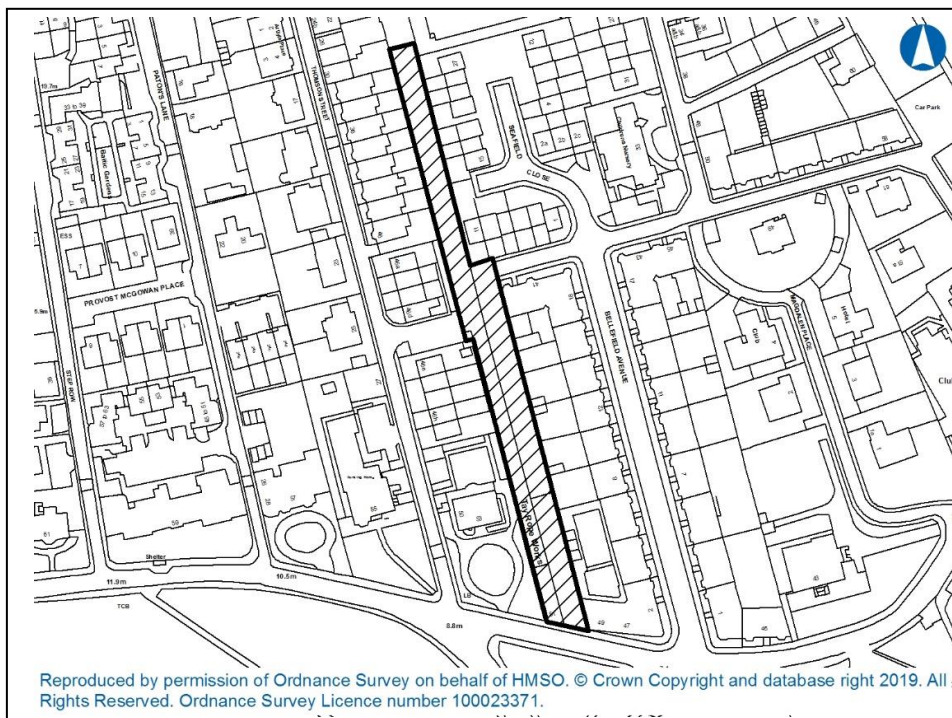
Agent

Denholm Partnership

Registered 25 April 2019

**Report by Head of Planning
& Economic Development**

Contact: Craig Swankie



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 November 2018 Planning Committee refused proposals for 5 houses and 4 flats on the site. Following consultation with the local community, the applicant has resubmitted proposals for 5 houses and 4 flats which are the subject of this planning application.
- 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. Seventeen objections were received raising concerns in relation to the loss of boundary walls, design of the proposals, cycle storage and impact on privacy.
- The application is referred to the Planning Committee for determination at the request of an elected member, as more than 6 valid objections have been received and as the application requires a legal obligation in respect of HMO occupation.

RECOMMENDATION

The application fails to fully comply with Policy 10 (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 and a Section 75 Obligation in respect of HMO occupation.

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. 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.
- 1.6 Following the refusal of application 18/00353/FULL for five houses and four flats within the former Tay Rope Works site in November 2018, the applicant arranged consultation meetings with the local community to discuss the sites boundary walls. The outcome of the discussions and a Structural Report detailing the condition of the walls has been submitted with the present application 19/00297/FULL. The design and form of the development, including the proposed houses, flats, boundary treatments and access roads remain as proposed under previous application 18/00353/FULL.
- 1.7 The applicant has submitted the following in support of the application:
- 1.8 The applicant has submitted the following in support of the application:
- Planning Statement (dated April 2019);
 - Design Statement (dated August 2018);
 - Stone Condition Report (dated August 2017);

- Façade Structural Report (dated September 2017); and
- Boundary Wall Structural Stability Report (dated March 2019).

