

City Chambers
DUNDEE
DD1 3BY

28th February, 2025

Dear Colleague

You are requested to attend a MEETING of the **PLANNING COMMITTEE** to be held remotely on Monday, 10th March, 2025 at 5.00 pm.

Members of the Press or Public wishing to join the meeting should contact Committee Services on telephone (01382) 434205 by Friday 7th March, 2025.

Yours faithfully

GREGORY COLGAN

Chief Executive

AGENDA OF BUSINESS

1 DECLARATION OF INTEREST

Members are reminded that, in terms of The Councillors Code, it is their responsibility to make decisions about whether to declare an interest in any item on this agenda and whether to take part in any discussions or voting.

This will include all interests, whether or not entered on your Register of Interests, which would reasonably be regarded as so significant that they are likely to prejudice your discussion or decision-making.

2 DEPUTATIONS

- (a) 22/00463/FULL – ERECTION OF EIGHT DWELLING HOUSES – LAND WEST OF 404-494 AND NORTH OF RIVERSIDE DRIVE, DUNDEE – FOR H & H PROPERTIES UK LTD

Requests have been made for a deputation to address the Committee relative to objections to and in support of the abovementioned application which is recommended for approval.

- (b) 24/00236/FULL – PROPOSED AIR SOURCE HEAT PUMPS AT DWELLINGHOUSES – 51 MAGDALEN YARD ROAD, DUNDEE - FOR F & H DEVELOPMENTS

Requests have been made for a deputation to address the Committee relative to objections to the abovementioned application which is recommended for approval.

- (c) 24/00703/FULL – ERECTION OF EIGHT HOUSES AND ASSOCIATED WORKS – FORMER COMMUNITY CENTRE, ANGUS STREET, DUNDEE – FOR ABERTAY HOUSING ASSOCIATION

Requests have been made for a deputation to address the Committee relative objections to and in support of the abovementioned application which is recommended for approval.

3 PLANNING APPLICATIONS

(Copy attached).

4 PLANNING APPEAL DECISION – AN6-2025

PLANNING APPLICATION 23/00617/PPPM: LAND TO SOUTH OF WEST GREEN PARK AND EAST OF DYKES OF GRAY ROAD (HOUSING SITE H42)

Planning Permission In Principle

Planning application 23/00617/PPPM sought planning permission in principle for residential development (up to 58 residential dwellings) with associated landscaping, open space, access, infrastructure, and other associated works. The application was refused by the Planning Committee at its meeting on 12 February 2024 for the following reasons:

- 1 the applicant has not provided a Statement of Community Benefit. The proposal therefore fails to explain the proposal's contribution to local housing requirements, local infrastructure and residential amenity contrary to Policy 16b of National Planning Framework 4. There are no material considerations of sufficient weight to justify approval of the application; and
- 2 the proposal fails to consider the need for affordable homes and does not propose any form of affordable housing. The proposal therefore fails to demonstrate compliance with Policy 16e of National Planning Framework 4. There are no material considerations of sufficient weight to justify approval of the application.

Planning appeal reference PPA-180-2072 was submitted to DPEA on 23 April 2024, and the Reporter appointed by Scottish Ministers issued a notice of intention to ALLOW the appeal and GRANT planning permission in principle on 6 August 2024.

Prior to the appeal Decision Notice being issued, a planning obligation relating to primary education contributions and a road upgrade required to be in place. The required planning obligation has now been completed and the Decision Notice granting planning permission in principle was issued on 13 January 2025 .

The full appeal decision can be accessed via:

[23/00617/PPPM | Residential development with associated landscaping, open space, access, infrastructure, and other associated works | Land To South Of West Green Park And East Of Dykes Of Gray Road Dundee](#)

Claim for Award of Expenses

The appellant submitted a claim for an award of expenses during the appeal process. The applicants appeal for an award of expenses was based on matters including the reasons for refusal not being relevant, sound or clear cut, and that the Council did not have reasonable planning grounds to refuse the planning application contrary to recommendation.

With regards to the first reason for refusal, the appellant states that the requirement for a stand alone Statement of Community Benefit was not expressed by the Council and that the information submitted with the application relating to the potential community benefits of the proposed development was included within the original application. Furthermore, the appellant considers that the requirements of NPF4 Policy 16 (Quality Homes) Part b) had been broadly met to the Council's satisfaction.

The Reporter found that by not submitting a Statement of Community Benefit, the appellant failed to comply with the wording as required under NPF4 Policy 16 b). The Council as decision maker was entitled to form an opinion on whether it considered the information submitted by the appellant satisfied the expectations of the policy. The provisions and expectations of NPF4 Policy 16 Part b) were available for the appellant to read and to ensure the application complied accordingly. Therefore, the Reporter found that that Council did not act unreasonably with regard to the first reason for refusal.

With regards to the second reason for refusal, the appellant considers that the Council incorrectly applied the provisions of NPF4 Policy 16 e) in the determination of the application, and that it was unreasonable for the Council to refuse the planning application on the basis of non-compliance with this policy. The appellant submits that the proposal was brought forward in accordance with local policy and guidance, which identifies in the Dundee Local Development Plan 2019 and Developer Contributions Supplementary Guidance that there is no requirement for housing developments to make provision for affordable homes.

The Council's position is that it was reasonable to reach the conclusion that the LDP and NPF4 were incompatible. The position was that the approach towards affordable housing in its LDP is not sufficient to meet the requirements of the lower affordable housing contribution exceptions illustrated in NPF4 Policy 16 e).

The Reporter found that the Council's approach Towards the Delivery of Affordable Housing as set out in its Adopted LDP And Statutory Supplementary Guidance was sufficient to be taken into consideration under the provisions of NPF4 Policy 16 e). The Reporter considers the Council did not provide substantive evidence to support its position that the LDP and Statutory Supplementary Guidance were no longer appropriate or had been superseded by an alternative approach to delivering affordable housing. The Reporter considers that the Council failed to clearly support its second reason for refusal and demonstrate that it had reasonable planning grounds for its decision, failing to provide sound reasons and demonstrate rational planning grounds for its decision on this matter. The Council was therefore found to have acted unreasonably with regards to reason 2.

In concluding assessment for the Claim for Award of Expenses, the Reporter stated that the Council did not act unreasonably by refusing the application on the first reason, therefore the appellant would have incurred costs in bringing the matter before the Scottish Ministers by appealing this first reason for refusal. In addition to this, the appellant has not provided any information regarding unnecessary expenses that had been incurred solely in relation to their appeal on the second reason for refusal. In conclusion, the Reporter found that the unreasonable behaviour from the Council regarding reason 2 had not resulted in the appellant incurring unnecessary expense. Therefore, no award of expenses was made.

5 PLANNING APPEAL DECISION – AN7-2025

PLANNING APPLICATION 23/00789/FULM: LAND TO SOUTH OF LINLATHEN GROVE, ARBROATH ROAD, BROUGHTY FERRY

Planning Permission

Planning application 23/00789/FULM sought planning permission for a residential development of 38 dwellings with associated infrastructure and landscaping. The application was refused by the Planning Committee at its meeting on 12 August 2024 for the following reasons:

- 1 The application site is designated as Open Countryside on the Dundee Local Development Plan 2019 Proposals Map. The proposed residential development fails to meet any of the criteria outlined by LDP Policy 31 and would result in development within the Open Countryside. There are no material considerations of sufficient weight which justify the approval of planning permission contrary to the requirements of the Development Plan.
- 2 The development fails to demonstrate that residents would be able to meet the majority of their daily needs within a reasonable distance of their home, by walking, wheeling or cycling or using sustainable transport options, contrary to the principles of local living. The application is therefore contrary to the requirements of NPF4 Policy 15a. There are no material considerations of sufficient weight which justify the approval of planning permission, contrary to the requirements of the Development Plan.
- 3 The application fails to demonstrate the development would be accessible by public transport. The application is therefore contrary to the requirements of NPF4 Policy 13b and LDP Policy 54. There are no material considerations of sufficient weight which justify the approval of planning permission, contrary to the requirements of the Development Plan.
- 4 The application site is not allocated for housing in the LDP and fails to meet the criteria contained within NPF4 Policy 16f. The application is therefore contrary to NPF4 Policy 16a and Policy 16f.

There are no material considerations of sufficient weight which justify the approval of planning permission contrary to the requirements of the Development Plan.

- 5 The development would not form part of a well-connected network, does not make moving around easy or reduce car dependency as required by the Six Qualities of a Successful Place. The application is therefore contrary to the requirements of NPF4 Policy 14b and LDP Policy 1. There are no material considerations of sufficient weight which justify the approval of planning permission contrary to the requirements of the Development Plan.

Planning appeal reference PPA-180-2073 was submitted to DPEA on 30 September 2024. Following review, the Reporter appointed by Scottish Ministers concluded that the proposed development failed to demonstrate the principal of housing in this location could comply with the Development Plan. This includes failing to comply with LDP Policy 9 and NPF4 Policy 16f in relation to not adhering to the Councils spatial strategy and failing to improve the tenure mix in an area where existing choice is limited.

The proposal was also considered contrary to NPF4 Policy 9 as the applicant did not clearly address the biodiversity mitigation hierarchy nor would the development significantly reduce the need to travel unsustainably due to factors including the distances to local facilities, the overall quality of key active travel connections, and the lack of certainty over improved public transport accessibility.

Lastly, the proposal was considered contrary to LDP Policy 31 as the site is designated Open Countryside and the proposal fails to meet the relevant criteria.

The Report upheld the decision to REFUSE planning permission and dismissed the appeal. The full appeal decision can be accessed via:

[23/00789/FULM | Residential development with associated infrastructure and landscaping | Land To South Of Linlathen Grove Arbroath Road Broughty Ferry Dundee](#)

Claim for Award of Expenses

The appellant submitted a claim for an award of expenses during the appeal process. The applicants appeal for an award of expenses was based on matters including the Council's handling of the application and reasons for refusal not being relevant or justified.

The Reporter did not consider there to be any evidence that the Council acted unreasonably in its handling of the application, nor that the Council failed to give relevant and fully justified reasons for refusal. The committee report set out valid planning grounds for each of its reasons. The Reporter concluded an award for expenses is not justified and dismissed the claim.

6 PLANNING APPEAL DECISION – AN8-2025

APPLICATION 24/00485/MDPO: LAND TO SOUTH OF LINLATHEN GROVE, ARBROATH ROAD, BROUGHTY FERRY

Planning application 18/00115/FULM for the erection of 150 houses was approved at appeal in June 2019, subject to a Section 75 Legal Agreement. The Legal Agreement required Kirkwood Homes to provide financial contributions towards education provision and road upgrades.

The residential development is within the catchment area of Forthill Primary School, which was at 91% capacity when planning application 18/00115/FULM was submitted. The education contributions were to be used by Dundee City Council to support the provision of primary education within the community, including potential expansion of Forthill Primary School.

Application 24/00485/MDPO which sought to remove the requirement for primary education contributions from the Legal Agreement was received in July 2024. The applicant submitted evidence which demonstrated the school roll at Forthill Primary School had reduced, with capacity presently at 71%. The applicant considered there to be sufficient capacity within existing primary education facilities to serve the approved residential development, and therefore the requirement to provide education contributions was no longer reasonable.

The application was under consideration, however, prior to the application being considered by Planning Committee the applicant submitted an appeal to DPEA. The applicant made the appeal on the basis of non-determination by the Planning Authority.

Planning appeal reference POA-180-2006 was submitted to DPEA on 23 September 2024. Following review, the Reporter appointed by Scottish Ministers has issued a notice of intention allowing the appeal, subject to the amendment of the Legal Agreement to remove reference to education contributions.

The full appeal decision can be accessed via:

[24/00485/MDPO | Modification of Section 75 Agreement to remove all references to primary education contribution \(18/00115/FULM\) | Linlathen Road Broughty Ferry Dundee](#)

APPLICATION 24/00494/MDPO: LINLATHEN VILLAGE, LINLATHEN ROAD, BROUGHTY FERRY

Planning application 19/00799/FULM for the erection of 100 houses was approved at appeal in October 2020, subject to a Section 75 Legal Agreement. The Legal Agreement required Kirkwood Homes to provide financial contributions towards education provision. The education contributions were to be used by Dundee City Council to support the provision of primary education within the community, including potential expansion of Forthill Primary School.

Application 24/00494/MDPO seeking to discharge the requirement for primary education contributions was received in July 2024. The applicant provided evidence which demonstrated the school roll at Forthill Primary School had reduced since 19/00799/FULM had been approved. The applicant therefore considered there is existing capacity to provide primary education within the community and the requirement to provide education contributions was no longer reasonable.

The application was under consideration, however, prior to the application being considered by Planning Committee for determination the applicant submitted an appeal to DPEA. The applicant made the appeal on the basis of non-determination by the Planning Authority.

Planning appeal reference POA-180-2007 was submitted to DPEA on 7 October 2024. Following review, the Reporter appointed by Scottish Ministers allowed the appeal and discharged the Planning Obligation.

The full appeal decision can be accessed via:

[24/00494/MDPO | Discharge of the primary education contribution planning obligation \(ref 19/00799/FULM\) | Linlathen Village Linlathen Road Broughty Ferry Dundee](#)

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Planning Applications

Reports by Head of Planning & Economic Development to the Planning Committee

Item No	Case No/Ward	Location	Page
1	22/00463/FULL W03-West End	Land West of 404-494 and North of Riverside Drive, Dundee	1
2	24/00236/FULL W03-West End	Land at Former Tay Rope Works, Magdalen Yard Road, Dundee	29
3	24/00703/FULL W02-Lochee	Former Community Centre, Angus Street, Dundee	43
4	24/00712/S42 W05-Maryfield	19-21 South Ward Road, Dundee, DD1 1PU	70

Members may be aware that in making any determination under Planning Legislation, it shall be made in accordance with The Development Plan, unless material planning considerations indicate otherwise. NB: Background papers relating to these reports comprise letters of objection, correspondence with the applicants and/or their agents, comments from consultees and the Development Plan and other policy documents referred to.

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Erection of Eight Dwellinghouses

KEY INFORMATION

Ward West End

Address

Land West of 404-494 and
North of Riverside Drive
Dundee

Applicant

H & H Properties UK Ltd

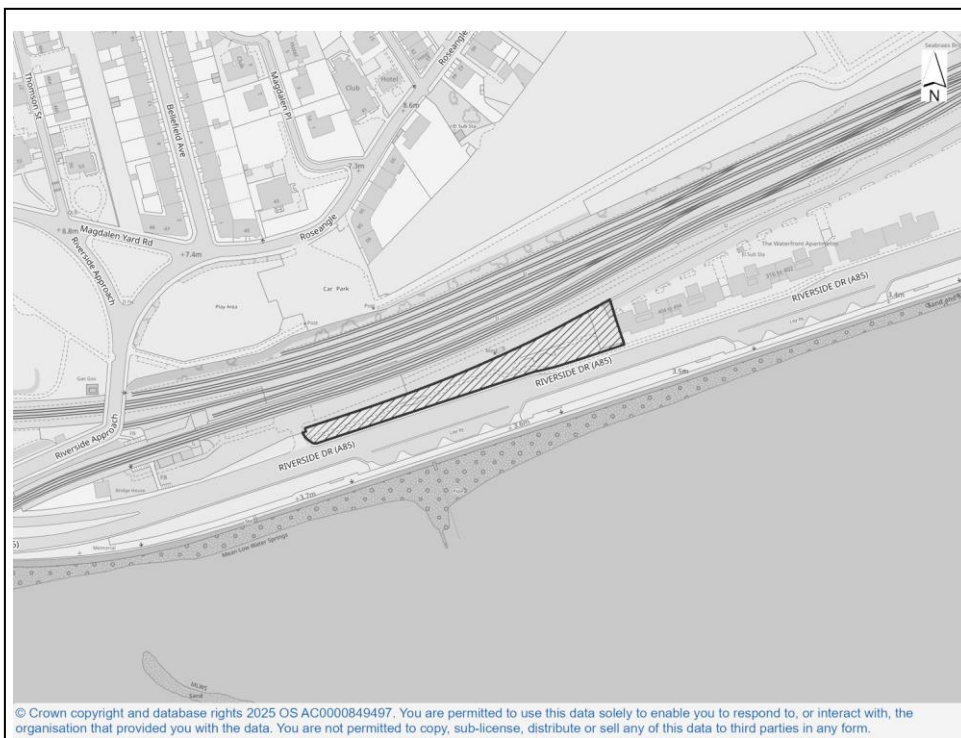
Agent

Tony Thomas APT
Planning & Development

Validated 28 July 2022

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

Contact: Craig Swankie



SUMMARY OF REPORT

- This application seeks planning permission for the erection of eight townhouses at Riverside Drive.
- The proposed development would be associated with a flatted development immediately to the east of the site, reflecting the layout and materials of the occupied flats on Riverside Drive.
- The application is not fully in accordance with the Development Plan.
- The statutory neighbour notification process was undertaken. Six objections were received raising concerns with the proposed development, including the impact of road and rail traffic on the amenity of residents. One neutral representation and one letter of support were received.
- Planning conditions are recommended to ensure residents are afforded with a high-quality amenity through the provision of noise mitigation measures.
- As this application received six objections, it is to be determined by the Planning Committee.
- More details can be found at [22/00463/FULL | Erection of 8 semi-detached houses and associated works | Land West Of 404-494 And North Of Riverside Drive Dundee](#)

RECOMMENDATION

The proposal fails to fully comply with the Development Plan. However, there are material considerations of sufficient weight to justify approval of planning permission. It is therefore recommended that planning permission be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of eight houses, comprising semi-detached dwellings with garden ground and associated access.
- 1.2 Within the western part of the site, four houses are proposed. The houses are three storeys in height with two bedrooms and study on the ground floor, lounge and kitchen on the first floor and two further bedrooms on the second floor.
- 1.3 Within the eastern part of the site, a further four semi-detached houses are proposed. These houses are four storeys in height, with two bedrooms and a study on the ground floor, a kitchen and lounge on the first floor, two bedrooms on the second floor and a gallery room on the third floor.
- 1.4 External finishes include brick, off white render and feature glazing in keeping with a residential development to the east of the site. Each house is served by garden ground to the side and a car parking space.
- 1.5 An access road is proposed along the site boundary to the north of the houses, which would lead into the neighbouring residential development and thereafter Riverside Drive. It is proposed to define the site's south boundary with a wall, which is to feature an acoustic barrier above. At the west of the site, an area of landscaping is to be retained and enhanced.
- 1.6 The applicant has submitted the following in support of the application:
 - Planning Statement
 - Noise Impact Assessment
 - Phase 1 Risk Assessment

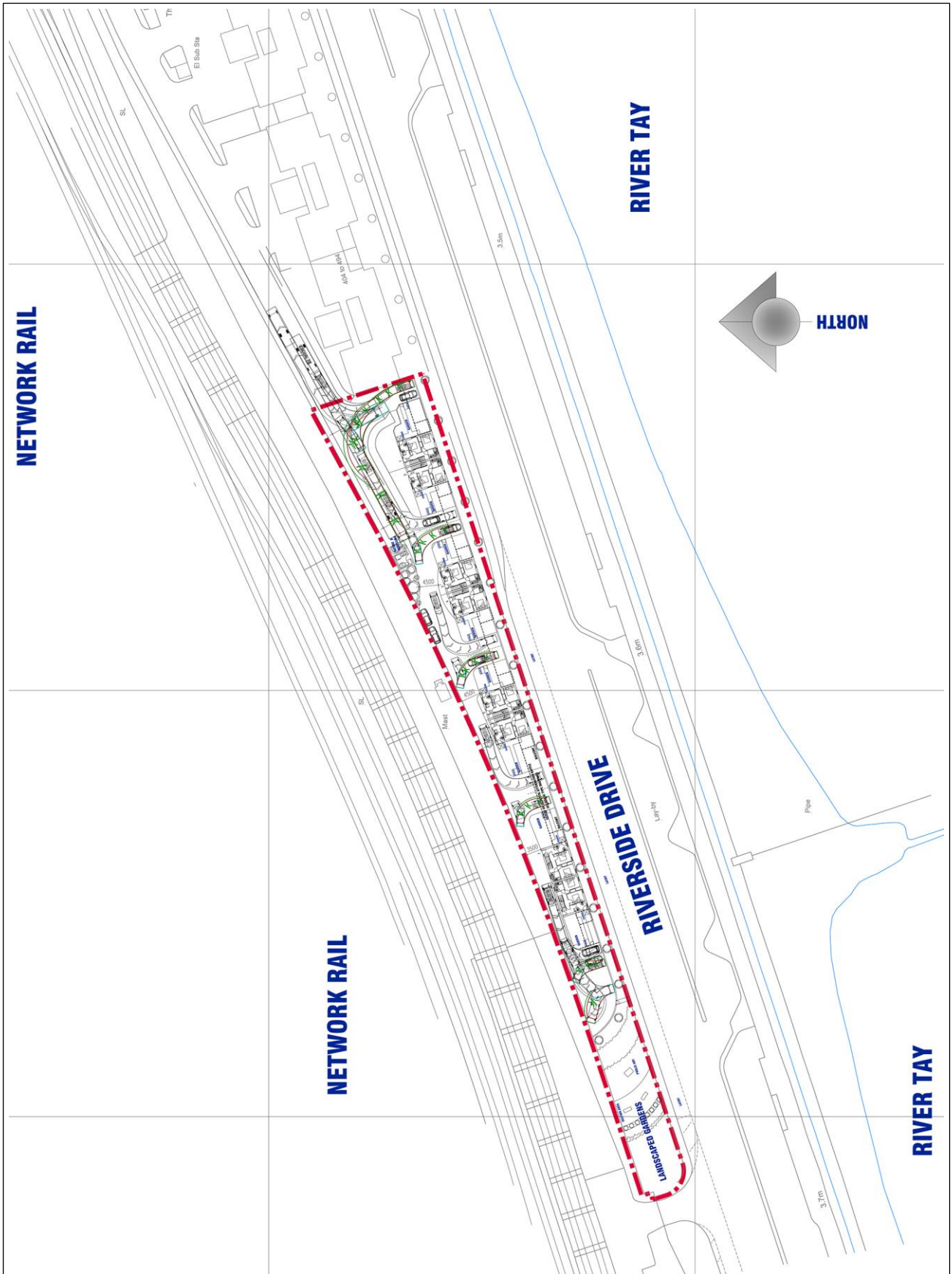


Figure 1 – Proposed Site Plan

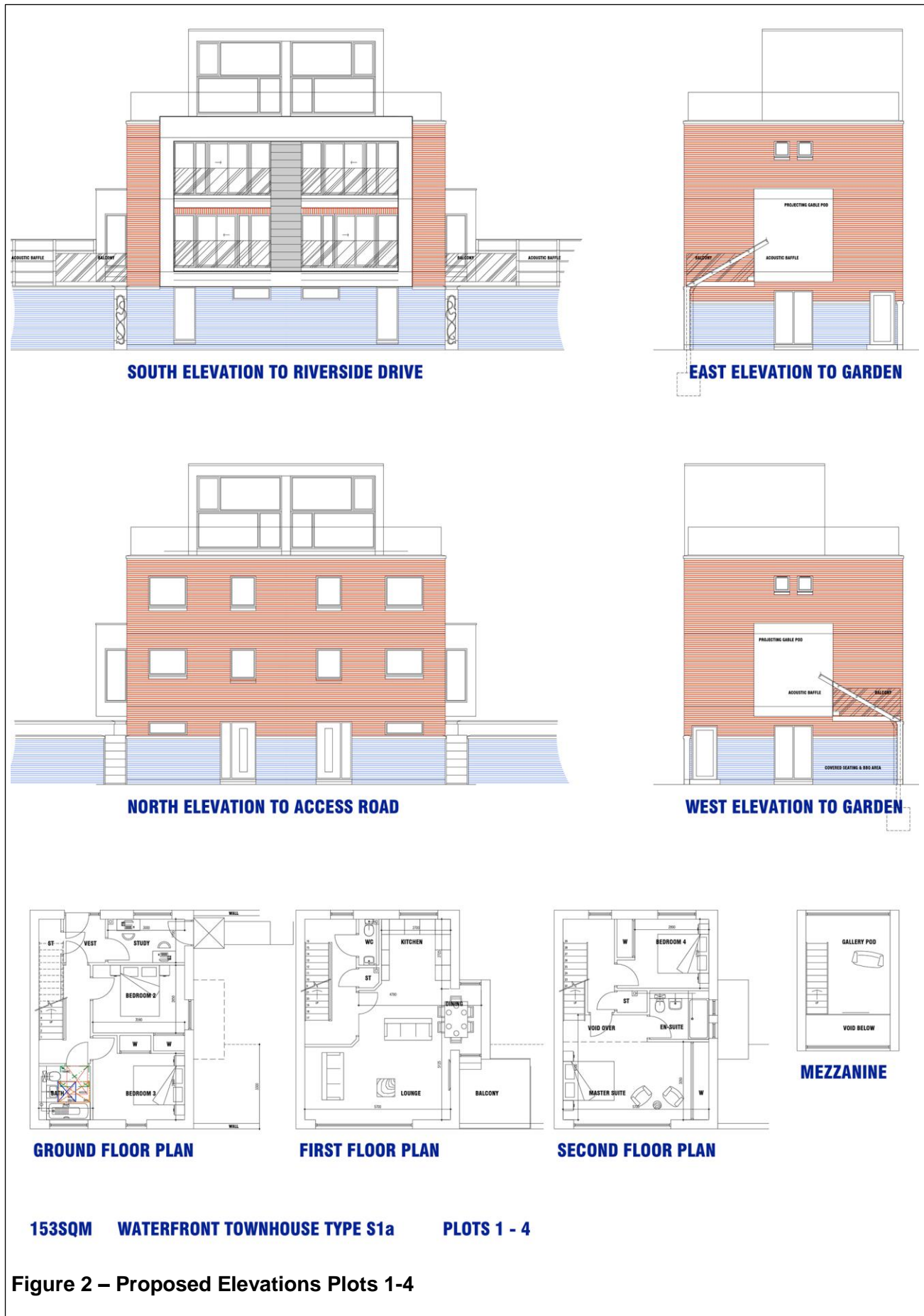
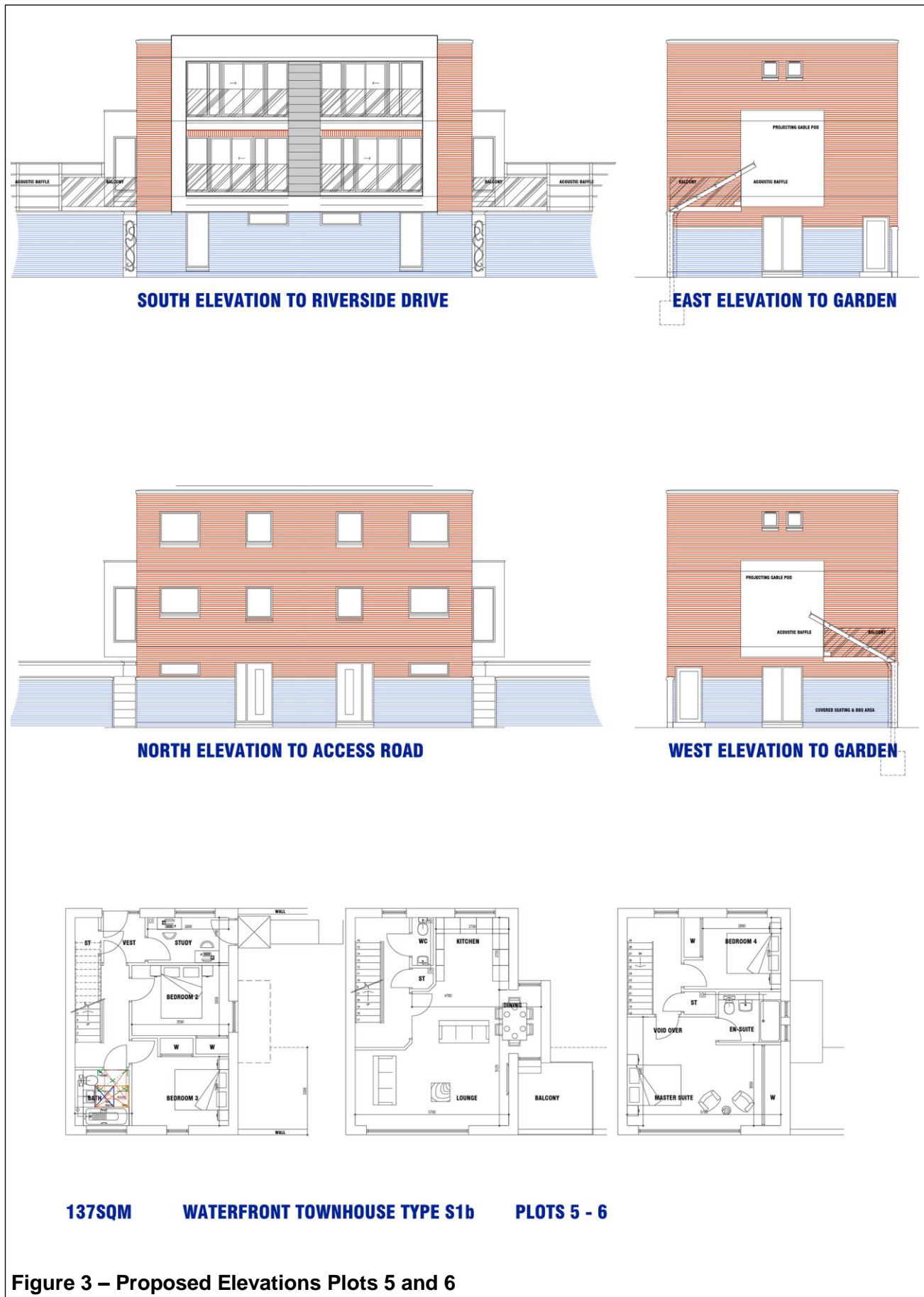


Figure 2 – Proposed Elevations Plots 1-4



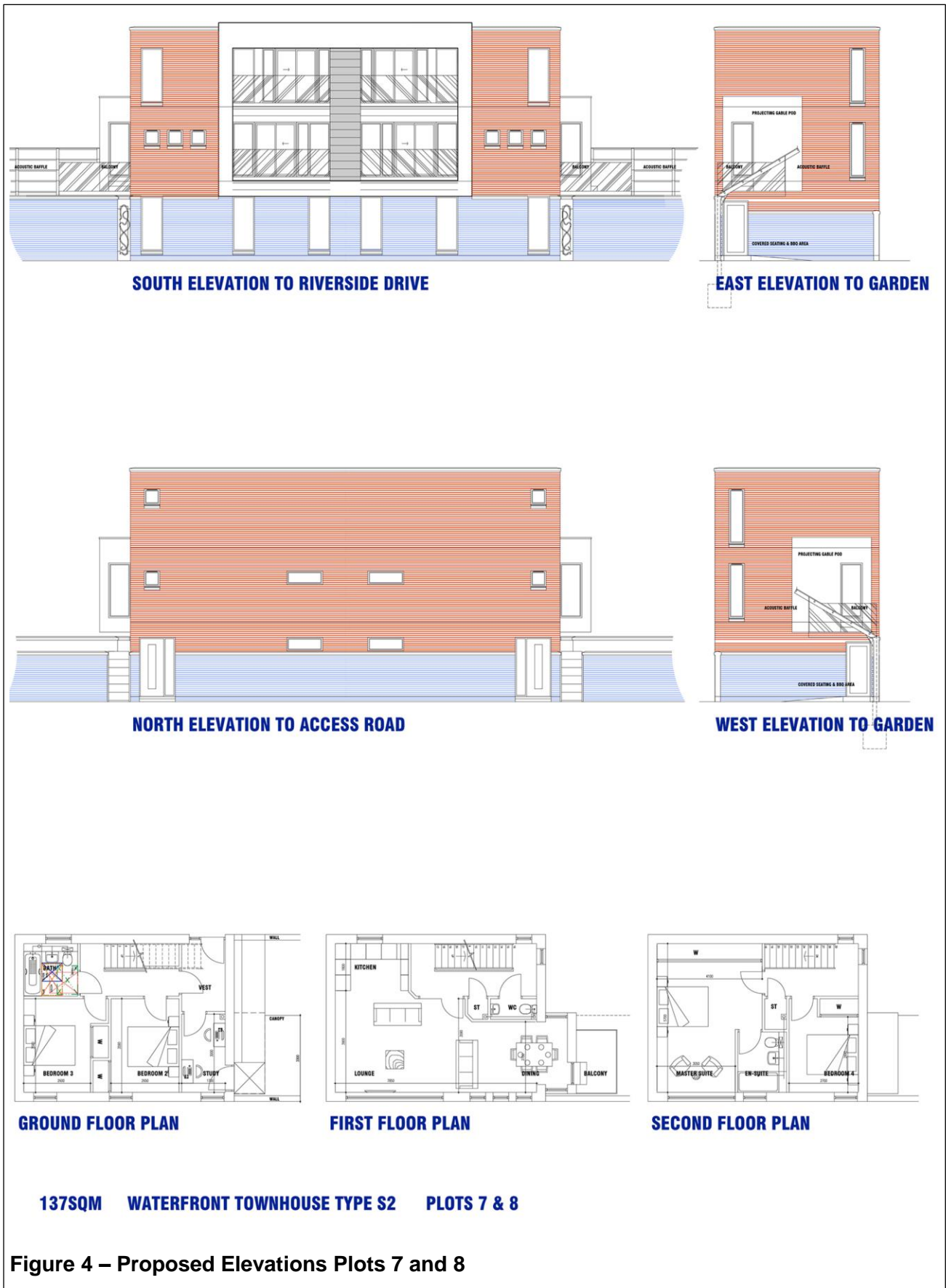




Figure 5 – Image of Proposed Houses

2 SITE DESCRIPTION

- 2.1 The application site relates to an area of land to the north of Riverside Drive, and south of the approach to the Tay Rail Bridge. The site is narrow in form and presently contains areas of lawn and trees with a footpath through the centre. The site measures 200 metres long and between 29 metres and 11 metres wide. The land was historically railway yards.
- 2.2 To the east of the site is a development of flats with a supermarket beyond, and to the west is Tay Rail Bridge. To the north of the site is the Dundee to Perth and Dundee to Edinburgh railway lines with residential developments beyond on Roseangle. To the south is Riverside Drive with River Tay beyond.



Figure 6: View of Site From Riverside Drive



Figure 7: View of Site From Riverside Drive

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4

Policy 1: Tackling the Climate and Nature Crises

Policy 2: Climate Mitigation and Adaptation

Policy 3: Biodiversity

Policy 9: Brownfield, Vacant and Derelict Land

Policy 12: Zero Waste

Policy 13: Sustainable Transport

Policy 14: Design, Quality and Place

Policy 15: Local Living and 20 Minute Neighbourhoods

Policy 16: Quality Homes

Policy 19: Heating and cooling

Policy 22: Flood Risk and Water Management

Policy 23: Health and Safety

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 30: Green Infrastructure Maintenance

Policy 37: Sustainable Drainage Systems

Policy 39: Environmental Protection

Policy 41: Land Contamination

Policy 44: Waste Management Requirements for Development

Policy 48: Low and Zero Carbon Technology in New Development

Policy 54: Safe and Sustainable Transport

Policy 56: Parking

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 05/00770/FUL for the erection of 202 apartments and provision of 239 car parking spaces was approved in June 2007. As development has commenced on the flatted development, this planning permission is extant.

4.2 Planning application 16/00628/FULL for the construction of a temporary access to construction site and environmental improvements was approved in October 2016.

4.3 Planning application 21/00221/FULL for the erection of 8 semi-detached townhouses and associated works was withdrawn in August 2021.

5 PUBLIC PARTICIPATION

5.1 The statutory neighbour notification procedure has been undertaken.

- 5.2 Six letters of objection were received, raising the following concerns:
- a the site is within proximity to noise sources including Riverside Drive and railway lines. The provision of noise mitigation measures such as mechanical ventilation is not appropriate for a residential development. The proposed houses are of a siting and design which would fail to ensure residents would be provided with an acceptable level of residential amenity.
 - b due to the proximity of the railway to the north, views will be afforded from passing trains to the detriment of privacy. The erection of eight houses within this narrow site is considered overdevelopment.
 - c the proposed houses are contrary to the requirements of the Development Plan with regard to siting, would not address any existing demand for housing in this location and would result in the loss of public open space.
 - d there is existing planning permission for a flatted development. The applicant's justification for the proposed change from a flatted development to the proposed townhouses due to changing market conditions and economic factors is not accepted.
- 5.3 One neutral representation was received. The representation did not raise concern with the principle of houses in this location but noted the development would result in the loss of trees and landscaping. It was also considered the proposed houses would be cramped due to the site's location between Riverside Drive and railway line.
- 5.4 One letter of support was received, which considered the proposed houses would be a positive addition to the Waterfront Apartments site. It was also raised that works to complete roads and renew planting within the Waterfront Apartments development be progressed.
- 5.5 The matters raised in representations are considered within the main body of this report.

6 CONSULTATIONS

- 6.1 The following consultee comments were received:
- a Highlands and Island Airports Limited – the proposed development would not infringe the safeguarding criteria for Dundee Airport. Therefore, there is no objection to the proposed development. However, as the site is within the vicinity of the take-off and approach to Dundee Airport, the use of lifting equipment/cranes during construction will require to be safeguarded by HIAL.
 - b Network Rail – has no objection to the proposed development, subject to recommended conditions requiring full details of landscaping and boundary treatments being agreed; and a noise impact assessment being provided that demonstrates the development would not be subject to noise nuisance from the railway. Advisory notes are also recommended in relation drainage and construction matters.
 - c Scottish Water - has no objection to the proposed development.

7 DETERMINING ISSUES

- 7.1 **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 National Planning Framework 4 relevant to the determination of this application are specified in the Policy Background section above.

Principle of Development

- 7.2 The site does not have any land use allocation within the Dundee LDP. It currently forms an area of landscaped open space. The eastern part of the application site benefits from planning permission for residential development.
- 7.3 **NPF Policy 9a: Brownfield, vacant and derelict land and empty buildings** - states development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account. LDP Policy 9: Housing Land Release - states 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.
- 7.4 The site is presently landscaped ground between the Tay Rail Bridge and Riverside Drive and was formerly occupied by railway yards. It is therefore brownfield land. The site adjoins an area of land which is being developed for housing. The redevelopment of the site for housing would provide a positive use for the land. The site has become partially overgrown and does not hold significant biodiversity value due to its enclosure by built development, Riverside Drive and railway lines. The proposal includes an area of landscaped amenity space which would contribute to the amenity of the site and provide biodiversity enhancement.
- 7.5 The proposed houses relate to the development of flats immediately to the east. The addition of eight town houses of a similar design to the flatted development will ensure the proposal complements the existing development and is of an appropriate scale and design. The applicant has submitted a statement providing financial and commercial justification for the proposal to develop houses on the site rather than flats, noting market conditions and demand. The development of houses would contribute to the mix of residential property available within the City.
- 7.6 **The proposal complies with NPF4 Policy 9a and LDP Policy 9.**
- 7.1 **NPF4 Policy 16e: Quality Homes** - states that development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where:
- i a higher contribution is justified by evidence of need, or

- ii a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes.

The contribution is to be provided in accordance with local policy or guidance.

7.2 The Dundee Local Development Plan 2019 Developer Contributions Supplementary Guidance was prepared and adopted in parallel to the LDP. It is a statutory document adopted in parallel to the LDP. It offers guidance to landowners and developers about the likely level and nature of developer contributions that may be required.

7.3 There is no requirement within the Dundee Local Development Plan 2019 or Developer Contributions Supplementary Guidance for housing developments in Dundee to make provision for affordable homes. The approach to the provision of affordable housing in Dundee is through the Council working in partnership with Registered Social Landlords and the Scottish Government to deliver affordable housing through the allocation of grant funding (the Affordable Housing Supply Programme). The approach has enabled the delivery of affordable housing in the city.

7.4 As there is no requirement in the Dundee Local Development Plan 2019 or the Supplementary Guidance for housing developments to provide or contribute towards the provision of affordable homes it is not necessary in this case to require this development to include any element of affordable homes or contribute towards provision.