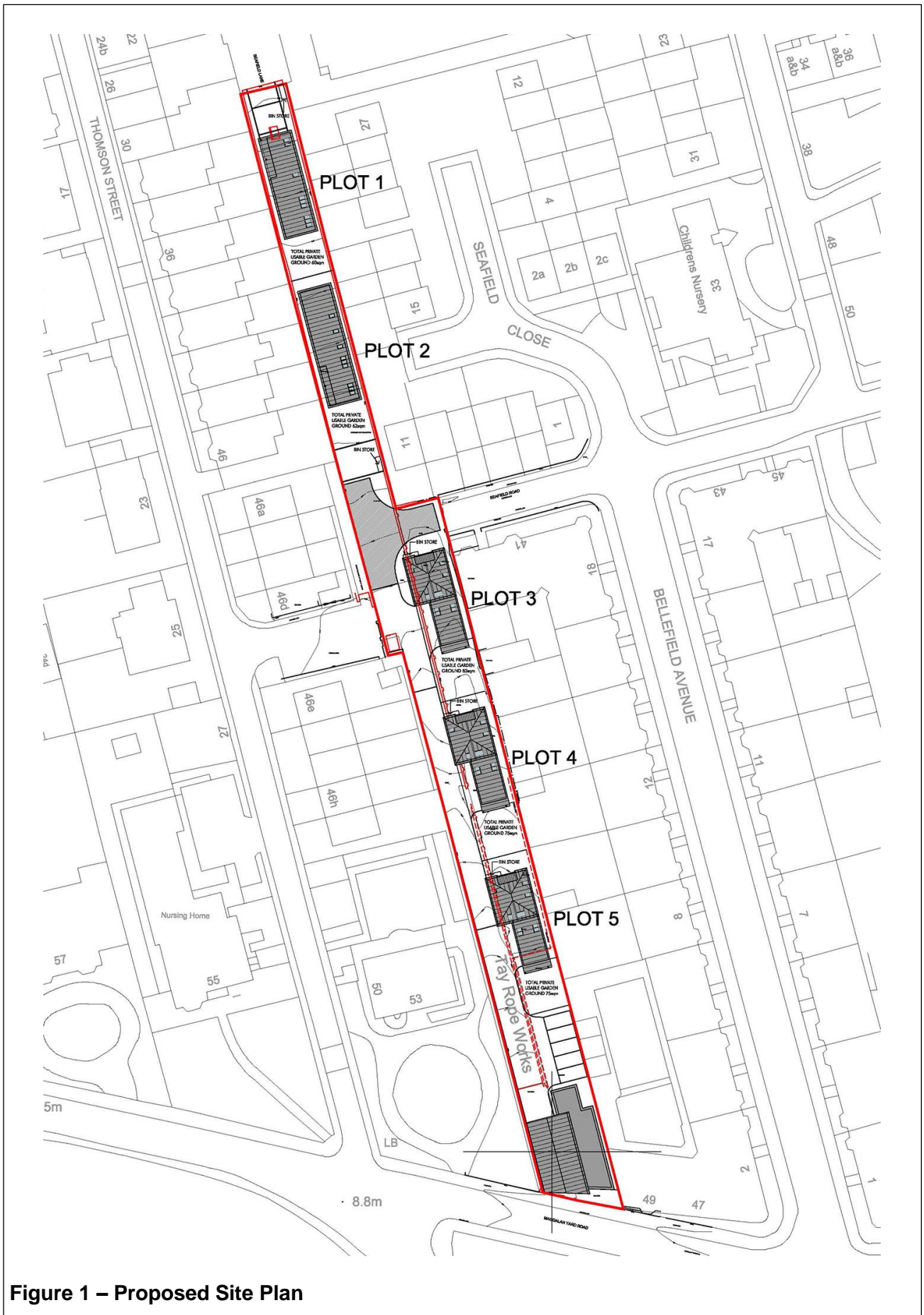


Figure 1 – Proposed Site Plan



Figure 2 – Proposed Frontage

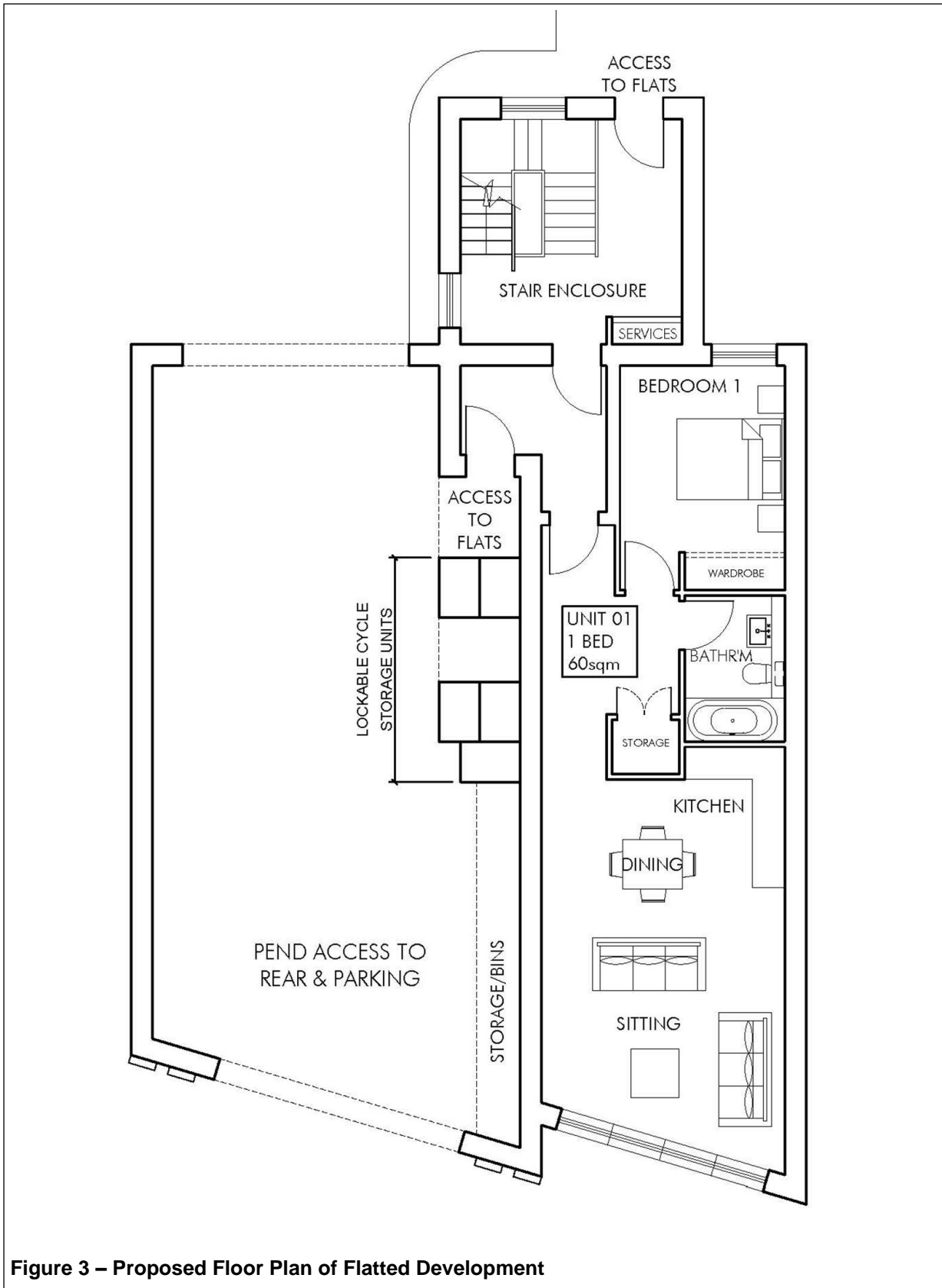


Figure 3 – Proposed Floor Plan of Flatted Development

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. The site 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:

TAYPlan 2016-2036

The application raises no issues of relevance.

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking

Policy 2: Public Art Contribution

Policy 9: Housing Land Release

Policy 10: Design of New Housing

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 Development

Policy 50: Demolition of Listed Buildings and Buildings in Conservation Areas

Policy 51: Development in Conservation Areas

Policy 52: Scheduled Monuments and Archaeological Sites

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;
- 18/00353/FULL sought planning permission for 5 houses and 4 flats. The application was refused in November 2018.
- 18/00372/LBC sought consent for the demolition of the Tay Rope Works façade. The application was refused in November 2018; and
- 19/00299/LBC is the current Listed Building Consent application for the demolition of the Tay Rope Works façade. 19/00299/LBC is to be determined by the Planning Committee.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 17 objections have been received raising the following material grounds:
- 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, increased parking and overdevelopment of the site;
 - insufficient details of proposed cycle parking to demonstrate useable storage is to be provided; and
 - the design and form of the proposed development and loss of the listed façade would have a detrimental impact on the character and appearance of the West End Lanes Conservation Area.
- 5.3 The grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 **The Head of Community Safety and Protection** – recommended that a Preliminary Risk Assessment be submitted with the application. Should members be minded to grant planning permission, the submission of a Preliminary Risk Assessment and the undertaking of any associated remediation works can be subject of planning conditions.
- 6.2 **Archaeological Consultant** – it is recommended a programme of standing building recording is undertaken by the applicant prior to any works on site. The undertaking of the recording works can be controlled by a planning condition should members be minded to grant planning permission.