7.5 **The proposal is in accordance with Policy 16e of NPF4.**

7.7 **NPF4 Policy 16f: Quality homes** - sets out that development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- i the proposal is supported by an agreed timescale for build-out; and
- ii the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;
- iii and either:
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or
 - the proposal is consistent with policy on rural homes; or
 - the proposal is for smaller scale opportunities within an existing settlement boundary; or
 - the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

7.8 The proposal is for a development of eight houses within a site which is not allocated for housing.

- 7.9 The applicant proposes development of the site between 2025 and 2028. This timescale for build out seems reasonable for a development of this scale. Accordingly, the development would meet criteria i.
- 7.10 The proposal would see the redevelopment of a brownfield site in a location which has access to shops, services and public transport connections via existing footpaths. The proposal would therefore support local living and 20-minute neighbourhoods. The principle of development is therefore broadly consistent with the Local Development Plan Strategy 2019-2029 and would meet criteria ii.
- 7.11 With regard to criteria iii, the proposal comprises a total of eight houses which are associated with a flatted development at Riverside Drive. The addition of eight houses within the site of the flatted development, where three blocks are presently constructed and a fourth is to be progressed, would not result in any significant addition of residents or footfall in the area. The proposal for eight townhouses is a smaller scale development opportunity within an existing settlement boundary. The proposal meets sub-criteria ii.
- 7.12 **The proposal complies with NPF4 Policy 16f.**
- 7.13 **NPF 4 Policy 15a: Local living and 20-minute neighbourhoods** - states that development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:
- sustainable modes of transport including local public transport and safe, high quality walking, wheeling and cycling networks;
 - employment;
 - shopping;
 - health and social care facilities;
 - childcare, schools and lifelong learning opportunities;
 - playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
 - publicly accessible toilets; and
 - affordable and accessible housing options, ability to age in place and housing diversity.
- 7.14 The proposed development is in an accessible location within walking distance of a range of shops, services and amenities on Perth Road and within the city centre. There is also a supermarket to the east of the site.
- 7.15 The site is connected by public footpaths to open spaces such as Magdalen Green and Riverside Park for play, sports and recreation purposes. Furthermore, the site is 35 metres from Dundee Green Circular which runs along the south side of Riverside Drive.
- 7.16 Overall, the proposed development is well connected to surrounding facilities and services by existing footpaths and roads. Residents of the proposed development would have access to range of shops, services and amenities, supporting local living.

7.17 **The proposal complies with NPF4 Policy 15a.**

Design

- 7.18 **NPF Policy 14b: Design, quality and place** - states development proposals will be supported where they are consistent with the 6 qualities of successful places: Healthy, Pleasant, Connected, Distinctive, Sustainable and Adaptable.
- 7.19 **LDP Policy 1: High Quality Design and Placemaking** - states 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. New development will be required to meet the six qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.20 The proposal comprises the erection of eight townhouses. The dwellings would be contained within four buildings, each of which are to contain two semi-detached houses.
- 7.21 Four town houses within the east of the site at plots 1-4 are four stories high, and four town houses within the west of the site at plots 5-8 are three stories high. To the side of each dwelling, private garden ground and car parking is proposed.
- 7.22 The main access road into the site will be to the north of the proposed houses, linking the development to Riverside Drive via the existing flatted development to the east. The proposed site boundary comprises stone walls to reflect existing boundaries walls to the east, with acoustic baffles above. To the west of the proposed houses an enhanced area of public open space is to be formed.
- 7.23 The proposed houses reflect the general finishes and appearance of the flatted dwellings to the east, with brick to external walls and large windows towards the south (principal) elevation. The surrounding area contains residential developments to the east on Riverside Drive and to the north towards Magdalen Green and Roseangle. The site is bound to the south Riverside Drive with River Tay beyond, and to the north-west by the railway lines.
- 7.24 The proposal includes house types which would integrate with the character of the associated residential development. The existing brownfield site, which was formerly a rail yard, is presently an area of open space. However, the open space it is not of a high quality with areas in an unkempt condition. The proximity of Riverside Drive and railway lines results in the site being of no significant biodiversity value.
- 7.25 Planning permission was approved for a six storey flatted development within the application site, with open space to the west. The current proposal is for eight townhouses, with open space to the site's west boundary. The proposed elevation drawings demonstrate that the mix and design of the proposed house types would contribute positively to the residential character of the area. The proposed houses would be finished in a mixture of brick, render and glazing in keeping with the flats to the east. The finishing of the properties would be a simple and coherent palette of high-quality materials throughout the development proposal. The proposed building height, materials, scale, massing and finishes would complement the surrounding residential development and contribute positively to the local streetscape.

- 7.26 The proposal would bring the site into active use in a manner that would contribute to the visual amenity of the area. The proposed development would not appear out of character with the surrounding building sizes, designs and materials. The development would therefore not diminish the character or appearance of the surrounding area. The design of the proposed dwellings is considered to be acceptable.
- 7.27 Within the proposed development appropriate spaces are provided for vehicle parking, private amenity space and waste storage. An area of public open space is to be provided within the west of the site, with landscaping and a footpath. The overall design and layout of the proposed development would contribute positively to the character of the wider area and would provide a safe and attractive housing development which is well connected to the surrounding area.
- 7.28 In this case, site topography, neighbouring development and skylines are respected in the proposed design, and there is appropriate access onto public roads. The site is connected to surrounding streets and footpaths and there are active travel links to the site. The proposed scale, massing and finish would be in keeping with residential development in the surrounding area. The proposal demonstrates compliance with the six qualities of successful place in accordance with Appendix 1.
- 7.29 **The proposal complies with NPF 4 Policy 14b and LDP Policy 1.**
- 7.30 **LDP Policy 10: Design of New Housing** - requires new housing to be of a high quality and contribute to creating places that enhance the character and identity of different parts of the city. All new housing developments are required to conform to the guidance on the Design of New Housing set out in Appendix 4. The following standards from Appendix 4 (Inner City Standards) of the Local Development Plan are required for houses.
- 7.31 **House type** – all houses to have a minimum of 2 bedrooms. In addition, 65% to have 3 or more bedrooms or a minimum gross internal floor area of living accommodation of 100 sqm.
- 7.32 **Response** - all houses will have 4 bedrooms.
- 7.33 **Car parking** - all car parking should be located within the curtilage of each house. All tenures should have at least one space. In addition, 40% of private houses should have two spaces.
- 7.34 **Response** - all of the houses would be served by two in-curtilage parking spaces.
- 7.35 **Cycle provision** - one secure, covered space per house must be provided unless a suitable garage or other secure area is provided within the curtilage of the house.
- 7.36 **Response** - the applicant proposes an external cycle store within each garden. Full details can be secured by condition.
- 7.37 **Amenity/garden ground** - 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.
- 7.38 **Response** - each dwelling would be served by a minimum of 50 sqm of garden ground and 30% provide more than 75sqm.
- 7.39 **Privacy** - a minimum of 18 metres between the facing windows of habitable rooms will be provided. Living room windows and balconies should not unacceptably overlook private gardens of houses.

- 7.40 **Response** - a minimum of 18 metres separation between windows would be achieved. The dwellings include external decks towards the side elevations, affording views towards the River Tay. The proposal would not introduce any overlooking of existing garden ground. However, there would be views afforded towards garden ground at neighbouring properties between plots 2-7. The level of overlooking is not significant, with views restricted by proposed garden boundary treatments and acoustic screening to the side of each balcony.
- 7.41 **General** - provision for waste and recycling should be provided in accordance with the Council's waste management strategy. Parking areas should include provision for electric car charging points.
- 7.42 **Response** - there is space within each site for bin storage, and electric vehicle charging points can be provided within proximity to the parking spaces.
- 7.43 **The proposal complies with LDP Policy 10, including Appendix 4.**
- 7.44 **LDP 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.
- 7.45 The proposals will require to provide public art as part of the development. The applicant has provided initial proposals with public art to be located within open space to the west of the proposed houses. Full details of the public art provision can be secured by condition.
- 7.46 **The proposal complies with LDP Policy 2, subject to a condition.**
- 7.47 **LDP Policy 30: Green Infrastructure Maintenance** - states the Council will apply planning conditions or Section 75 obligations to planning permissions to make suitable provision for the long-term maintenance of green infrastructure (including open space and landscaping associated with Sustainable Drainage Systems) in new housing developments, based on the following options:
- 1 green infrastructure will be adopted by the Council, subject to appropriate agreements with the developer over the landscaping scheme and annual maintenance, including payment of a commuted sum to cover annual maintenance costs; or
 - 2 a developer may lay out the green infrastructure, transfer the land to a suitable third party, and either i) pay a commuted sum to cover maintenance costs; or ii) hand over the maintenance costs to residents of the new development.
- 7.48 This latter option should be clearly set out in the sale agreement, so residents agree to effectively share the cost of maintaining green infrastructure on an annual basis.
- 7.49 Surface water from the proposed development would be conveyed to drainage infrastructure within the site, before being conveyed to existing drainage infrastructure within the residential development to the east. The provision of full details of the proposed drainage system serving the proposed houses, and its long-term maintenance are to be controlled by condition.
- 7.50 Other areas within the site including landscaping and open spaces would be privately maintained by a factor. To secure this, it is recommended that a condition is attached should the Committee approve the application.
- 7.51 **The proposal complies with LDP Policy 30, subject to a condition.**

Noise

- 7.52 **NPF4 Policy 23e: Health and Safety** - states development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.
- 7.53 **LDP Policy 39: Environmental Protection** - states all new development or an extension to an existing development that would generate noise, vibration, odour, emissions to air, dust or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing development in close proximity to existing sources of noise, vibration, odour, emissions to air, dust or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses.
- 7.54 The site is contained within an area of land which is bound by Riverside Drive to the south and railway lines to the north. Road and rail traffic will generate noise which could impact upon residential amenity within the proposed dwellings and associated garden ground.
- 7.55 The applicant has submitted a Noise Impact Assessment (NIA). The NIA considers noise sources from the surrounding area including road and rail traffic.
- 7.56 To achieve target noise levels within the proposed dwellings and associated garden ground, the submitted NIA identifies a requirement for mitigation measures to be provided. These measures include incorporation of suitable glazing and mechanical ventilation within the proposed houses and erecting acoustic screening to the site's southern boundary. The applicant has confirmed the required noise mitigation measures can be implemented and has provided initial details of acoustic screening.
- 7.57 A planning condition is recommended to secure the implementation of noise mitigation measures and ensure residents of the development would be afforded an acceptable level of amenity.
- 7.58 **The proposal complies with NPF4 Policy 23e and LDP Policy 39, subject to a condition.**

Climate Change

- 7.59 **NPF4 Policy 1: Tackling the climate and nature crises** - states when considering all development proposals significant weight will be given to the global climate and nature crises. **NPF4 Policy 2: Climate mitigation and adaptation** states development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and will be sited and designed to adapt to current and future risks from climate change
- 7.60 **LDP Policy 48: Low and Zero Carbon Technology in New Development** and the associated Supplementary Guidance require proposals for all new buildings 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. The relevant Building Standards and percentage contribution required is set out in supplementary guidance. A statement will be required to be submitted with an application for planning permission to demonstrate compliance with this requirement
- 7.61 The Planning Statement submitted as part of the application explains that the building will be constructed from modern materials and will include insulation and sustainability measures as required by current Building Standards. It is highlighted the dwellings are south facing and will therefore benefit from solar gain, and solar panels could be installed. However, an energy strategy for the proposed houses has not been confirmed at this stage. The provision of a detailed energy statement can be controlled by condition.

- 7.62 The proposed houses can accommodate low carbon technologies and would have no significant impact on the global climate and nature crises. The development would satisfy the policy requirements.
- 7.63 **The proposal complies with NPF Policies 1, 2 and LDP Policy 48, subject to a condition.**
- 7.64 **NPF4 Policy 19f: Heat and Cooling** - states that development proposals for buildings that will be occupied by people will be supported where they are designed to promote sustainable temperature management, for example by prioritising natural or passive solutions such as siting, orientation, and materials.
- 7.65 The site layout ensures all dwellings have a south facing principal elevation which maximises solar gain. Furthermore, all dwellings will require to comply with current building regulations, demonstrating low CO2 emissions and high energy efficiency.
- 7.66 **The proposal is in accordance with NPF4 Policy 19f.**
- 7.67 **NPF Policy 12 a: Zero Waste** - states development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy. **LDP Policy 12c: Zero Waste** - states development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed. **LDP Policy 44: Waste Management Requirements for Development** - states development proposals should demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012.
- 7.68 The development has been designed to allow for safe access by refuse, emergency and delivery vehicles. Each dwelling will be served by a shared bin storage area within the north-east of the site, accessed from the adjacent road and path. The proposed bin store is of a size and form that can accommodate bins as required by Dundee City Council's waste strategy and would support waste separation, recycling and reduction in line with the waste hierarchy.
- 7.69 **The proposal complies with NPF4 Policy 12a and 12c and LDP Policy 44.**

Biodiversity and Protected Species

- 7.70 **NPF4 Policy 3a: Biodiversity** - states that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. Furthermore, part (c) sets out that proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.
- 7.71 The site, which formerly contained railway yards, is currently an area of open space with lawn, footpath and trees. Trees within the site contribute to the visual amenity of the greenspace. However, the areas of lawn and footpath are unkempt. The site is bound by built development to all sides with limited connectivity to habitats in the surrounding area. Therefore, it does not have a high biodiversity value at present.
- 7.72 The proposals include retention and enhancement of a proportion of the existing greenspace within the west of the site. Furthermore, there is scope for the proposed development to include provision of soft planting and measures such as bird boxes to provide biodiversity gain.

It is considered that the application could suitably address the expectations of Policy 3 through a condition to secure further detail on biodiversity improvements.

7.73 The proposal complies with NPF 4 Policies 3, subject to a condition.

Sustainable Transport and Parking

7.74 NPF4 Policy 13 b: Sustainable Transport - states development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii will be accessible by public transport, ideally supporting the use of existing services;
- iii integrate transport modes;
- iv provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii adequately mitigate any impact on local public access routes.

7.75 Criterion i – the development proposal includes direct connections to existing footpaths and streets which would provide safe and convenient access to local facilities, including connections to the city centre and surrounding area. Dundee Green Circular is located adjacent to the site on Riverside Drive and residents would have access to secure bicycle storage.

7.76 Criteria ii and iii – there are bus stops on Perth Road which are served by frequent bus services. However, these bus stops are 750 metres from the site, failing to fully comply with criteria ii. There are closer bus stops, including those on Magdalen Yard Road. However, these are not served by buses at present. With regard to criterion iii. this is related to larger scale development, and it would not be expected that this scale of development delivers integration of transport modes.

7.77 Criteria iv – the proposed development would include in-curtilage parking provision at each house, where electric vehicle charging infrastructure can be provided as required by building standards. The houses will include cycle storage and are served by connections to the surrounding footpath and active travel network including Dundee Green Circular which runs along Riverside Drive 30 metres to the south of the site.

7.78 Criterion v – cycle storage provision will be provided at each dwelling in line with the requirements of the Dundee Local Plan. This can be secured by condition.

- 7.79 **Criterion vi** – the proposal would utilise existing footpaths within the residential development to the east, with direct access on surrounding streets including Riverside Drive and Seabraes Footbridge. The proposed development demonstrates existing footpaths and road crossing will provide safe and adequate provision for walking, cycling and road vehicles including delivery and refuse vehicles. No alterations are proposed to surrounding public roads.
- 7.80 **Criterion vii** – Pedestrian access locations are towards the east of the site into the existing flatted development, with connections onto Riverside Drive and Seabraes. The access would be level in nature ensuring the development is accessible to all users/residents.
- 7.81 **Criterion viii** – the proposals include direct pedestrian access onto surrounding public footpaths. The proposed vehicle accesses will utilise the existing access road into the site. The development would have no impact on public access routes or road capacity.
- 7.82 **LDP Policy 54: Safe and Sustainable Transport** - sets out similar criteria to NPF4 Policy 13. Due to the distance from a public transport network the proposal does not fully comply with Criterion 3 of LDP Policy 54.
- 7.83 **The proposal does not fully comply with NPF4 Policy 13bii) or LDP Policy 54 3) as the site is not served by public transport nor is it located within 400m of a public transport network.**
- 7.84 **LDP Policy 56: Parking** - sets out that all new developments shall be required to comply with Dundee City Council's adopted guidance on road standards; with the national maximum parking standards; and the national minimum disabled parking standards. Residential developments should include infrastructure to provide electric car charging points and cycle parking.
- 7.85 The application site is deemed accessible in terms of both active and sustainable travel. It is located within the inner-city area and is well served in terms of pedestrian and cycle connections. There are public transport connections including bus stops served by regular services within a 20 minute walk of the site.
- 7.86 A total of 18 car parking spaces would be provided - two spaces per dwelling and two visitor spaces. The parking spaces at each dwelling can be equipped with an EV charging point, and secure and covered cycle storage for bikes is to be located within private garden ground. The provision of full details of the proposed cycle storage provision and its implementation prior to occupation can be controlled by condition.
- 7.87 **The proposal complies with LDP Policy 56, subject to a condition.**

Drainage

- 7.88 **NPF Policy 22c: Flood Risk and Water Management** - states development proposals will:
- i not increase the risk of surface water flooding to others, or itself be at risk;
 - ii manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; and
 - iii seek to minimise the area of impermeable surface.

- 7.89 **LDP 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.
- 7.90 The applicant has submitted a proposed drainage plan with the application. Following the formation of flood defences along the River Tay, and provision of drainage infrastructure related to the existing flatted development, there is no significant flood risk at the site.
- 7.91 The submitted drainage plans propose surface water from roofs and parking areas be conveyed to underground storage within the site. It is then conveyed to a surface water sewer system which serves the existing flatted developments on Riverside Drive before out-falling to the River Tay at a controlled rate. The proposal to provide on-site water storage which then utilises existing surface water infrastructure is acceptable in principle, subject to full details being confirmed. The provision of detailed drainage proposals can be controlled by condition. Subject to the provision of on-site drainage infrastructure as proposed, the development would not increase flood risk.
- 7.92 **The proposal complies with NPF 4 Policy 20b and LDP Policy 37, subject to conditions.**

Contaminated Land

- 7.93 **NPF4 Policy 9c: Brownfield, Vacant and Derelict Land and Empty Buildings** - states where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use. **LDP Policy 41: Land Contamination** - states development of potentially contaminated or statutorily identified contaminated land will be considered where:
- 1 a site investigation is submitted establishing the nature and extent of contamination; and
 - 2 the Council is satisfied that remediation measures proposed for the development, adequately address contamination risks to all receptors, such that the land demonstrably does not meet the statutory definition of contaminated land and is suitable for the planned use.
- 7.94 A Stage 1 Geotechnical Investigation has been submitted as part of the application. The Investigation concludes there is a reasonable possibility of contamination within the site and recommends intrusive investigations. There is also a requirement for basic radon protection measures to be implemented as part of the proposed developments.
- 7.95 Planning conditions are recommended in relation to the completion of an intrusive investigation and provision of a remediation strategy to ensure any contamination within the site is addressed prior to any construction works.
- 7.96 Through the implementation of any recommended remediation measures identified within the intrusive investigation, and provision of radon protection measures such as a membrane, the proposed houses would ensure any contamination risks are addressed.

- 7.97 **The proposal is in accordance with NPF4 Policy 9c and LDP Policy 41, subject to conditions.**
- 7.98 **It is concluded that the proposal is not fully in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

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

A – LETTERS OF REPRESENTATION

Letters of Objection

- 7.100 Six letters of objection were received raising the following valid material grounds:
- 7.101 **Objection** - the site is within close proximity to noise sources including Riverside Drive and railway lines. The provision of noise mitigation measures such as mechanical ventilation is not appropriate for a residential development. The proposed houses are of a siting and design which would fail to ensure residents would be provided with an acceptable level of residential amenity.
- 7.102 **Response** – the applicant has submitted a noise impact assessment with the planning application. This demonstrates that through the provision of noise mitigation measures, target internal and external noise levels would be met and residents would be provided with an acceptable standard of residential amenity. The provision of the required noise mitigation measures, including acoustic screening and mechanical ventilation, can be controlled by condition. The site layout responds to the narrow form of the site in a manner which ensures all proposed houses meet the minimum requirements of the Development Plan with regard to matters including bedroom numbers, parking and garden ground provision. Overall, subject to noise mitigation measures residents would be afforded an acceptable level of amenity.
- 7.103 **Objection** - due to the proximity of the railway to the north, views will be afforded from passing trains to the detriment of privacy, and the erection of eight houses within this narrow site is considered overdevelopment.
- 7.104 **Response** - the proposed houses will include windows of habitable rooms on the north elevation towards the Dundee – Edinburgh railway line. The proximity of the windows to the nearest railway line varies between 16 metres at the westmost dwelling to 26 metres at the east most dwelling due to the curved nature of the site's north boundary. Whilst views towards the houses would be afforded from the railway these would be limited in nature and would not result in any significant impact on privacy within habitable rooms of the houses.
- 7.105 **Objection** - the proposed houses are contrary to the requirements of the Development Plan with regard to siting, would not address any existing demand for housing in this location and would result in the loss of public open space.
- 7.106 **Response** – The proposal relates to a brownfield site which benefits from planning permission for a flatted residential development. The site does currently contain an area of open space, but it is of no significant visual or biodiversity value. The previously approved development included the retention of an area of public open space 130 metres long. The proposed development would reduce this to an area 45 metres in length. However, the development would ensure a maintained area of accessible open space and planting are provided within this section of Riverside Drive. The loss of part of the existing open space would have no significant impact on the surrounding area with several open spaces within walking distance,

including Magdalen Green and public parks on Riverside Drive to the west of the Tay Rail Bridge.

- 7.107 Objection - There is existing planning permission for a flatted development. The applicants provided justification for the proposed change from a flatted development to the proposed townhouses being in relation to changing market conditions and economic factors are not accepted.
- 7.108 Response: The applicant has submitted a supporting statement which provides justification for the change from a flatted development to townhouses within the site. The statement highlights factors which have impacted the flatted development which is currently under construction, including increased funding costs and reduced demand for the flatted dwellings. The developer considers the proposed townhouses will meet a sector of the market experiencing stronger demand. Overall, the proposed change is considered necessary to ensure the viability of the Riverside Drive development.
- 7.109 The factors outlined in the supporting statement are acknowledged. Whilst matters related to funding are not a material planning consideration, the submitted proposals demonstrate a residential development of eight houses can be provided within the site. The proposed plans ensure elements including open space and planting will be provided and are of a design and character which integrates with the existing flatted development.

Neutral Representation

- 7.110 One neutral representation was received. The representation did not raise concern with the principle of houses in this location but notes the development would result in the loss of trees and landscaping. It also considered the proposed houses would be cramped due to the site's location between Riverside Drive and the railway line.
- 7.111 **Response:** as noted above, the proposal would reduce the area of open space on Riverside Drive. However, the site is brownfield land, and an area of accessible public open space is to be retained within the west of the site. Through the provision of new planting and measures to enhance biodiversity, the proposals would contribute to the local streetscape. The site is narrow in form. However, the submitted plans demonstrate a residential development can be provided which meets the housing design standards of the Local Development Plan.
- 7.112 The existing open space is unkempt and of no significant biodiversity value. The site retains an area of open space within the west of the development which will be enhanced.

Letter of Support

- 7.113 One letter of support was received, which considered the proposed houses would be a positive addition to the Waterfront Apartments site. It was also raised that works to complete roads and renew planting within the Waterfront Apartments development be progressed.
- 7.114 There are no matters raised in the representations which are considered to be of sufficient weight to justify the refusal of planning permission.

B – Justification for Development Plan Departure

- 7.115 The proposal does not fully comply with NPF4 Policy 13bii) or LDP Policy 54 3) as the site is not located within 400 metres walking distance of a public transport network. The site would adjoin an existing residential development which already generates vehicular movements through that use. The addition of eight houses would not result in any significant increase in footfall or transport demand compared to the existing situation.

- 7.116 While there is no immediately adjacent bus service at the site, there are very good bus services accessible on Perth Road. The site is approximately 750m from the nearest bus stops, which are connected to the site via existing footpaths. The location of the site adjacent to the Green Circular route provides good active travel connectivity by cycling/wheeling and walking. There are strong active travel linkages to the site. Cycle storage and vehicle charging facilities will support and encourage the use of sustainable transport.
- 7.117 Given the proposed houses would be associated within an established residential development, and the site has planning permission for further residential development, there would be no significant change in site circumstance or travel demand when compared to construction of the previously approved development. The site benefits from strong active travel linkages and measures to encourage active travel. A 350m shortfall in the distance to the nearest bus stop location would not be a reason to justify refusal of planning permission in these circumstances.
- 7.118 **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 application for eight houses does not fully in accordance with the Development Plan. There are material considerations of sufficient weight that justify approval of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be GRANTED subject to the following conditions:
- 1 **Condition** – the development hereby permitted shall be commenced within three years from the date of this permission.

Reason – to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.
 - 2 **Condition** – development shall not begin until the investigation and risk assessment proposed in the submitted Stage I Desk Study are completed and, if necessary; a remediation scheme to deal with any contamination at the site has been submitted to and approved in writing by the planning authority. The scheme shall contain proposals to deal with contamination to include:
 - 1 the nature, extent and type(s) of contamination on the site;
 - 2 measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
 - 3 demonstration of the durability and expected life-span of the remediation;
 - 4 measures to deal with contamination during construction works; and
 - 5 verification of the condition of the site on completion of decontamination measures.

Reason - in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

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

Reason – in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

- 4 **Condition** – no development shall take place on site until such time as a scheme of landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include hard and soft landscaping works, boundary treatment(s), details of trees and other features which are to be retained, and a programme for the implementation/phasing of the landscaping in relation to the construction of the development. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail can provide details of planting recommendations for adjacent developments. All landscaping, including planting, seeding and hard landscaping shall be carried out only in full accordance with such approved details.

Reason - to support biodiversity, contribute to the appearance of the development and to control the impact of leaf fall on the operational railway.

- 5 **Condition** - the applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the Planning Authority for approval before development is commenced and the development shall be carried out only in full accordance with such approved details.

Reason - in the interests of public safety and the protection of Network Rail infrastructure.

- 6 **Condition** - prior to the occupation of any of the dwellings hereby approved, the noise mitigation measures in the Noise Impact Assessment "Report on Traffic, Railway and Commercial Sound for H&H Properties UK at Riverside Drive, Dundee, document 3868-36-R, prepared by Charlie Fleming Associates, dated 23rd September 2024" contained within Section 8.11 for the external garden areas, and in Table 10 of Section 10.1 for the minimum window glazing specifications requirements for habitable rooms on façades, shall be implemented in full. For avoidance of doubt, the townhouses will be provided with mechanical ventilation to remove the need for trickle ventilators, and the acoustic barrier for the private secured walled gardens for each of the eight houses shall comprise of the 2.5m high brickwork together with cantilevered steel cranked posts supporting split baffle canopy barriers 5.3m high relative to the road level with the gables of all barriers to be constructed in Cembrit panels on a supporting framework."

Reason - in the interest of providing residents with an acceptable level of residential amenity.

- 7 **Condition** – prior to the commencement of any construction works, details of a scheme of public art to be provided within the development hereby approved shall be submitted to the Council for written approval. This scheme shall include a programme for the

installation of the public art and the works shall be completed in accordance with the agreed programme.

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

- 8 **Condition** – an Energy 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 interests of reducing carbon emissions associated with the proposed development.

- 9 **Condition** – full details of the proposed external cycle storage provision, as illustrated on drawing 01B – Location Plan and Site Layout dated 07 November 2023, shall be submitted to the Council for written approval. Thereafter, the cycle storage provision approved by virtue of this condition shall be provided on site prior to first occupation of the associated dwellings.

Reason - in the interests of promoting sustainable transport.

- 10 **Condition** – prior to the commencement of any construction works, 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 sustainable drainage provision and flood protection.

- 11 **Condition** – prior to the commencement of any construction works, 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 and visual amenity.

- 12 **Condition** – prior to the commencement of any work on site, maintenance responsibilities along with a maintenance schedule for all communal/shared areas 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 - to ensure that the proposed development has a satisfactory external appearance in the interests of the environmental quality and visual amenities of the area.

- 13 **Condition** – prior to the commencement of development, a scheme of features or measures to conserve, restore and enhance biodiversity, such as those set out in the NatureScot Developing with Nature guidance, shall be submitted to and agreed in writing by the Planning Authority. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme.

Reason - to ensure that a satisfactory biodiversity enhancement scheme is proposed and implemented, mitigating the biodiversity impact that development has on the site.

Informatives

Boundary

Buildings should be situated at least 2 metres from Network Rail's boundary. The applicant must ensure that the construction and subsequent maintenance of proposed buildings can be carried out without adversely affecting the safety of, or encroaching upon, Network Rail's adjacent land.

Drainage

SUDS draining should be a minimum of 10 metres from Network Rail land and positive drainage falls should also lead away from Network Rail land.

Scaffolding

Any scaffolding which is to be constructed within 10 metres of Network Rail's boundary must be erected in such a manner that at no time will any poles over-sail the railway. Protective netting around such scaffold must be installed.

Vehicle Incursion Risk Assessment and Road Safety Audit

Network Rail request that a vehicle incursion risk assessment and road safety audit are undertaken as part of this development and appropriate vehicle mitigation design and installation is undertaken.

Construction

Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development. Any excavation, piling into track support zone will require track monitoring.

Details of any changes in ground levels, laying of foundations and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

HIAL

The location of the proposed site is in the vicinity of the take-off and approach to Dundee Airport and any use of lifting equipment, cranes, during construction is required to be safeguarded by this office. See Civil Aviation Publication CAP1096 for information.

Proposed Air Source Heat Pumps at Dwellinghouses

KEY INFORMATION

Ward West End

Address

51 Magdalen Yard Road
Dundee
DD1 4LQ

Applicant

F & H Developments
2 Marshall Place
Perth

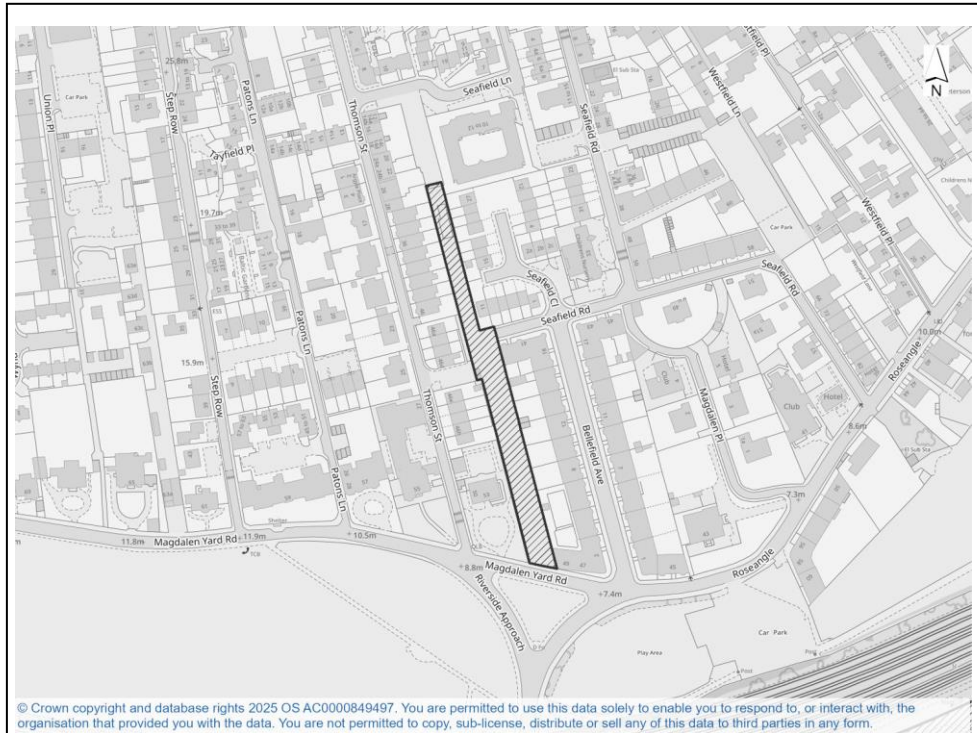
Agent

Denholm Partnership

Validated: 7 May 2024

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

Contact: Craig Swankie



SUMMARY OF REPORT

- This application seeks planning permission for the installation of nine of air source heat pumps. Five of the proposed air source heat pumps would serve detached new build dwelling houses within the north and centre of the site, and four would serve a flatted development within the south of the site.
- The air source heat pumps would serve houses and flats approved under planning permission 19/00297/FULL. The detached dwellings within the site are nearing completion.
- The air source heat pumps are proposed to meet the requirement for a low carbon heating system to be provided at the new build dwellings.
- The statutory neighbour notification process was undertaken. Six objections were received raising concerns the proposed air source heat pumps would be detrimental to residential amenity.
- As this application have received six objections, it is to be determined by the Planning Committee.
- More details can be found at [24/00236/FULL | Installation of air source heat pumps | Land At Former Tay Rope Works Magdalen Yard Road Dundee](#)

RECOMMENDATION

The proposal complies with the Development Plan. There are no material considerations of sufficient weight to justify refusal of planning permission. It is therefore recommended that planning permission be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the addition of air source heat pumps (ASHP) within a residential development. The residential development, which is currently under construction, comprises five houses and four flats. The application proposes each of the houses and flats are to be served by an ASHP to provide heating.
- 1.2 The residential development was approved under planning permission 19/00297/FULL. The applicant states since the approval of planning permission, there have been changes to emissions standards as required under the Building (Scotland) Regulations 2004. These changes require low carbon heating systems to be provided. To meet the current requirements, the design of the flats and dwelling houses has been modified to include ASHPs.
- 1.3 The applicant proposes to install 8kw ASHPs within garden ground at each of the five detached dwelling house, and four, 4kW ASHPs to the rear of the flats. Each ASHP measures 0.74m high, 0.88m wide and 0.38m in deep, and will be contained within a sound enclosure to reduce noise.