7 DETERMINING ISSUES

Section 25 of the Town and Country Planning Act 1997 as amended 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 2019

- 7.1 **Policy 1: High Quality Design and Place Making** - states that all development proposals should follow a design-led approach to sustainable, high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned and designed with reference to climate change mitigation and adaptation.

The design and siting of development should respect the character and amenity of the place, create a sense of community and identity, enhance connectivity and incorporate creative approaches to urban design, landscaping and green infrastructure, appropriate to the local context and the scale and nature of the development.

- 7.2 New development will be required to meet the six qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.3 The proposal for five houses and four flats incorporates different house types with a mixture of in curtilage parking and integrated garages. The applicant proposes to finish the dwellings in modern materials including a 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 which reflects the width and form of the application site and would result in a distinctive development which integrates into the wider streetscape as required by Appendix 1. To ensure finish materials are of a suitably high quality it is recommended full details are controlled by condition.
- 7.4 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. The proposed mixture of houses and flats would provide a range of building density and typology within the site. The narrow form of the site results in boundary treatments being required for the full length of the site and to each garden plot. The applicant proposes sections of timber fencing and dwarf walls with timber fencing above. To ensure the boundary treatments contribute to the character of the site and provide a high quality streetscape, it is recommended boundary treatments and full landscaping details are controlled by condition should Planning Committee be minded to grant planning permission.
- 7.5 The proposed development 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. The lane would maintain the narrow character and form of access roads in the surrounding area and create an accessible and welcoming development as required by appendix 1. 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.
- 7.6 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. The layout of the site maintains the narrow form of residential developments in the West End and would create a coherent urban environment which supports a safe and welcoming development as required by Appendix 1.
- 7.7 Overall, the proposed development will make a positive contribution to the character and amenity of the area and bring a vacant site into use. The proposal is in accordance with Policy 1 as well as the six qualities of successful place.
- 7.8 **The proposal is in accordance with Policy 1, subject to conditions.**

- 7.9 **Policy 2: Public Art Contribution** - states all developments in Dundee with construction costs of £1 million or over will be required to allocate at least 1% of construction costs for the inclusion of art projects in a publicly accessible/visible place or places within the development.
- 7.10 The inclusion of art projects in a publically accessible/visible place or places within the development can be secured by condition should members be minded to approve planning permission.
- 7.11 **The proposal is in accordance with Policy 2, subject to a condition.**
- 7.12 **Policy 9: 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 3, 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.
- 7.13 This site is not identified as a brownfield housing site and therefore falls to be considered under the terms of Policy 9 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.
- 7.14 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. The principle of re-developing this brownfield site for residential development is considered to be acceptable.
- 7.15 **The proposal is in accordance with Policy 9.**
- 7.16 **Policy 10: Design of New Housing** - requires that the design and layout of new housing developments in Dundee should be of a high quality and contribute to creating places that build on and enhance the distinct character and identity of the different parts of the City.
- 7.17 The proposed development would be of high quality for the reasons explained above in the context of Policy 1. 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 4.
- 7.18 Appendix 4 Standards for Houses - the relevant Appendix 4 standards require proposed houses to provide a minimum of 2 bedrooms. In addition, 65% require to have 3 or more bedrooms or a minimum gross internal floor area of living accommodation of 100 sqm. All tenures should have at least 1 space, in addition 40% of private houses should have 2 spaces. A minimum private useable garden ground of 50 sqm should be provided for all houses. In addition, 30% should have garden ground of more than 75 sqm and a minimum window separation distance of 18 metres.
- 7.19 **The proposed houses meet the requirements of Appendix 4.**
- 7.20 Appendix 4 Standards for Flats - with regard to the proposed flats, Appendix 4 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 4 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 4.
- 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 provided details of secure storage lockers for cycles within the pend access of the flats.
- 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 4.
- 7.29 Appendix 4 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 4 with bin storage areas to be provided at each dwelling and within the pend for the flats. A condition is proposed to be attached to secure provision for charging points for electric vehicles should Members be minded to approve the application. Dedicated storage spaces are to be provided within each flat and within the entry areas of the access stairs to the flats.
- 7.30 It is considered that the proposal fails to comply with the requirements of Appendix 4 to Policy 10 in respect of the provision of amenity space for the 4 flats.
- 7.31 **The proposal does not fully comply with Policy 10.**
- 7.32 **Policy 16: Houses in Multiple Occupation** - states proposals for new HMOs within census output areas that already exceed 12.5% will not be supported.
- 7.33 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 application site falls within Thomson Street and Magdalen Yard Road census output area which presently exceeds 12.5% HMOs