Figure 1 – Proposed Site Plan

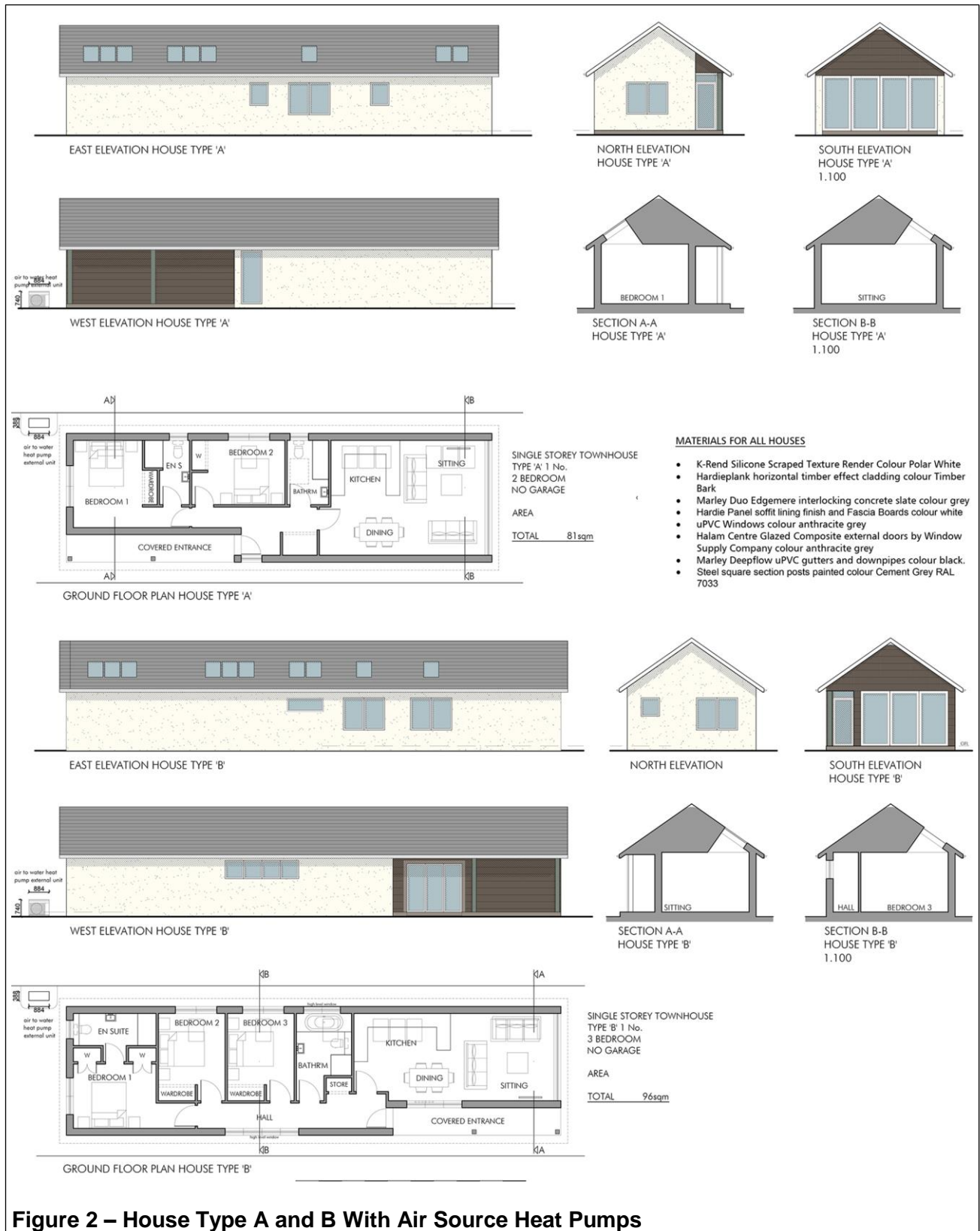


Figure 2 – House Type A and B With Air Source Heat Pumps

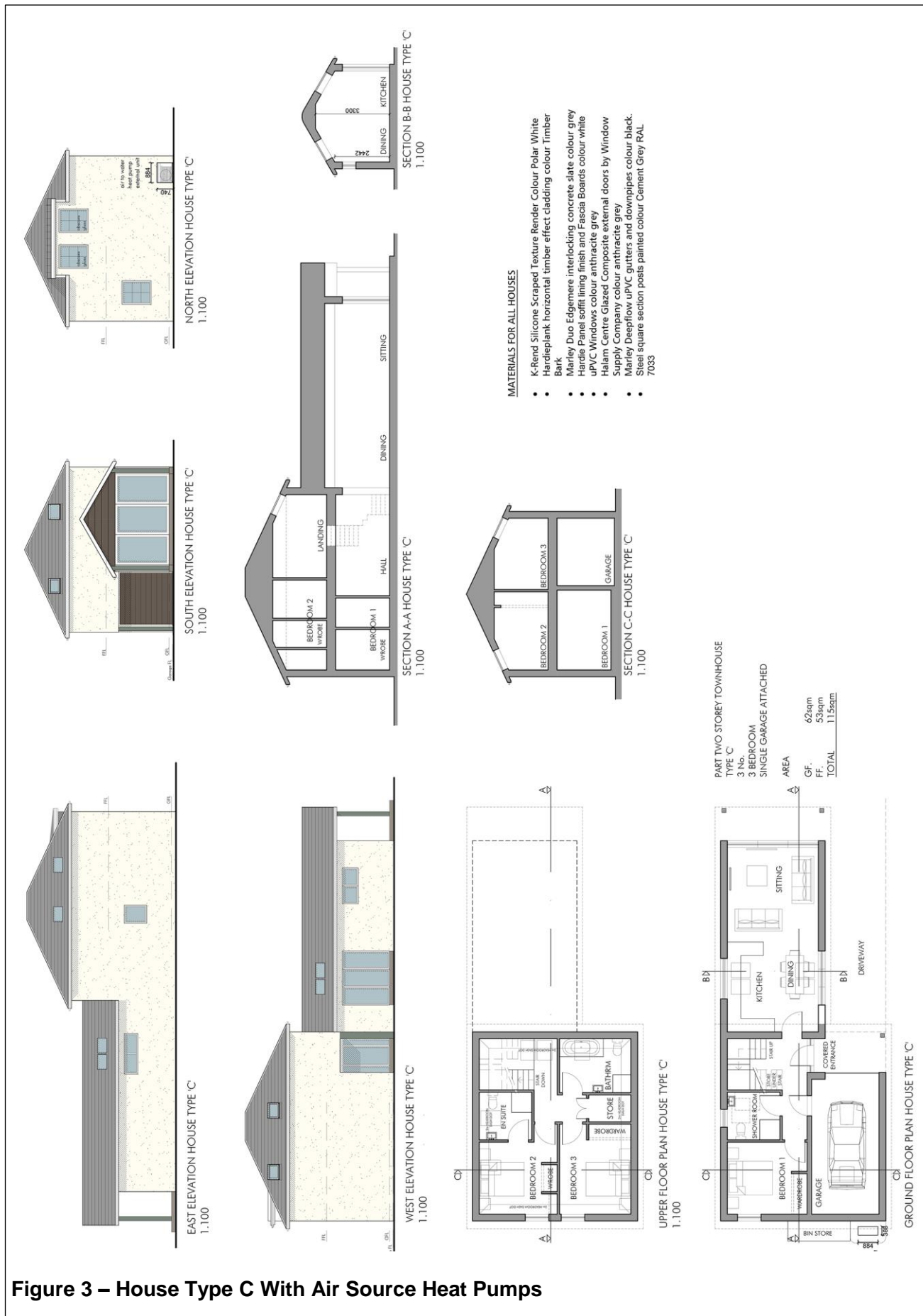


Figure 3 – House Type C With Air Source Heat Pumps

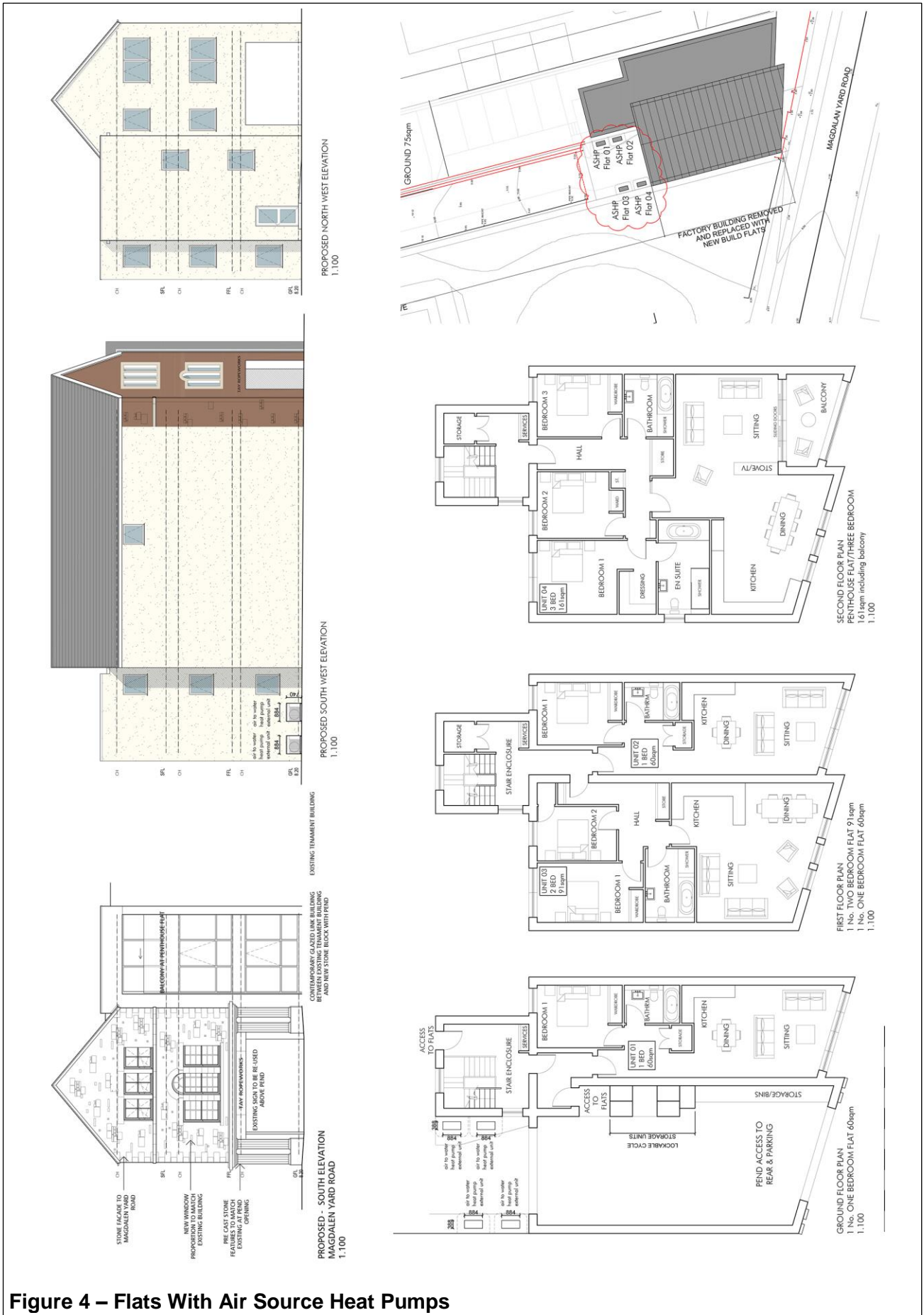


Figure 4 – Flats With Air Source Heat Pumps

2 SITE DESCRIPTION

- 2.1 The site was originally occupied by the Tay Rope Works. It is in the process of being developed, with five houses currently under construction. The site is long and narrow, being predominantly 12 metres wide by 130 metres long within the south and 8 metres wide by 80 metres long in the north. 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.
- 2.2 The surrounding area is residential in nature, with predominantly traditional dwellings and flats contained within the West End Lanes Conservation Area. There are also modern residential developments including on Seafield Close and Patons Lane. Magdalen Green is located 50 metres to the south west, and Perth Road is 150 metres to the north.



Figure 5: View of Site From Thomson Street



Figure 6: View of Site From Magdalen Yard Road

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4

Policy 1: Tackling the climate and nature crisis

Policy 2: Climate mitigation and adaptation

Policy 7: Historic assets and places

Policy 11: Energy

Policy 14: Design, quality and place

Policy 23: Health and safety

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design/Placemaking

Policy 39: Environmental Protection

Policy 51: Dev in Conservation Areas

3.2 There following plans, policies and non-statutory statements are considered to be of direct relevance.

Historic Environment Policy for Scotland

Managing Change in the Historic Environment.

4 SITE HISTORY

- 4.1 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;
- 4.2 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;
- 4.3 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;
- 4.4 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;
- 4.5 18/00353/FULL sought planning permission for 5 houses and 4 flats. The application was refused in November 2018.
- 4.6 18/00372/LBC sought consent for the demolition of the Tay Rope Works façade. The application was refused in November 2018;
- 4.7 19/00297/FULL for the erection of five houses and four flats was approved in August 2019.
- 4.8 19/00299/LBC for Listed Building Consent to demolish the Tay Rope Works façade was refused at planning committee in August 2019. The applicant requested an appeal of this decision which was upheld by DPEA and listed building consent was granted in December 2019.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken.
- 5.2 Six letters of objection were received, raising the following concern:
- noise from the proposed heat pumps will have a detrimental impact on the amenity of residents within the surrounding area throughout the day, impacting on matters including working from home, enjoyment of garden ground and sleeping.
- 5.3 The matters raised in representations are considered within the main body of this report.

6 CONSULTATIONS

- 6.1 No consultee comments were received.

7 DETERMINING ISSUES

- 7.1 **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 National Planning Framework 4 relevant to the determination of this application are specified in the Policy Background section above.

Design and Visual Impact

- 7.2 **NPF4 NPF Policy 14a and 14b: Design, Quality and Place** - states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.
- 7.3 **LDP Policy 1: High Quality Design and Placemaking** - states that all development proposals should follow a design-led approach to sustainable, high quality placemaking. 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.
- 7.4 The proposed air source pumps would be located within the garden ground of each detached dwelling, located towards an external wall of each property. The heat pumps and associated sound covers are of a size and form which can be accommodated within garden ground without impact on the character or appearance of the houses. Similarly, the air source heat pumps serving the proposed flatted development would be located to the rear of the building, restricting views of the heat pumps from surrounding public roads including Magdalen Yard Road. Due to the position of the proposed air source heat pumps there would be no significant impact on views of the development from public areas.

7.5 Overall, it is considered that the proposed works would have a neutral visual impact on the street scene overall.

7.6 **The proposal is in compliance with NPF Policy 14 and LDP Policy 1.**

Residential Amenity

7.7 **NPF Policy 23e: Health and Safety** - requires development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely. **LDP Policy 39: Environmental Protection** - states that all new development or an extension to an existing development that would generate noise, vibration, odour, emissions to air, dust or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing development in close proximity to existing sources of noise, vibration, odour, emissions to air, dust or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses.

7.8 As a total of nine air source heat pumps are proposed, there is potential for the combined noise of the heat pumps to impact on the amenity of the proposed development and neighbours surrounding the site. A Noise Impact Assessment (NIA) has been submitted in order to understand and confirm the potential noise impacts from the air source heat pumps.

7.9 The Noise Impact Assessment concludes that the noise generated by the air source heat pumps, which are to be equipped with sound enclosures, will be lower than the ambient background noise measured at the new build houses and the flatted dwellings. The assessment also considers the impact of the proposed heat pumps on noise at the nearest existing residential houses, and demonstrates the required NR35 noise level criteria would be achieved. The NIA therefore demonstrates that when operational, noise from the air source heat pumps would achieve target noise criteria and would not cause any significant noise disturbance.

7.10 A condition is recommended that restricts the total noise to a maximum of NR 35 when measured 1 metre externally from the facade of adjacent residential accommodation. A further condition is recommended to ensure that sound enclosures are installed at each air source heat pump in accordance with the NIA and supporting statement to ensure that the required noise level can be achieved. Subject to the recommended conditions, there would be no unacceptable impact on residential amenity to the neighbouring properties.

7.11 **The proposal complies with NPF4 Policy 23 and LDP Policy 39, subject to conditions.**

Climate Change

7.12 **NPF 4 Policy 1: Tackling the climate and nature crises** - requires significant weight to be given to the global climate and nature crises when considering all development proposals. **NPF4 Policy 2c: Climate mitigation and adaptation** - sets out that development proposals to retrofit measures to existing developments that reduce emissions or support adaptation to climate change will be supported.

7.13 The proposal relates to the installation of an ASHPs within a new build residential development, reducing greenhouse gas emissions from the site compared to alternative heating methods.

7.14 **The proposal therefore complies with Policies 1 and 2c of the NPF4.**

- 7.15 **NPF4 Policy 11a: Energy** - states that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:
- i wind farms including repowering, extending, expanding and extending the life of existing wind farms;
 - ii enabling works, such as grid transmission and distribution infrastructure;
 - iii energy storage, such as battery storage and pumped storage hydro;
 - iv small scale renewable energy generation technology;
 - v solar arrays; and
 - vi proposals associated with negative emissions technologies and carbon capture; and vii. proposals including co-location of these technologies.
- 7.16 The proposal relates to the installation of ASHPs within a new build residential development, in accordance with point iv.
- 7.17 **As such, the proposal complies with Policy 11a of the NPF4.**

Historic Environment

- 7.18 **NPF Policy 7d: Historic assets and places** – states development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the:
- i architectural and historic character of the area;
 - ii existing density, built form and layout; and
 - iii context and siting, quality of design and suitable materials.
- 7.19 **LDP Policy 51: Development in Conservation Areas** - states that 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.
- 7.20 The proposal is for the addition of air source heat pumps within the curtilage of buildings which form part of a new build housing development. The air source heat pumps would be located within garden ground of each house, and to the rear of a flatted development. The air source heat pumps and associated acoustic enclosures at each house would be partially screened by existing boundary treatments restricting views of the heat pumps from the surrounding area. The heat pumps which are to serve the flatted block would be located to the rear of the building, restricting views from Magdalen Yard Road. Due to the size and position of the air source heat pumps, they would be a minor addition to the wider new build residential development and would have no significant impact on the character, density, layout or quality of design of the residential development or West End Lanes Conservation Area.
- 7.21 **The proposal meets the requirements of NPF4 Policy 7d and LDP Policy 51.**
- 7.22 **It is concluded that the proposal is in accordance with the Development Plan.**

Historic Environment Policy for Scotland

- 7.23 The Historic Environment Policy for Scotland sets out principles and policies for the recognition, care and sustainable management of the historic environment. It seeks to influence decision making that will be sufficiently flexible and adaptable to deal with wide-ranging and ongoing changes to society and the environment, and to achieve the best possible outcome for the historic environment, maximising its benefits.
- 7.24 Managing Change in the Historic Environment - Micro Renewables advises that heat pump systems require careful design to minimise impacts to the historic environment. Pipework and pump equipment (often in one or two units, some indoors, some outdoors) need to be carefully located to avoid both physical and visual impacts.
- 7.25 In this instance the air source heat pumps are located with garden ground of new build houses and to the rear of a flatted development. The heat pumps would not be clearly visible from any public elevation. Any works to connect the pumps to the heating system within the new build dwellings would have no impact on any historic buildings or the character of the site.
- 7.26 As such the proposals would have no detrimental impact on the Conservation Area in line with the policies of the Historic Environment Policy for Scotland in addition to Managing Change in the Historic Environment.

MATERIAL CONSIDERATIONS

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

A – LETTERS OF REPRESENTATION

- 7.28 Six letters of objection were received raising the following valid material grounds:
- 7.29 Objection - Noise from the proposed heat pumps will have a detrimental impact on the amenity of residents within the surrounding area throughout the day, impacting on matters including working from home, enjoyment of garden ground and sleeping.
- 7.30 Response – A noise impact assessment (NIA) has been submitted with the application. The NIA considers noise from the air source heat pumps and the impact on residential amenity. The NIA demonstrates the air source heat pumps can achieve target noise levels with acoustic enclosures. Through meeting target noise levels, noise from the heat pumps would not be significant, and would have no detrimental impact on residential amenity. Planning conditions can be attached to any planning permission requiring acoustic enclosures be installed as the submitted proposals, and to restrict noise levels.
- 7.31 The letters of objection also raised concerns with elements of the previously approved residential development including alterations to site boundary treatments. These are not matters which can be considered under the present application which is for air source heat pumps only.
- 7.32 **It is concluded that there are no material considerations which would justify refusal of planning permission.**

8 CONCLUSION

- 8.1 The application is in accordance with the Development Plan. There are no material considerations of sufficient weight that would justify refusal of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be GRANTED subject to the following conditions:
- 1 **Condition** – the development hereby permitted shall be commenced within three years from the date of this permission.
Reason – to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.
 - 2 **Condition** – prior to first use the air source heat pumps shall be installed as specified and fitted with the specified sound cover as outlined in Document 06 - Supporting Statement dated 3 April 2024. The sound covers shall be retained in perpetuity.
Reason – in the interest of protecting residential amenity.
 - 3 **Condition** – the total noise from all mechanical and electrical plant/services shall, at all times, not exceed a noise rating level of 35 (NR 35) as measured 1 metre external to the facade of adjacent existing residential accommodation and the adjacent residential accommodation within this development.
Reason – in the interest of protecting residential amenity.

Erection of 8 Houses and Associated Works 24/00703/FULL

KEY INFORMATION

Ward Lochee

Address

Former Community Centre
Angus Street
Dundee

Applicant

Abertay Housing Association

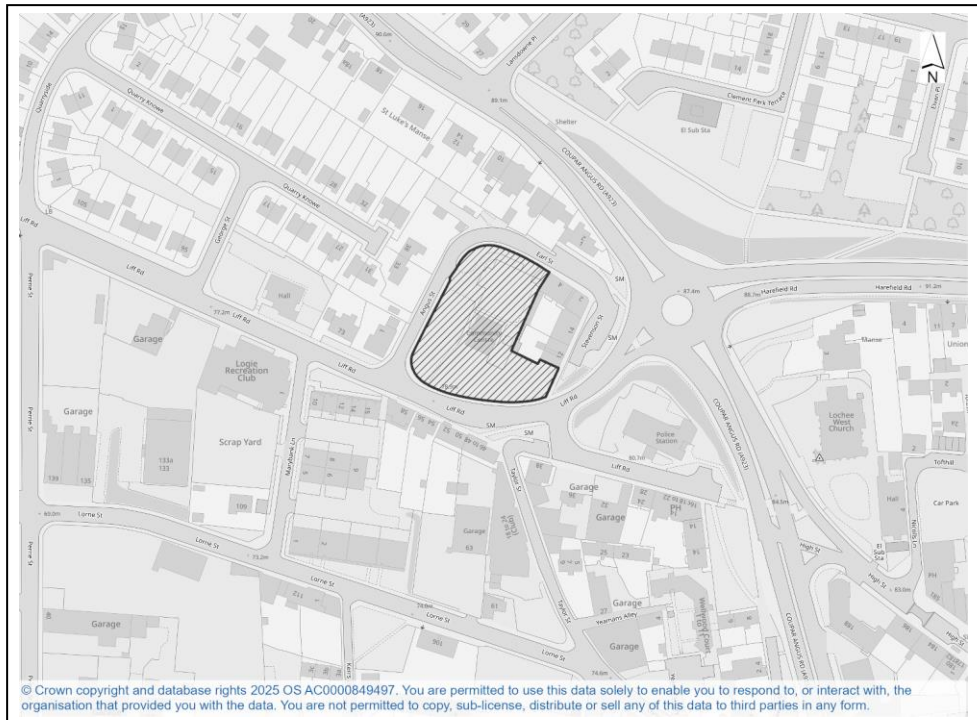
Agent

Donald Mackenzie
Wellwood Leslie Architects

Registered: 4 Nov 2024

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

Contact: Edward Bean



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SUMMARY OF REPORT

- Planning Permission is sought for a residential development of eight houses, with associated landscaping, and other associated works.
- The application site is 0.32 hectares of land to the north of Liff Road, and comprises the site of the former Angus Street community Centre, which has now been demolished.
- The applicant has submitted detailed plans including site layouts, elevations and section drawings along with supporting information including a design statement, landscaping plans and drainage strategy.
- The application is in accordance with the requirements of the Development Plan.
- The statutory neighbour notification process was undertaken. In total, 11 letters of objection were received. The letters of objection raise concerns with loss of parking, impact on road safety and privacy, and loss of greenspace and habitat.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as six or more valid written objections have been received and the recommendation is for approval.
- More details can be found at;
<https://idoxwam.dundeeccity.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=SIYWWZGCMUO00>

RECOMMENDATION

The proposal is fully in accordance with the Development Plan. There are no material considerations of sufficient weight to justify refusal of planning permission. It is therefore recommended that planning permission be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of eight semi-detached two storey dwellinghouses on the site of the former Angus Street community Centre, north of Liff Road.
- 1.2 The proposed houses each have front and rear gardens and off-street parking. The houses have three bedrooms, and there are two house types, with four of each house type. Finishes include dry dash render with sections of stone cladding to external walls, interlocking slate roof tiles, and grey UPVC windows and grey composite doors.
- 1.3 Front gardens include areas of lawn and hardstanding, and rear gardens are defined by timber fencing. All houses front onto Angus Street. Two off street car parking spaces are proposed per property. Areas for waste and recycling bins would be provided within the rear garden ground of each house. It is proposed to heat the dwellings with air source heat pumps.
- 1.4 An area of ground outwith the curtilage of the houses (running behind the rear garden ground of the properties and facing on to Liff Road) would be retained as open space due to the presence of foul water drainage infrastructure. A number of new trees would be planted within this portion of the site.
- 1.5 The houses have been designed to meet affordable housing requirements and will cater to a range of residents.
- 1.6 The applicant has submitted the following in support of the application:
 - Planning statement
 - Surface water proposals;
 - Foul drainage proposals:
 - Ecological survey;



Figure 1 – Proposed Site Layout



Figure 2 – Proposed Elevations

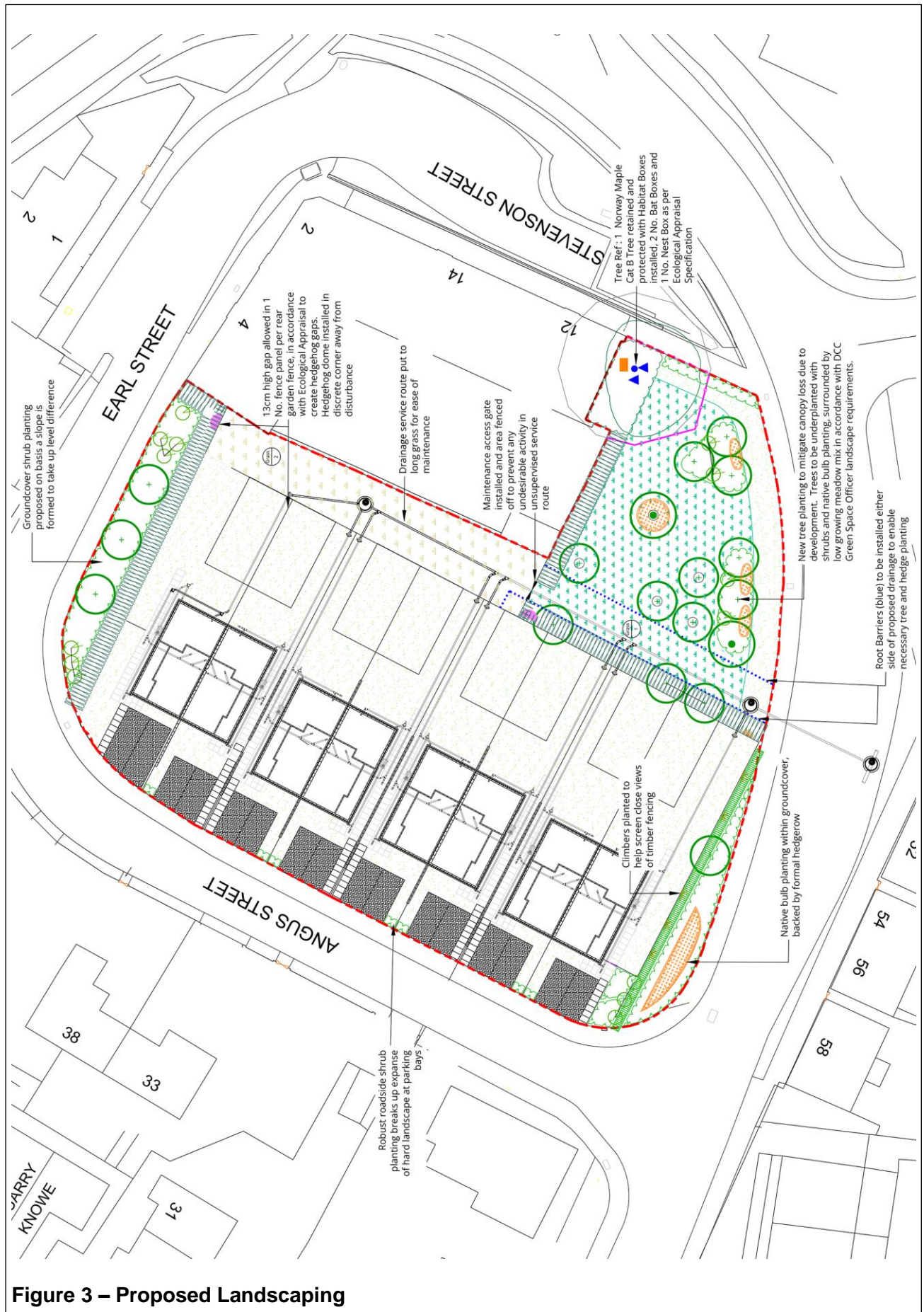


Figure 3 – Proposed Landscaping

2 SITE DESCRIPTION

- 2.1 The application site is 0.32 hectares of land to the north of Liff Road, and comprises the site of the former Angus Street community Centre, which has now been demolished.
- 2.2 The site is roughly “L” shaped, and is an area of brownfield land that contains areas of open grass, scrub and hardstanding, with trees of various quality and age dispersed throughout. The southern boundary is formed by Liff Road, the west by Angus Street, and the north by Earl Street. The east boundary is formed by the rear garden ground of flatted properties on Earl Street and Stevenson Street. The site slopes gently upwards from south to north, with a more steeply banked area in the northern portion of the site.
- 2.3 The application site is not allocated for any particular use, and is located within a Suburban area as per the Dundee Local Development Plan 2019.



Figure 4 – View of Application Site Facing North



Figure 5 – View of Application Site Facing North East

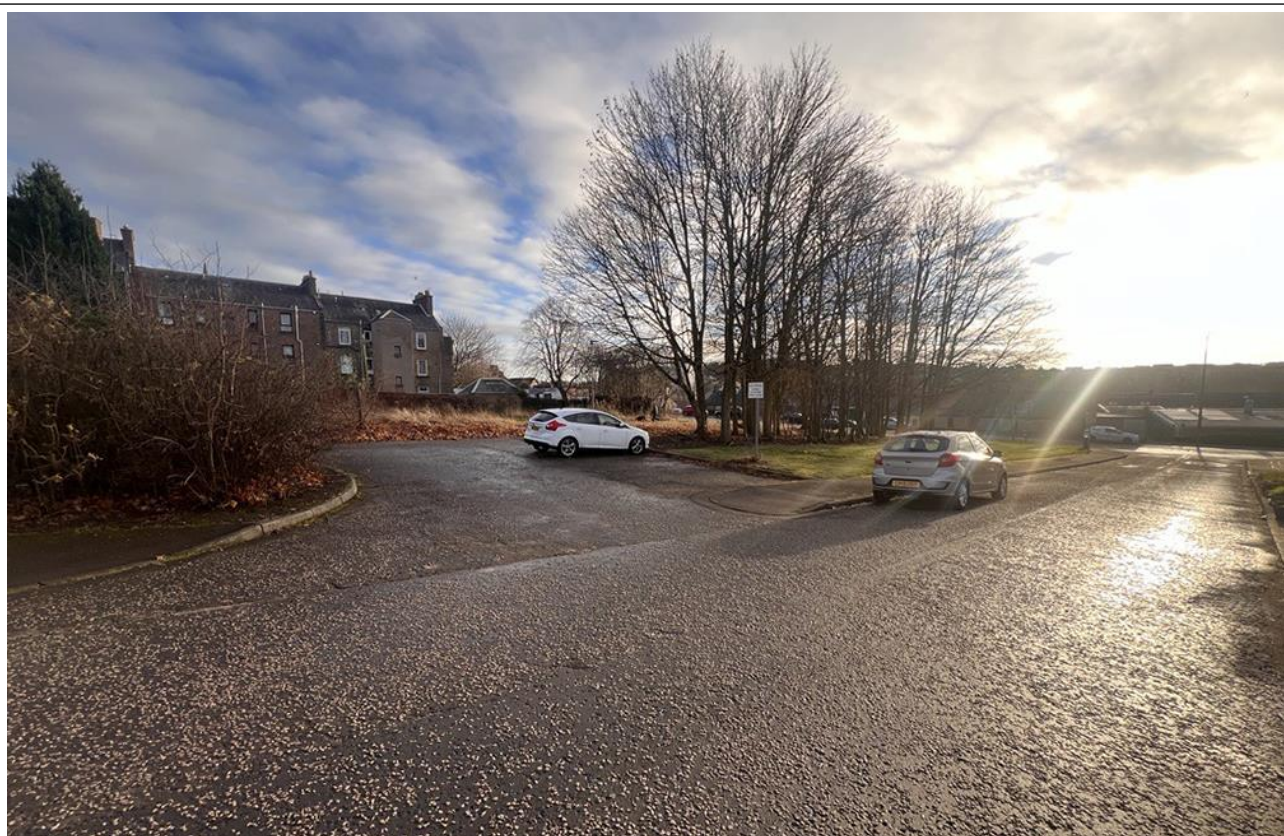


Figure 6 – View of Application Site Facing South East



Figure 7 – View of Application Site Facing South

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4 (NPF)

Policy 1: Tackling The Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 3: Biodiversity
Policy 6: Forestry, Woodland and Trees
Policy 9: Brownfield, Vacant and Derelict Land And Empty Buildings
Policy 12: Zero Waste
Policy 13: Sustainable Transport
Policy 14: Design, Quality and Place
Policy 15: Local Living and 20 Minute Neighbourhoods
Policy 16: Quality Homes
Policy 19: Heat and Cooling
Policy 22: Flood Risk and Water Management
Policy 23: Health And Safety

DUNDEE LOCAL DEVELOPMENT PLAN 2019 (LDP)

Policy 1: High Quality Design and Placemaking
Policy 2: Public Art Contribution
Policy 9: Housing Land Release
Policy 10: Design of New Housing
Policy 35: Trees and Urban Woodland
Policy 37: Sustainable Drainage Systems
Policy 39: Environmental Protection
Policy 41: Land Contamination
Policy 44: Waste Manage Requirements For Development
Policy 48: Low Zero Carbon Technology
Policy 54: Safe Sustainable Transport
Policy 56: Parking

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 There is no recent planning application history relevant to the determination of this current application.

5 PUBLIC PARTICIPATION

5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.

5.2 Ten letters of objection were received raising the following valid material grounds:

- loss of grassland habitat and trees without adequate compensatory planting;

- impact on protected species;
- the houses do not use renewables as primary heating sources;
- loss of parking;
- lack of sufficient parking for proposed houses;
- loss of safe pavement space;
- loss of turning space for large vehicles;
- impact on access for emergency vehicles;
- impact on road safety;
- impact on existing disabled access on west side of Angus Street;
- loss of green space;
- loss of privacy from overlooking;
- loss of daylight/sunlight; and
- nearby houses missed from neighbour notification process.

6 CONSULTATIONS

6.1 **Head of Environment** commented on the following matters:

Greenspace - the Council's Greenspace Officer has reviewed an ecological survey of the existing site as well as a replacement planting specification which shows the retention and protection of an existing tree, as well as the planting of a number of new hedges, trees, plants, shrubs and areas of wildflower. A number of measures to enhance biodiversity have also been included on the site, such as habitat boxes, hedgehog domes, bat boxes and nest boxes. The Greenspace Officer does not object to the proposals, and conditions have been included to secure the aforementioned mitigation planting and biodiversity measures, ensuring the biodiversity of the wider site is improved and enhanced over the medium to long term.

6.2 **Head of Sustainable Transport and Roads** – has no objections subject to recommended planning conditions.

6.3 **Scottish Water** – has no objections. Confirms that there is currently capacity within the Clatto Water Treatment Works and Hatton Waste Water Treatment Works.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

The development plan consists of the National Planning Framework 4 (NPF4) and the Dundee Local Development Plan 2019 (LDP). The policies relevant to the determination of this application are specified in the Policy Background section above.

PRINCIPLE OF DEVELOPMENT

- 7.2 **NPF4 Policy 9: Brownfield, Vacant and Derelict Land and Empty Buildings** - provides a presumption in favour of developing such sites. Part a) states that development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.
- 7.3 The reuse of the site for housing would be a sustainable use of the site. As assessed under Policies 3 and 6 which follow, the biodiversity value has been considered through a mitigation planting plan submitted in support of the application. While areas of the site have naturalised, the proposed development would result in an overall net gain in biodiversity enhancement over the medium to long term.
- 7.3 **The proposal complies with Policy 9a of NPF4.**
- 7.4 **LDP Policy 9: Housing Land Release** - states that 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.
- 7.5 The site is brownfield land, having previously been in use as a community centre. The addition of houses to this site would contribute to the tenure mix within the City through the provision of affordable housing, designed to cater to a range of residents in line with the requirements of Abertay Housing Association.
- 7.6 **The proposal is in accordance with Policy 9 of the of the Dundee LDP.**
- 7.7 **NPF4 Policy 15a: Local Living and 20 minute Neighbourhoods** - states development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:
- i sustainable modes of transport including local public transport and safe, high-quality walking, wheeling and cycling networks;
 - ii employment;
 - iii shopping;
 - iv health and social care facilities;

- v childcare, schools and lifelong learning opportunities;
 - vi playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
 - vii publicly accessible toilets; and
 - viii affordable and accessible housing options, ability to age in place and housing diversity.
- 7.8 The site is in an accessible location, within walking distance of a range of shops, services and amenities at Lochee District Centre. The site is connected to the surrounding area by existing footpaths, and is within 20 minutes walking distance of facilities including primary and secondary schools, public open space, and places of employment.
- 7.9 The site is connected by public footpaths to open spaces within the wider area, including Thomson Park.
- 7.10 Overall, the proposed development is well connected to surrounding facilities and services by existing footpaths and roads. The site is located within an area where residents would have access to a wide range of services, supporting the provision of 20-minute neighbourhoods.
- 7.11 **The proposal is in accordance with Policy 15a of NPF4.**
- 7.12 **NPF4 Policy 16c: Quality Homes** - states that development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, including affordable homes, will be supported.
- 7.13 The supporting statement advises that the development has been designed to meet affordable housing requirements, and will cater to a range of residents including families, and the elderly in line with the requirements of Abertay Housing Association.
- 7.14 **The proposal is in accordance with Policy 16c of NPF4.**
- 7.15 **NPF4 Policy 16e: Quality Homes** - states that development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where:
- i a higher contribution is justified by evidence of need, or
 - ii a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes.
- The contribution is to be provided in accordance with local policy or guidance.
- 7.16 All dwellings are affordable housing. In any case, the approach to the delivery of affordable housing in Dundee City has been achieved by the Council working in partnership with Registered Social Landlords and the Scottish Government to deliver housing through the allocation of grant funding (the Affordable Housing Supply Programme). The approach taken has therefore allowed for the successful delivery of affordable housing in the City whilst at the same time supporting the viability of private housing development. There is no requirement within the DCC Local Development Plan 2019 or Developer Contributions Supplementary Guidance for affordable housing contribution.

7.17 **The proposal is in accordance with Policy 16e of NPF4.**

7.18 **NPF4 Policy 16f: Quality Homes** – states that development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- i the proposal is supported by an agreed timescale for build-out; and
- ii the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;
- iii and either:
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or
 - the proposal is consistent with policy on rural homes; or
 - the proposal is for smaller scale opportunities within an existing settlement boundary; or
 - the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

7.19 In relation to point i), the site is identified for committed funding in the Strategic Housing Investment Plan 2025-2030. The applicant advises that it would be their intention to start on site April 2025 and would be a 24 month build, finishing March/April 2027.

7.20 In relation to point ii), the site is not allocated in the Dundee Local Development Plan for any particular use, and is located within a Suburban area. Nevertheless, the site is within 180 metres of Lochee District Centre, and thus residents would have access to a wide range of services, supporting the provision of 20-minute neighbourhoods.

7.21 In relation to point iii) the proposal is for a small scale development (eight dwellings) on an existing brownfield site within an existing settlement boundary.

7.22 **The proposal is in accordance with Policy 16f of NPF4.**

Design

7.23 **NPF4 Policy 14: Design, Quality and Place** - states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Development proposals will be supported where they are consistent with the six qualities of successful places.

7.24 **LDP Policy 1: High Quality Design and Placemaking** - states that all development proposals should follow a design-led approach to sustainable, high quality placemaking. 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. New development will be required to meet the six qualities of successful place in accordance with the guidance provided in Appendix 1.

- 7.25 Although the site is not an allocated housing site within the Dundee Local Development Plan 2019 and therefore does not have an indicative development capacity, the number of units being proposed through this current application is considered acceptable and would not be an overdevelopment of the site.
- 7.26 The surrounding built form is of mixed materials and volumes, with tenements, houses and villas finished with a mixture of brick, render as well as red and grey sandstone. Roofs of these surrounding buildings are predominantly finished in slate but also include interlocking tiles.
- 7.27 The proposal comprises eight semi-detached dwellings, each including front and rear gardens and off street parking. The houses each have three bedrooms, and there are two house types, with four of each house type. The proposed dwellinghouses would be of a typical modern design, with finishing materials and overall design aesthetic consistent throughout. Finishes include dry dash render with sections of stone cladding to external walls, interlocking slate roof tiles, and grey UPVC windows and grey composite doors.
- 7.28 This simple palette of materials is considered to be appropriate to this site, and would assimilate well with the existing buildings in the surrounding area. The combination of materials on the front and side elevations of the dwellings adds visual interest to the housing development.
- 7.29 A visualisation of what the development would look like in the context of its surroundings has been submitted. With a wide variety of building styles in the area, it is considered that the external appearance of the buildings proposed is appropriate for the area, with the general form, massing, house types and layout of the proposed units appropriate to the site's location. The orientation of buildings in relation to Angus Street encourages passive surveillance. The proposed site layout includes an undeveloped area of land to the east side of the site. Access is required to be preserved to this area of land as it will form a service track for a sewer pipe connection from the proposed houses to Liff Road.
- 7.30 Boundary treatments include the erection of 1.8 metre high timber fences between rear gardens, providing defensible boundaries and defining the public and private spaces.
- 7.31 The proposed site plan shows the planting of additional trees along the north boundary of the application site, as well as along the east services track and in the south east corner of the site. Conditions are attached to include mitigation for any tree loss, together with further biodiversity enhancement measures. This planting will create an attractive environment for residents, as well as contributing to the streetscape when viewed from Liff Road. The development relates well with the existing built form surrounding the site and would result in an improvement to the quality of the built environment in this location, whilst meeting the six qualities of place.
- 7.32 As discussed below in relation to LDP Policy 10, the proposals would not result in any loss of privacy due to harmful overlooking. Furthermore, the proposals would be a sufficient distance away from neighbouring properties that a harmful loss of sunlight or daylight would not occur.
- 7.33 The proposal is of a design and form which has no detrimental impact on the character or amenity of the locality.
- 7.34 **The proposal is in accordance with Policy 14 of NPF4, and Policy 1 of the Dundee LDP.**
- 7.35 **LDP Policy 10: Design of New Housing** - requires new housing development to be of a high quality and contribute to creating places that enhance the character and identity of different parts of the city. All new housing development should follow a design led approach and

contribute positively to the surrounding environment, to meet the six qualities of successful place, as set out in Policy 1. Within the terms of Policy 10, all new housing development is required to conform to the Design of New Housing guidance set out in Appendix 4 of the Adopted Local Development Plan, to ensure that the surrounding area is respected and enhanced, and that there is no detrimental impact on residential amenity and parking

7.36 With regard to Appendix 4 of the adopted Local Development Plan, the following standards are required for houses within Suburban areas:

- House Type - 75% of houses require to have three or more bedrooms or a minimum gross internal floor area of 100sqm.
- Car Parking - all car parking should be located within the curtilage of each house. All tenures should have at least 1 space. Private houses with three bedrooms should have at least two spaces. Private houses with four or more bedrooms should have at least three spaces.
- Cycle Provision - one secure, covered space per house must be provided unless a suitable garage or other secure area is provided within the curtilage of the house.
- Amenity/Garden Ground - Brownfield Sites will provide an average private useable garden ground of 140sqm per house with a minimum garden size of 120sqm.
- Privacy - a minimum of 18 metres between the facing windows of habitable rooms.
- General Requirements - provision for waste and recycling should be made in accordance with the Council's waste management strategy, parking areas should include provision for electric charging points.

7.37 **In respect of the above standards:**

- House Type - each dwelling has three bedrooms.
- Car Parking - all car parking should be located within the curtilage of each house, with each three bedroom plot having two car parking spaces.
- Cycle Provision - no reference is made to the provision of secure cycle storage. A condition has been included which requires the submission of details of secure cycle storage to be submitted to the Planning Authority prior to occupation.
- Amenity/Garden Ground - all plots achieve the minimum required garden size of 120sqm.
- Privacy - a minimum of 18 metres is maintained between neighbouring property windows and the windows of the application site.
- General Requirements - provision for waste and recycling storage is made within the curtilage of each property. No reference is made to the provision of EV charging points. However, the driveways of the proposed dwellings are capable of their installation if required through the Building (Scotland) Regulations.

Furthermore, the proposals would be a sufficient distance away from neighbouring properties that a harmful loss of sunlight or daylight would not occur.