- 7.34 The proposal is for a private residential development. However, as the proposals include properties with 3 bedrooms it would be appropriate in this instance to restrict the use of the properties. 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.
- 7.35 A section 75 agreement will therefore be required should members be minded to grant planning permission.
- 7.36 **The proposal satisfies Policy 16, subject to a Section 75 agreement.**
- 7.37 **Policy 34: 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.
- 7.38 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.
- 7.39 Whilst a bat surveys has not been undertaken in recent years, there has been no significant changes to the application site and the existing buildings which provide limited roosting potential. Therefore a further bat survey is not required. It is recommended works within potential roosting sites are undertaken by hand within any derelict buildings and trees are to be inspected prior to any felling. These matters can be controlled by condition should members be minded to grant planning permission.
- 7.40 **The proposal would comply with Policy 34 subject to a condition being attached.**
- 7.41 **Policy 35: Trees and Urban Woodland** - states the Council will support the establishment and enhancement of woodland, tree belts and corridors. New development must ensure the survival of woodland, hedgerows and individual trees, especially healthy mature trees, of nature conservation or landscape value through sensitive site layout both during and after construction, unless removal has been approved in advance by the council. Where appropriate, development proposals must be accompanied by maintenance arrangements and justification for the removal of any trees or hedgerows.
- 7.42 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.
- 7.43 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.
- 7.44 It is recommended that Members agree to condition these matters should they be minded to approve the application.
- 7.45 **The proposal would satisfy Policy 35 subject to a condition being attached.**
- 7.46 **Policy 37: Sustainable Drainage Systems** - states Surface water discharging to the water environment from new development must be treated by a Sustainable Drainage System

(SuDS) except for single houses or where discharge is to coastal waters. SuDS should be designed so that the water level during a 1:200 year rainstorm event plus allowances for climate change and future urban expansion is at least 600mm below finished floor levels. This incorporates an allowance for the effect of climate change. In addition, proposals will be encouraged to adopt an ecological approach to surface water management, ensure an appropriate level of treatment and exploit opportunities for the system to form an integral part of the Dundee Green Network through habitat creation or enhancement through measures such as the formulation of wetlands or ponds. Proposals should have no detrimental impact on the ecological quality of the water environment.

- 7.47 The applicant has provided a Preliminary Porosity Assessment which demonstrates the site could accommodate a SUDS system. However, full details of a sustainable drainage system have not been provided. The applicant is required to fully demonstrate how surface water and road water will be dealt with within the application site prior to the commencement of any development. It is recommended that planning conditions are applied to ensure full details of the sites drainage system are agreed before any development can commence.
- 7.48 **The proposal would satisfy Policy 37 subject to a condition being attached.**
- 7.49 **Policy 41 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.
- 7.50 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.
- 7.51 **The proposal would satisfy Policy 41 with the addition of appropriate planning conditions.**
- 7.52 **Policy 48: Low and Zero Carbon Technology in New Development** - states proposals for all new buildings will be required to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technologies.
- 7.53 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.
- 7.54 **The proposal would satisfy Policy 48 subject to a condition being attached.**
- 7.55 **Policy 50: 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.
- 7.56 The Tay Rope Works 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.

- 7.57 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.
- 7.58 The applicant has submitted a Stone Condition Report (dated August 2017) and Structural Report (dated September 2017) 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.
- 7.59 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.
- 7.60 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.
- 7.61 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.
- 7.62 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.
- 7.63 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.
- 7.64 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.
- 7.65 **The proposal is in accordance with Policy 50.**
- 7.66 **Policy 51: Development in Conservation Areas** - states 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.
- 7.67 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.

- 7.68 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.
- 7.69 The applicant proposes various alterations to the existing boundary treatments factory walls to provide a minimum of 1.8 metres high boundary treatments to the sites east and west boundaries. In support of the proposed boundary treatments the applicant has provided a survey of the condition of the existing factory walls. The report concludes the walls which include sections of traditional brick and infilling with modern materials are unstable and require to be taken down to ensure they are not at risk of collapse. The proposed boundary treatments reflect the findings of the report. 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 north of the site the applicant proposes to lower sections of the former factory walls to 0.8 meters and add fencing to create a 1.8 metre high boundary. Within the south west of the site the existing brick walls are to be retained. To ensure the boundary treatments are of an appropriate height and the proposed 0.8 metre high walls incorporate material from the existing factory walls, it is recommended the submission of full details of all boundary treatments are required by planning condition should Members be minded to grant planning permission.
- 7.70 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.
- 7.71 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.
- 7.72 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.
- 7.73 **The proposal is in accordance with Policy 51.**
- 7.74 **Policy 52: Scheduled Monuments and Archaeological Sites** - states where the development is considered to be acceptable and it is not possible to preserve the archaeological resource in situ, the developer will be required to make arrangements for an archaeological investigation. Planning conditions will be used and agreements sought to secure these arrangements.

- 7.75 The Tay Rope Works site dates from 1837, and retains the long and narrow form of the original factory. This rope works site a rare example of a type of industrial site which is specific to Dundee's maritime industrial heritage. The proposed development would occupy the site of the factory and result in the loss of the listed façade. To ensure the site is recorded ahead of works commencing the undertaking of a scheme of archaeological investigation and standing building recording will require to be provided. It is recommended the provision of a written scheme of investigation and a Data Structure Report (DSR) are required by planning condition should members be minded to grant planning permission.
- 7.76 **The proposal is in accordance with Policy 52, subject to a condition.**
- 7.77 **It is concluded that the proposal does not fully accord with the Development Plan.**

STATUTORY DUTIES

Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 as amended

- 7.78 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.
- 7.79 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.
- 7.80 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.
- 7.81 For similar reasons to those set out under the assessment of the proposals against the requirements of Policy 50 and Policy 51 above, the application complies with the relevant provisions of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- 7.82 **It is concluded from the above assessment that by approving the application the Council would be discharging its statutory duties in an appropriate manner.**

MATERIAL CONSIDERATIONS

- 7.83 The material considerations to be taken into account are as follows:
- A - VIEWS OF OBJECTORS**
- 7.84 Seventeen letters of objection were received, raising the following concerns.
- 7.85 **Objection** - detrimental impact on privacy and security through overlooking and the loss and alteration of boundary walls;
- 7.86 **Response** - The orientation of windows at the proposed flats and dwellings within the site 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 treatments will prevent any significant

overlooking. There are sections of boundary wall which are presently in excess of 2 metres, the applicant proposes to replicate this height. Conditions are proposed to seek full details of all boundary treatments in order to ensure that the walls are kept to an appropriate height. On that basis there would not be any significant impact on privacy.

7.87 **Objection** - detrimental impact on residential amenity through overshadowing, increased noise, increased parking and overdevelopment of the site.

7.88 **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 of garden ground of properties on Bellefield Avenue when compared to the existing overshadowing created by buildings at 47-49 Magdalen Yard Road. The proposed residential development is of a density and layout which would be appropriate to the surrounding area and form of the application site. 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 the Dundee Local Plan. The proposals provide sufficient onsite parking and would not exacerbate the existing on street parking pressures in the surrounding area. Noise associated with the proposals would be in keeping with a residential development within an established residential area.

7.89 **Objection** - insufficient details of proposed cycle parking to demonstrate useable storage is to be provided.

7.90 **Response** – the applicant has provided details of secure cycle storage for the proposed houses and flats. Dwellings within the north of the site are to be provided with an external lockable bike store and dwellings towards the centre of the site include integrated garages which provide secure storage. Within the pent access at the flats four lockable cycle storage units are to be provided, ensuring each flat has a secure space for cycle storage. The applicant has provided sufficient details to demonstrate sufficient secure cycle parking will be provided.

7.91 **Objection** - the loss of the listed façade and design and form of the proposed development would have a detrimental impact on the character and appearance of the West End Lanes Conservation Area.

7.92 **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.

7.93 The views of the objectors have been considered and are not of sufficient weight to justify refusal of the application.