7.38 **The proposal is in accordance with Policy 10 of the of the Dundee LDP, subject to condition.**

Climate change

- 7.39 **NPF4 Policy 1: Tackling the Climate and Nature Crises** - states when considering all development proposals, significant weight will be given to the global climate and nature crises.
- 7.40 Through the assessment of this planning application consideration has been given to the global climate and nature crises. The assessment of the proposal against policies relating to biodiversity, transport, waste, flooding and drainage considers the local level effects of development, which can collectively with other developments have an impact on the global climate and nature crises. In addition, as discussed below, the proposed houses accommodate low carbon technologies and would have no significant impact on the global climate and nature crises. The development would satisfy the policy requirements
- 7.41 **The proposal is in accordance with Policy 1 of the NPF4.**
- 7.42 **NPF4 Policy 2: Climate Mitigation and Adaptation Crises** – states that:
- a development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible; and
 - b development proposals will be sited and designed to adapt to current and future risks from climate change.
- 7.43 **LDP Policy 48: Low and Zero Carbon Technology in New Development** - 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. A statement will be required to be submitted with an application for planning permission to demonstrate compliance with this requirement.
- 7.44 The applicant has submitted a planning statement which considers the energy efficiency of the proposed houses. The statement advises that sustainability has been considered from the outset to incorporate environmentally positive practices, such as orientation to benefit from solar gain, and using energy-efficient, recycled, or recyclable materials. The proposal also includes the use of renewable energy sources in the form of solar PV panels on the roof of each dwelling.
- 7.45 Furthermore, the statement advises that the construction will comply with current building regulations, featuring high levels of insulation, efficient heating systems, and LED lighting to significantly reduce energy consumption, lower carbon emissions, and support long-term sustainability. According to the statement, custom-designed house types have been developed to maximise energy efficiency and minimise carbon dioxide emissions by reducing energy demand through superior building fabric performance.
- 7.46 Implementation of the above would allow the development to achieve compliance with building regulations, providing a significant improvement over the regulations through the installation and operation of low and zero carbon generating technologies.
- 7.47 In respect of part b) of NPF4 Policy 2, the site is not shown to be at risk of surface water flooding. Therefore, based upon the low degree of risk of flooding and the fact that the proposals are supported by a proposed SUDS system, it is considered that the proposals are able to adapt to current and future risks from climate change.
- 7.48 **The proposal is in accordance with NPF4 Policy 2 and LDP Policy 48.**

- 7.49 **NPF4 Policy 19f: Heat and Cooling** - states that development proposals for buildings that will be occupied by people will be supported where they are designed to promote sustainable temperature management, for example by prioritising natural or passive solutions such as siting, orientation, and materials.
- 7.50 The planning statement submitted with the application advises that the site layout has been carefully considered to maximise solar gain where possible through orientation the buildings. Furthermore, all dwellings have been designed to comply with, and surpass, current building regulations, demonstrating low CO2 emissions and high energy efficiency.
- 7.51 **The proposal is in accordance with NPF4 Policy 19f.**
- 7.52 **NPF4 Policy 12a: Zero Waste** - states development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.
- 7.53 **LDP Policy 12c: Zero Waste** - states development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed.
- 7.54 **LDP Policy 44: Waste Management Requirements for Development** - development proposals should demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012.
- 7.55 The proposals do not include any new access roads, instead utilising Angus Street for vehicular access. As such, the development will allow for safe access by refuse, emergency and large delivery vehicles. The bins for the proposed dwellings are stored in the rear garden in a dedicated storage area and will be presented on Angus Street on collection days.
- 7.56 There is sufficient provision for waste reduction and waste separation within the development, enabling waste reduction and recycling in line with the waste hierarchy.
- 7.57 **The proposal is in accordance with NPF4 Policies 12a and 12c, and LDP Policy 44.**

Public Art

- 7.58 **LDP Policy 2: Public Art Contribution** – 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.
- 7.59 The proposals will require to provide public art as part of the development. Details of the public art have not been confirmed as part of this application. Therefore, it is recommended that full details of public art provision, and its completion as part of the development be secured by condition.
- 7.60 **The proposal is in accordance with LDP Policy 2 subject to a condition.**

Biodiversity

- 7.61 **NPF4 Policy 3c: Biodiversity** - requires that development proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.

- 7.62 The application site is currently vacant and comprises an area of rough grassland and tall vegetation with approximately 50 mature sycamore trees located on the west side of the site.
- 7.63 The applicant has submitted an ecological survey which details that the proposed development will result in the loss of the grassland habitat, tall ruderal vegetation and a large number of the trees on the site. Whilst there would be an impact on biodiversity as a result of the removal of the trees and vegetation, the ecological survey advises that new planting of native species will enable the mitigation of the loss of the existing habitat, as well as provide further enhancement of the site in order to result in a net gain in biodiversity. The ecological report recommended that landscaping incorporates a diverse range of trees, shrubs, hedgerows and wildflowers to mitigate against the habitat loss and enhance biodiversity for the longer-term.
- 7.64 The submitted site landscaping plan shows the retention and protection of an existing tree, as well as the planting of a number of new hedges, trees, plants, shrubs and areas of wildflower, in line with the recommendations of the ecological survey. A number of measures to further enhance biodiversity have also been included on the site, such as habitat boxes, hedgehog domes, bat boxes and nest boxes.
- 7.65 The Head of Environment has reviewed the proposed landscaping plan and does not object to the proposals. The proposal would have no detrimental impact on any protected species, and the aforementioned range of diverse mitigation planting and biodiversity measures will be secured via a planning condition to ensure the biodiversity of the wider site is improved and enhanced over the medium to long term.
- 7.66 **The proposal is in accordance with Policy 3c of the National Planning Framework 4, subject to conditions.**

Trees

- 7.67 **Policy 6b: Forestry, woodland and trees** - states that development proposals will not be supported where they will result in adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy.
- 7.68 **Dundee LDP Policy 35: Trees and Urban Woodland** - states that 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.
- 7.69 It is proposed to fell the majority of the trees on the site to facilitate the development of the proposed houses. The trees that are proposed to be removed are not Identified for protection in Dundee City Councils Strategic Forest Plan, nor are they protected by any Tree Preservation Orders (TPO).
- 7.70 The applicant has submitted an ecological assessment and compensatory planting plan which The Head of Environment has reviewed. Whilst the replacement planting would take a number of years to become established, it would be an improvement upon biodiversity value of the existing trees to be removed by virtue of the replacement ratio and the variety of the species proposed.

- 7.71 Conditions are therefore attached to include mitigation planting, its maintenance, and protection for any retained trees during construction. It is considered that the tree cover on the site will be enhanced as a result.
- 7.72 **The proposal is in accordance with Policy 6b of NPF4 and Policy 35 of the Dundee LDP, subject to conditions.**

Noise

- 7.73 **NPF4 Policy 23e: Health and Safety** - states development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.
- 7.74 **LDP Policy 39: Environmental Protection** - states that all new development or an extension to an existing development that would generate noise, vibration, odour, emissions to air, dust or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing development close to existing sources of noise, vibration, odour, emissions to air, dust 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.
- 7.75 It is proposed to heat the dwellings with air source heat pumps which have the potential to introduce additional noise sources onto the site. As such, a condition has been included to ensure that noise levels from the air source heat pumps remain acceptable at nearby sensitive receptors. With this condition, the amenity of nearby residential properties can be protected.
- 7.76 The applicant has submitted a Noise Impact Assessment which identifies that several mitigation measures are necessary to achieve a suitable level of residential amenity within the proposed dwellings. The requirement to implement these measures has been included as a condition should planning permission be granted.
- 7.77 **The proposal is in accordance with Policy 23e of NPF4 and Policy 39 of the Dundee LDP, subject to the inclusion of conditions.**

Contaminated Land

- 7.78 **NPF4 Policy 9c: Brownfield, vacant and derelict land and empty buildings** - states where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use.
- 7.79 **LDP Policy 41: Land Contamination** - states that development of potentially contaminated or statutorily identified contaminated land will be considered where the Council is satisfied that remediation measures proposed for the development, adequately address contamination risks to all receptors, such that the land demonstrably does not meet the statutory definition of contaminated land and is suitable for the planned use.
- 7.80 At present, the applicant has not submitted a site investigation. However, due to the potential presence of PAHs (Polycyclic aromatic hydrocarbons) on the application site, it is recommended that planning conditions should be included if planning permission be granted. These relate to the completion and submission of a Preliminary Risk Assessment for contaminated land and, if required, an Intrusive Investigation and a scheme to deal with contamination at the site. Furthermore, a second condition will require the submission of a remediation strategy to deal with contamination risks at the site, prior to development starting,

followed by the implementation of the remediation strategy and the provision of verification reports to ensure any contamination identified within the site is addressed prior to occupation.

- 7.81 **The proposal complies with Policy 9c of NPF4 and Policy 41 of the Dundee LDP subject to the inclusion of conditions.**

Drainage

- 7.82 **NPF4 Policy 22c: Flood Risk and Water Management** - states development proposals will: not increase the risk of surface water flooding to others, or itself be at risk; manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; and seek to minimise the area of impermeable surface.
- 7.83 **LDP Policy 37: Sustainable Drainage Systems** - states that 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.
- 7.84 The area in which the development is located is not identified as being at risk of surface water flooding and drainage information has been provided through the application process. There is scope for surface water to be properly managed within the site and full details regarding the proposed drainage of the development can be controlled through conditions.
- 7.85 In terms of connection to water, Scottish Water does not object to the proposals.
- 7.86 **The proposal is in accordance with Policy 22c of NPF4 and Policy 37 of the Dundee LDP, subject to condition.**

Sustainable Transport and Parking

- 7.87 **NPF4 Policy 13b: Sustainable Transport** - states development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:
- i provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
 - ii will be accessible by public transport, ideally supporting the use of existing services;
 - iii integrate transport modes;
 - iv provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;

- v supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii adequately mitigate any impact on local public access routes.

7.88 **LDP Policy 54: Safe and Sustainable Transport-** states all development proposals that generate travel should be designed to be well served by all modes of transport. In particular, the sustainable modes of walking, cycling and public transport should be afforded priority and provide for easy access to local amenities, education facilities and other services.

7.89 Development proposals will be required to:

- 1 minimise the need to travel by private car;
- 2 provide facilities on-site (and/or off-site through developer contributions or by direct delivery) for walking, cycling and public transport networks, including road/junction improvements and cycle parking. Developments without high quality, safe and convenient links to adjacent walking and cycling networks will not be supported;
- 3 incorporate measures to permit access to public transport networks within a walking distance of no more than 400 metres from all parts of the development;
- 4 have no detrimental effect on the capacity or safe functioning of the existing road or rail networks;
- 5 ensure that safe and adequate provision is made for road freight and waste access, loading and unloading;
- 6 comply with the National Roads Development Guide and any local variations within Dundee City Council's roads design standards; and
- 7 be supported by a travel plan to mitigate transport impacts and improve the accessibility of developments where the Council considers that the development will generate significant travel.

7.90 The site is in an accessible location, and is within 180 metres of Lochee District Centre, and thus is within walking distance of a range of shops, services and amenities. The site is connected to the surrounding area by existing footpaths, and within 20 minutes walking distance of facilities including primary and secondary schools, public open space, and places of employment. A condition has been included which requires the submission of details of secure cycle storage in line with LDP Appendix 4 standards.

7.91 The site is located in close proximity to Coupar Angus Road and Harefield Road, which is on a bus route to and from the city centre, with services to Ninewells, Myrekirk, Broughty Ferry etc. As such, there are good public transport links and Lochee High Street is accessible on foot. The proposal would therefore be accessible and would not generate a significant travel requirement. The applicant has proposed in curtilage parking in line with LDP Appendix 4 standards. The application has been considered by the Council's Head of Sustainable

Transport and Roads, who is content that the proposed development would not result in any parking pressure or otherwise have a detrimental effect on the capacity or safe functioning of the existing road network.

- 7.92 Overall, the proposal would have no detrimental effect on the capacity or safe functioning of the existing road or rail networks.
- 7.93 **The proposal is in accordance with Policy 13b of NPF4 and Policy 54 of the Dundee LDP.**
- 7.94 **Dundee LDP Policy 56: Parking:** - states that all new developments shall be required to comply with Dundee City Council's adopted guidance on road standards; with the national maximum parking standards; and the national minimum disabled parking standards.
- 7.95 No reference is made to the provision of EV charging points. However, the driveways of the three proposed dwellings are capable of their installation if required through Building Standards. A condition has been included which requires the submission of details of secure cycle storage in line with LDP Appendix 4 standards to be submitted to the Planning Authority prior to occupation.
- 7.96 The Head of Sustainable Transport and Roads has reviewed the parking provision for the proposed development and is satisfied with the level of provision.
- 7.97 **The proposal complies with Policy 56 of the Dundee LDP subject to the aforementioned conditions.**
- 7.98 **It is concluded that the proposal is in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

A – REPRESENTATIONS

- 7.99 Ten letters of objection were received raising the following points:
- 7.100 **Objection** - the proposed SUDS basin is not suitable for the topography of the site.
- 7.101 **Response** - the proposed site layout has been revised so that a SUDS basin is no longer required.
- 7.102 **Objection** - loss of grassland habitat and trees without adequate compensatory planting.
- 7.103 **Response** - the loss of biodiversity and trees is considered above in the assessment against Policy 3 and 6 of the National Planning Framework 4, and Policy 35 of the Dundee LDP where it is detailed that mitigation planting and biodiversity measures will be secured via a planning condition to ensure that, over time, the biodiversity of the wider site is improved and enhanced.
- 7.104 **Objection** - impact on protected species.
- 7.105 **Response** - the potential impact on protected species is considered above in the assessment against Policy 3 of the National Planning Framework 4, where it is considered that the proposal would have no detrimental impact on any protected species. In addition, a number of measures to enhance biodiversity have also been included on the site, such as habitat boxes, hedgehog domes, bat boxes and nest boxes.
- 7.106 **Objection** - the houses do not use renewables as primary heating sources.

- 7.107 **Response** - it is proposed to heat the dwellings with air source heat pumps.
- 7.108 **Objection** - loss of parking.
- 7.109 **Response** - as detailed above in relation to assessment against Policy 13b of NPF4 and Policy 54 of the Dundee LDP, the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not result in any parking pressure or otherwise have a detrimental effect on the capacity or safe functioning of the existing road network.
- 7.110 **Objection** - lack of sufficient parking for proposed houses.
- 7.111 **Response** - as detailed above in relation to assessment against Dundee LDP Policy 56: Parking, The Head of Sustainable Transport and Roads has reviewed the parking provision for the proposed development and is satisfied with the level of provision.
- 7.112 **Objection** - loss of safe pavement space.
- 7.113 **Response** – A pavement will be retained along the west side of Angus Street, therefore retaining safe pavement space.
- 7.114 **Objection** - loss of turning space for large vehicles.
- 7.115 **Response** – There is no requirement for a turning head within the site. As detailed above in relation to assessment against Policy 13b of NPF4 and Policy 54 of the Dundee LDP, the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.
- 7.116 **Objection** - impact on access for emergency vehicles.
- 7.117 **Response** – There would be no impact on access for emergency vehicles. As detailed above in relation to assessment against Policy 13b of NPF4 and Policy 54 of the Dundee LDP, the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.
- 7.118 **Objection** - impact on Council owned footpaths and roads.
- 7.119 **Response** - impact on Council owned footpaths and roads is not a material consideration in the determination of this application.
- 7.120 **Objection** - impact on road safety.
- 7.121 **Response** - as detailed above in relation to assessment against Policy 13b of NPF4 and Policy 54 of the Dundee LDP, the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.
- 7.122 **Objection** - impact on existing disabled access on west side of Angus Street.
- 7.123 **Response** – There are no disabled bay markings opposite the site on Angus Street. as detailed above in relation to assessment against Policy 13b of NPF4 and Policy 54 of the Dundee LDP, the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not result in any

parking pressure or otherwise have a detrimental effect on the capacity or safe functioning of the existing road network.

7.124 **Objection** - loss of green space.

7.125 **Response** - the application site is not allocated as open space or green infrastructure within the Dundee LDP.

7.126 **Objection** - potential for increase in litter nuisance.

7.127 **Response** - potential for increase in litter nuisance is not a material consideration in the determination of this application.

7.128 **Objection** - pressure on employment from new housing.

7.129 **Response** - pressure on employment from new housing is not a material consideration in the determination of this application.

7.130 **Objection** - loss of privacy from overlooking.

7.131 **Response** - the potential for loss of privacy is considered above in relation to assessment against Policy 10 of the of the Dundee LDP, where it is detailed that a minimum of 18 metres is maintained between neighbouring property windows and the windows of the application site, and therefore there would be no loss of privacy. Furthermore, a sufficient distance would be retained between windows of the application site and the garden ground of existing neighbouring properties.

7.132 **Objection** - loss of daylight/sunlight.

7.133 **Response** - the potential for loss of daylight/ sunlight is assessed above in relation to assessment against Policy 10 of the of the Dundee LDP, where considered it is a harmful loss of sunlight or daylight would not occur.

7.134 **Objection** - nearby houses missed from neighbour notification process.

7.135 **Response** - the statutory neighbour notification process has been completed.

7.136 The matters raised in the representation are not considered to be of sufficient weight to justify refusal of planning permission.

8 CONCLUSION

8.1 The application accords with National Planning Framework 4 and the Dundee Local Development Plan 2019. There are no material considerations of sufficient weight that would justify refusal of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

9.1 It is recommended that planning permission be GRANTED subject to the following conditions:

- 1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.

Reason – to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 **Condition** - within three months of this grant of consent, a detailed surface water drainage/SUDS design including drawings, and where appropriate, 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), shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out within six months of this grant of consent.

Reason – to ensure the surface to ensure the surface water from the development is properly managed in the interests of flood protection.

- 3 **Condition** – No development shall commence until full details of 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 prevention and visual amenity

- 4 **Condition** - no development shall take place on site until temporary protective fencing has been erected around any existing trees to be retained on the development site. This temporary protective fencing shall be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837:2005 "Trees in Relation to Construction".

All weather notices shall be erected on said fencing with words such as "construction exclusion zone – "Keep out" and the fencing shall remain on site and intact through to completion of the development.

Care must be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jibs and counterweights can operate without coming into contact with any retained trees.

Material that will contaminate the soil, eg concrete/mortar mixing, diesel oil, paints, solvents and vehicular washings, shall not be discharged within 10 metres of any tree trunk. Allowance shall be made for the slope of the ground so that such damaging materials cannot run towards retained trees.

Reason – to ensure the retention and maintenance of any trees on the site which make an important contribution to the visual appearance of the area.

- 5 **Condition** – the landscaping scheme as shown on submitted drawing entitled 'Planting Plan' (including detailed biodiversity measures) shall be implemented prior to occupation of the houses. 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 the implementation and management of the approved scheme of landscaping which will help to integrate the proposed development into the local landscape, and to mitigate the biodiversity impact that development has on the site.

- 6 **Condition** – if any vegetation clearance takes place within the bird nesting season (March to August inclusive), then prior to any such works taking place, the developer shall be required to first gain the express written consent of the Council as Planning Authority. This shall require the developer to submit a walkover survey during the bird nesting season in question, undertaken by a suitably qualified ecologist.

Reason – in the interests of biodiversity and ecology.

- 7 **Condition** – prior to occupation, details of secure, covered cycle storage/parking shall be submitted for the written approval of the planning authority. Thereafter, the provision of the secure, covered cycle storage/parking shall be installed in accordance with the approved schedule.

Reason – in the interests of sustainable travel measures.

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

Reason – In the interests of vehicle and pedestrian safety.

- 9 **Condition** – the hard surface within the curtilage of the dwellings 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.

- 10 **Condition** – development shall not begin until a Preliminary Risk Assessment for contaminated land 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 demonstration of the durability and expected life-span of the remediation;
- iv measures to deal with contamination during construction works; and
- v verification of the condition of the site on completion of decontamination measures.

Reason – in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

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

Reason – in order to ensure that any potential contamination of the site is dealt with

appropriately in the interests of public and environmental safety.

- 12 **Condition** – the total noise from the air source heat pumps shall not exceed NR35 as measured externally to any façade of adjacent residential accommodation.

Reason – in the interests of surrounding residential amenity.

- 13 **Condition** – prior to the occupation of any of the dwellings, the noise mitigation measures identified within the Noise Impact Assessment by Sharps Redmore, “Report 1a, Proposed residential development, land at the junction of Angus Street and Liff Road, Dundee, Environmental Noise Assessment, dated 6th February 2025, project No 2422752” shall be implemented in full. For avoidance of doubt, this includes:

- 1 The minimum glazing performance requirements for window systems as outline in sections 4.6 to 4.9;
- 2 The minimum ventilator performance requirements as outlined in section 4.10; and
- 3 The installation of a solid boundary fence containing no gaps and being of a minimum height of 2.0 metres along the southern and eastern boundaries of properties on the site to protect the rear amenity areas of the dwellings from road traffic noise.