B – JUSTIFICATION FOR DEVELOPMENT AND SUPPORTING INFORMATION

7.94 The applicant has provided a supporting statement and stone condition reports in support of the application.

7.95 The supporting statement provides details of the proposals, a policy assessment and outlines the steps taken by the applicant to address the communities concerns with the proposed boundary treatments following the refusal of application 18/00353/FULL.

7.96 To understand the communities concerns the applicants arranged a public meeting on 24th January 2019 at The Vine, Magdalen Yard Road to explain and discuss their proposals and to listen to the concerns of the neighbours. Prior to the event the applicants distributed leaflets

around all of the surrounding neighbouring properties. Approximately 20 members of the public attended the event and raised issues in relation to the boundary treatments. As a result of this, the applicants agreed that further work would be undertaken by structural engineers to assess the condition of the boundary walls.

- 7.97 At a follow up meeting the applicants then presented the findings and conclusions of the engineer's report at a meeting of the West End Community Council on 9th April 2019. The applicant considers the consensus from the residents is that they wish the development to proceed and understand that the factory walls require to come down. In submitting the present application, the applicant proposed to remove the factory walls and erect timber fencing. However, this raised concerns in terms of visual appearance. Following further discussions dwarf walls formed from the original brickwork of the factories walls where possible with timber fencing above is proposed as previous application 18/00353/FULL. The proposed boundary treatments are acceptable in principle, subject to full details being provided to ensure the height and form of the walls and fencing maintains the character of the site. This can be controlled by condition should members be minded to approve the application.
- 7.98 The applicant also acknowledges the reasons for refusal of previous application 18/00353/FULL which included the lack of dedicated outdoor amenity space for the proposed flats and that the stonework of the façade had not been demonstrated to be beyond retention.
- 7.99 With regard to the provision of amenity space, the site lies close to Magdalen Green which provides high quality open space. 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. There are sufficiently strong material considerations to offset the deficiency in amenity space within one part of the development. This site has remained vacant and semi-derelict for a number of years and in its present form does not make a positive contribution to the character of the West End Lanes Conservation Area. Overall, the design of the proposed residential development and use of a long standing vacant site are material considerations which weigh in support of the proposals.
- 7.100 The applicant has provided a stone condition report undertaken by Frew Conservation in August 2017 which considers the stonework of the listed façade is no longer in a condition where it can be re-used. The findings of the report are considered to be acceptable and 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. The applicant proposes to retain and re-use to Tay Rope Works signage from the listed façade and the new build elements are to include materials such as stone which reflect the character of the existing façade.
- 7.101 The issues raised in the supporting statements have been considered and addressed in the report. The grounds raised are of sufficient weight to justify approval of planning permission contrary to the provisions of the Development Plan.
- 7.102 **It is concluded that there are material considerations of sufficient weight in this case to justify approval of planning permission.**

8 CONCLUSION

- 8.1 The proposal fails to satisfy the requirements of Policy 10 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.

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

9 RECOMMENDATION

9.1 Recommendation 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.

9.2 Recommendation 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** – Prior to the commencement of development, full details of the height of the boundary treatments for the whole site (as illustrated on drawings Boundary Treatments (1 of 2) dated 10/05/18 and Boundary Treatments (2 of 2) dated 10/08/18) shall be submitted to the City Council for written approval. Thereafter, the works shall thereafter be carried out only in accordance with the approved details.

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 any of the residential units are 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 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.

- 20 **Condition** - prior to the commencement of work on site, details of a scheme of public art to be provided within the development hereby approved shall be submitted to the Council for written approval. Thereafter, the approved scheme of public art shall be installed prior to the completion of the development hereby approved.

Reason - in the interests of enhancing the amenity and environmental quality of the development.

- 21 **Condition** - prior to the commencement of work on site, the developer shall implement a programme of standing building recording in accordance with a detailed written scheme of investigation which has been submitted by the developer and approved in writing by this Planning Authority.

Reason - in order to safeguard the built heritage of the site and to ensure that the developer resources the investigation and recording of all historic fabric prior to its demolition by development.

- 22 **Condition** - A Sustainability Statement demonstrating the extent to which the new build elements of the development will meet the requirements of Policy 48 of the Dundee Local Development Plan shall be submitted for the approval of the planning authority and the works shall be completed in accordance with the approved Statement.

Reason - In the interest of reducing carbon emissions associated with the proposed development.