Reason – in the interests of residential amenity.

- 14 **Condition** – prior to commencement of any construction works, 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 visual amenity and environmental quality of the development

Informative

A Minor Footway Works (MW) application (found via the following link on DCC website: <http://www.dundee.gov.uk/citydevelopment/vehicularaccess>) must be submitted to Dundee City Council as Roads Authority for work on the adjacent public road or footway and consent for this must be obtained prior to the commencement of any work on the public road or footway. For further details please contact 01382 433341 or developmentroads@dundee.gov.uk.

Section 42 Application to Extend the Time Period for Implementation of Planning Permission 23/00311/FULM for the Erection of Purpose Built Student Accommodation by 18 Months

KEY INFORMATION

Ward Maryfield

Address

19-21 South Ward Road
Dundee
DD1 1PU

Applicant

Newtide Investment Limited

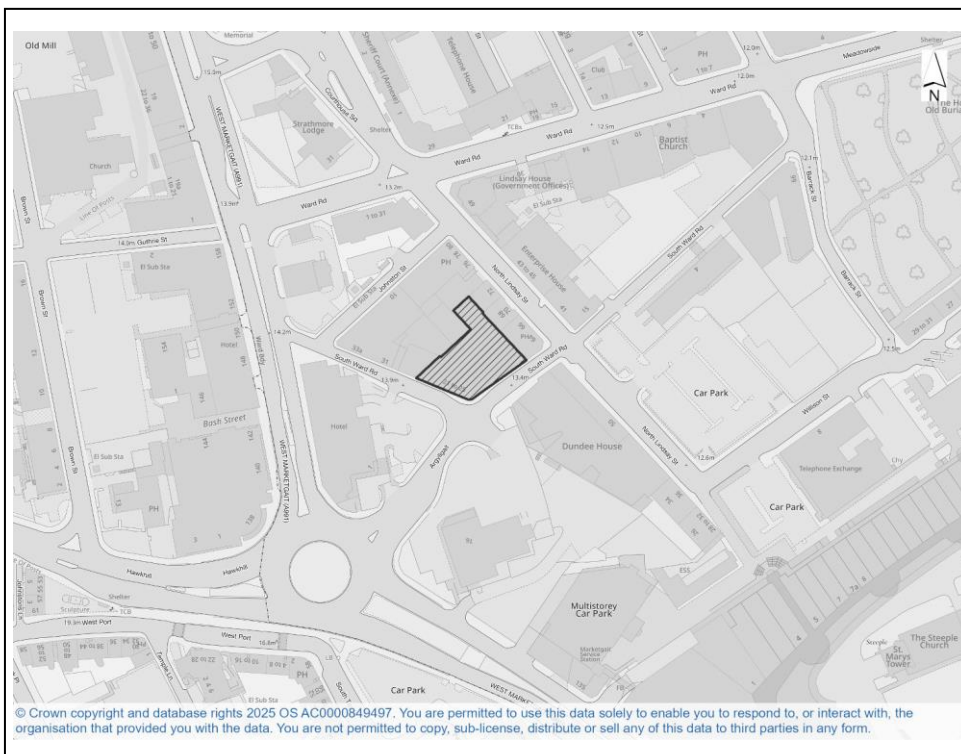
Agent

Varshini Gorjala
Scott Hobbs Planning
24A Stafford Street
Edinburgh
EH3 7BD

Validated 1 Nov 2024

Report by Head of Planning & Economic Development

Contact: Craig Swankie



SUMMARY OF REPORT

- This is an application under Section 42 of The Town and Country Planning (Scotland) Act 1997 to vary Condition 01 of planning permission 23/00311/FULM to allow a further 18 months for the erection of purpose built student accommodation to commence.
- There is an existing planning permission for the development, and the planning authority can only consider the matter of the conditions subject to which planning permission was granted.
- The planning permission expires on 13 June 2025. However, the applicant considers that development will not have commenced before this date. At this time, the developer has not discharged the planning conditions of 23/00311/FULM and is not able to lawfully commence development.
- The applicant has requested the planning permission is extended for a period of 18 months to allow planning conditions to be addressed within a reasonable timescale. It is stated that the commencement of development has been delayed whilst funding and contractors are identified. This process has been impacted by factors including increased construction costs and economic conditions. To enable the project to progress, the applicant requests more time to discharge the planning conditions and progress on site.
- The statutory neighbour notification process was undertaken. No representations were received.
- As this application relates to a condition attached to a Major Planning Application it is to be determined by the Planning Committee.
- More details can be found at [24/00712/S42 | Section 42 application to vary condition 01 of planning permission 23/00311/FULM to extend the time period for implementation of planning permission for purpose built student accommodation | 19 - 21 South Ward Road Dundee DD1 1PU](#)

RECOMMENDATION

The application under Section 42 of The Town and Country Planning (Scotland) Act 1997 to vary Condition 01 of planning permission 23/00311/FULM is in accordance with the Development Plan. It is therefore recommended that planning permission be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission 23/00311/FULM for the erection of purpose-built student accommodation with ancillary amenity space, associated landscaping and cycle parking was approved in December 2023. This planning permission was approved subject to conditions, including condition 01 which required development to begin within 18 months.
- 1.2 Condition 01 states: "*The development hereby permitted shall be commenced within 18 months of the date of this permission.*"
- 1.3 Since planning permission 23/00311/FULM was granted, no development has commenced. The planning agent has engaged with officers about the development since initially proposed, however demolition of the building which currently occupies the site has not been progressed and no development has commenced.
- 1.4 The applicant states whilst the developer is seeking to identify both funding and contractors to progress the development, this will not be concluded and the planning conditions addressed within the 18 month period. To allow further time for these elements to be concluded and development commenced, the applicant is seeking an amendment of condition 01.
- 1.5 This application seeks to vary the condition to allow a further 18 months for development to commence on site. It is proposed to amend the condition to read:
- "The development hereby permitted shall be commenced no later than 13 December 2026."*
- 1.6 This is the only change proposed to the planning permission. The development would be progressed in other respects as approved under 23/00311/FULM.
- 1.7 The applicant has submitted the following in support of the application;
- Planning Statement; and
 - Student Accommodation Need and Demand Assessment.

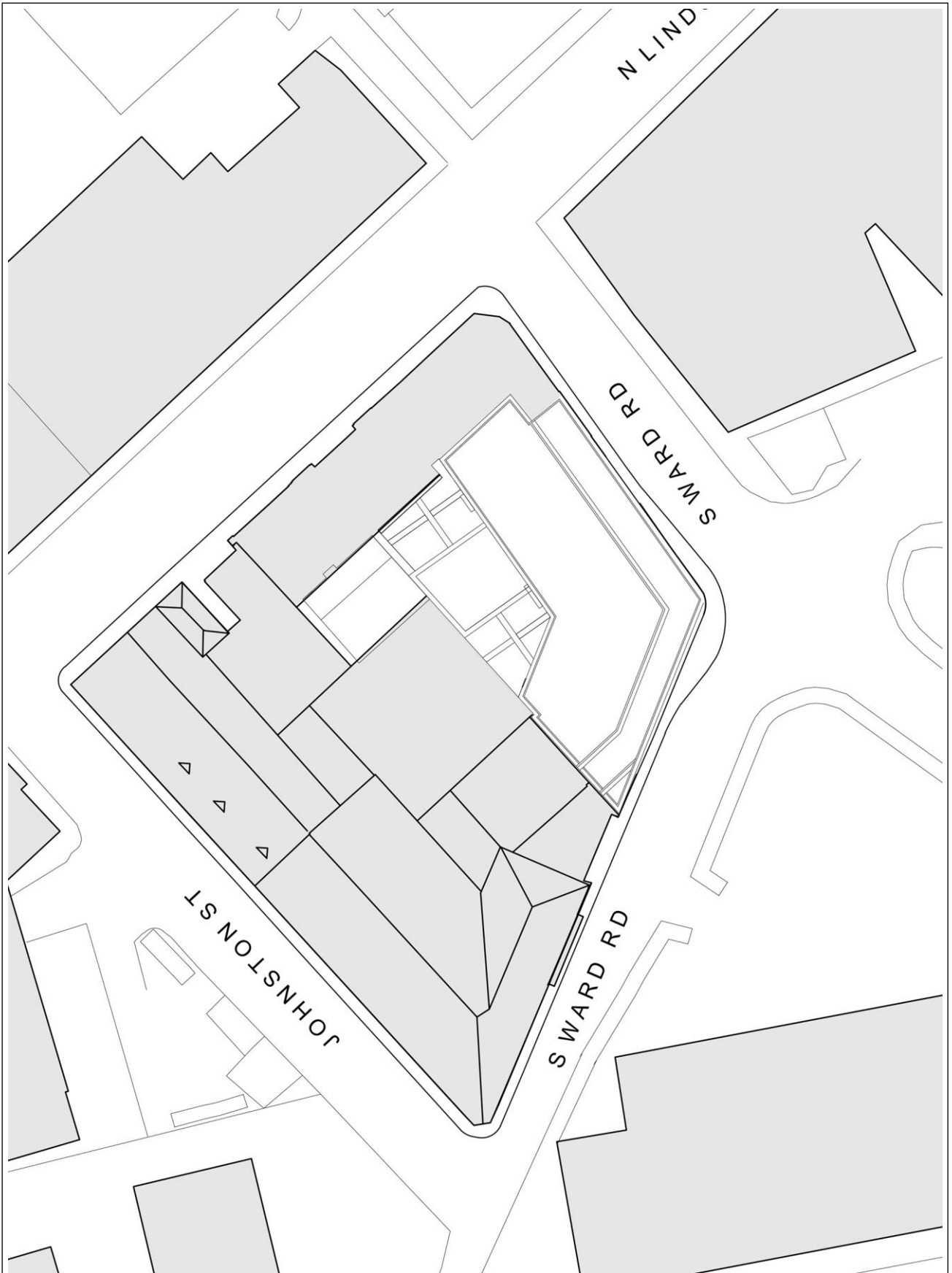


Figure 1 – Proposed Site Plan



Figure 2 – Proposed Building

2 SITE DESCRIPTION

- 2.1 The application site is located on the north side of South Ward Road. The site which contains a vacant nightclub premises is 0.11 hectares and level in nature. There are buildings adjoining the site to the north and east.
- 2.2 The existing nightclub building which is finished in white paint with pitched roof fronts onto South Ward Road. The main walls of the building are equivalent in height to two storeys. As the building was a night club it contains a largely open main floor area with amenities. The site can be accessed via South Ward Road, which provides connections to surrounding roads and footways.
- 2.3 The surrounding buildings contain various uses including office, healthcare services and leisure. The site is also close to the city centre shops and services including Overgate Shopping Centre, Dundee House, and High Street/Murraygate. The site is bound by the Central Conservation Area, with a range of heritage buildings within the vicinity including Category B and Category C listed buildings immediately adjacent to the site. The surrounding area contains a range of building types within the city centre, including modern offices and traditional stone-built buildings.



Figure 3: View of Site From Johnston Street



Figure 4: View of Site From South Ward Road

3 POLICY BACKGROUND

- 3.1 The following plans and policies are considered to be of direct relevance to this application under Section 42 of the Act:

NATIONAL PLANNING FRAMEWORK 4

Policy 16c: Quality Homes

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 15: Student Accommodation

- 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 Proposal of application notice 22/00387/PAN for the demolition of existing building and erection of purpose-built student accommodation was submitted in May 2022.
- 4.2 Planning application 22/00681/FULM for the proposed demolition of an existing building and erection of purpose-built student accommodation with ancillary amenity space, associated landscaping and cycle parking was withdrawn in March 2023.
- 4.3 Planning application 23/00311/FULL for the erection of purpose-built student accommodation (PBSA) together with associated access, amenity spaces and infrastructure was approved subject to conditions in December 2023.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken.
- 5.2 No representation were received.

6 CONSULTATIONS

- 6.1 No consultee comments were received.

7 DETERMINING ISSUES

- 7.1 **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 National Planning Framework 4 relevant to the determination of this application are specified in the Policy Background section above.

Principle of Development

- 7.2 **Policy 16c: Quality Homes** of NPF4 states development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported. This could include homes for people undertaking further and higher education.
- 7.3 **Policy 15: Student Accommodation** of the Dundee Local Development Plan 2019 states student accommodation will only be supported where:
- 1 it can be suitably demonstrated that a demand exists within the particular area for the level and type of student accommodation proposed;
 - 2 it is within convenient walking distance of the higher education institution to which a need exists and is well connected to local services and facilities; and
 - 3 the design and layout of the proposed development is of a high quality and provides an appropriate level of amenity space, car parking provision, refuse/recycling storage space and secure bike storage facilities.

Following development of new and replacement purpose-built student accommodation over the past ten years, it is considered unlikely that there will be the need over the short to medium term for significant additions to the existing supply. To ensure that there is not an oversupply of this type of accommodation, proposals will need to demonstrate that there is a need in the area for the accommodation proposed.

- 7.4 The applicant has submitted a Student Demand and Supply Report with the planning application. The report provided analysis of the existing student population and student accommodation within the city.
- 7.5 The study considers that the full-time student population within the city has grown by 9% between 2018/2018 and 2022/2023, to 17,440 students. Whilst there has been growth in the city's student population, the supply of student accommodation has not kept pace with demand. The report considers much of the student accommodation in the city is dated and there is limited supply of studio style accommodation, which is increasingly a preferred choice for students post pandemic.
- 7.6 The proposals will include the demolition of a vacant building within the city centre, and redevelopment of a highly visible brownfield site. With regard to unmet demand, the submitted report considers there to be up to 13,670 students who require accommodation within the city. The Report suggests that there is a potential unmet demand pool of 6,922 students. There is therefore considered to be sufficient demand for the proposed 215-bedroom development to provide new build, accessible purpose-built student accommodation within the city centre.

- 7.7 At the time when planning application 23/00311/FULM was approved, there was other planning applications for purpose built student accommodation which were either under consideration or had been granted planning permission. To ensure there is not an oversupply of student accommodation, and to encourage the early implementation of planning permission the normal time limit for implementation of a planning permission was reduced from 3 years to 18 months.
- 7.8 Twelve planning applications for purpose-built student accommodation have been approved since April 2020 creating a live pipeline of 2,592 beds. Of the approved new build developments, two are completed including Greenmarket (22/00205/FULL) and 56 Brown Street (21/00478/FULL). Development is progressing on two further developments at 63 Brown Street (20/00729/FULM) and 10 Douglas Street (23/00519/FULL). These developments will provide 661 bedrooms. There are no other developments with planning permission where construction has commenced. There are two live planning applications for student accommodation at this time, including a change of use of St Margarets Home to 36 bed PBSA (24/00760/FULL) and change of use of a former public house on St Andrews Lane to 24 bed PBSA (24/00733/FULL).
- 7.9 As there has been no significant increase in the supply of purpose-built student accommodation within the city since the approval of 23/00311/FULM, the amendment of condition 01 would not result in oversupply of accommodation. With regard to encouraging the early implementation of the permission, the justification provided by the applicant is understood and acknowledged. The applicant has demonstrated through the provision of supporting information and ongoing engagement with the Council that the development could be progressed on site, and that further time would enable funding and contractors to be identified. The requirements of criteria 1 of Policy 15 are met.
- 7.10 The location and design of the proposed development is to remain as previously approved, accordingly the requirements of criteria 2 and criteria 3 of Policy 15 are met.
- 7.11 In this case, it is considered that allowing the extension of time for implementation of the planning permission will not result in an oversupply of the type of accommodation proposed. The proposal is in accordance with Policy 16c of NPF4 and Policy 15 of the Local Development Plan, subject to a condition.
- 7.12 **It is concluded that the proposal is in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

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

A – SCOTTISH GOVERNMENT CIRCULAR 4/1998

- 7.14 Circular 4/1998 provides guidance on the use of conditions in granting planning permission and stipulates that while the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable. The Circular demonstrates that conditions that are fair, reasonable and practicable will satisfy the following 6 tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;

- precise; and
 - reasonable in all other respects.
- 7.15 Condition 01 of planning permission 23/00311/FULM states: “The development hereby permitted shall be commenced within 18 months of the date of this permission.”
- 7.16 After consideration of the tests in the Circular, and to ensure it is precise and enforceable, the proposed wording has been amended to read:
- 7.17 *“The development hereby permitted shall be commenced no later than 13 December 2026.”*
- 7.18 The proposal to vary condition 01 of planning permission 23/00311/FULM does not undermine the necessity, purpose, relevance or precision of the original conditions. The condition sought to ensure the timeous implementation of the planning permission. Since approval, the applicant states there have been factors including economic conditions which have delayed progress. However, work is continuing on identifying funding and contractors. Once these elements are concluded, the planning conditions can be addressed ahead of the development progressing.
- 7.19 The developer has engaged with Dundee City Council since the initial proposals under 22/00387/PAN were submitted in 2022, including during and after approval of planning permission 23/00311/FULM. There has been no significant increase in the availability of purpose-built student accommodation within the city since planning permission was granted. However, it is still considered necessary to only allow a short period for implementation of the permission in order to encourage the development to progress timeously. Based on the supporting information provided by the applicant and consideration of existing and pipeline student accommodation within the city, the provision of a further 18 months to commencement development would be acceptable. In this instance, the proposals adhere to the requirements of Circular 4/1998.
- 7.20 The effect of granting permission for a Section 42 variation is such that a new and separate permission exists for the development. In this case, the full set of conditions attached to the original permission are proposed to be carried forward and attached to this planning permission, with the variation to condition 01.
- 7.21 **It is concluded that there are material considerations which would justify approval of planning permission.**

B – CITY CENTRE STRATEGIC INVESTMENT PLAN

- 7.22 The City Centre Strategic Investment Plan seeks to prepare and guide the future vision for the city, setting out a long-term strategic investment plan for the next three decades, structured around five themes including city centre living. The plan seeks to double the residential population living in and around the City Centre, ensuring a diverse range of people choose to live in the city.
- 7.23 Strategic Outcome 1 of the plan seeks to deliver high-quality residential development by promoting vacant and underused sites and buildings. The proposed development would meet this requirement, through the redevelopment of a long standing vacant site in the city centre.
- 7.24 The redevelopment of the vacant site and provision of high-quality purpose-built student accommodation for 215 students would support the target of doubling the residential population in the city centre and the returning to use of an unused site.

- 7.25 Strategic Outcome 2 seeks to provide a variety of residential types and tenures to meet the needs of different households and to create a diverse community. As considered under Policy 6 of NPF4 and Policy 15 of the Local Development Plan, there is demand for purpose-built student accommodation within the city.
- 7.26 The proposed development would contribute positively to the variety and form of development within the city centre and support the creation of diverse communities.
- 7.27 Strategic Outcome 3 seeks to attract a range of centrally located services and facilities to support city centre living. The proposed development of student accommodation would introduce a number of residents to the area, which would support the provision, vitality and viability of shops and services within the city centre. The development is located within walking distance of a range of facilities and supports the provision of 20-minute neighbourhoods.
- 7.28 Overall, the proposed development aligns with the themes and requirements of the City Centre Strategic Investment Plan through the provision of city centre residential accommodation, re-development of a brownfield site and by being within proximity of a range of shops and services.

C – STUDENT HOUSING IN DUNDEE

- 7.29 In September 2024 the Scottish Government Cross Party Group on Housing released a report 'Student Housing Options and Experiences of Homelessness in Scotland'.
- 7.30 Within the report, student housing within Dundee is considered and reviewed. The report finds in 2022/2023 there were 14,060 students seeking rental accommodation in the City. The report considers the existing supply of PBSA within the city to be 3,289 bed spaces with a shortfall of 6,084. It is noted that whilst some new developments are progressing and will ease pressure more is needed and affordability remains a concern.
- 7.31 The findings of the report align with assessments of student accommodation within the City which have been submitted with planning applications for PBSA. This includes the Need and Demand Assessment submitted with this planning application which identified a potential shortfall of bed spaces to be 6,992. It is acknowledged the student population will vary from year to year, however current reports identified a demand of over 6,000 bed spaces in the city. There is therefore sufficient demand for further PBSA developments to be supported.
- 7.32 The present proposals would provide a further 215 bed spaces within a City Centre location, within walking distance of higher education institutions. The proposals would contribute to the range and availability of PBSA within Dundee and work toward addressing existing demand for student accommodation.
- 7.33 **It is concluded that there are no material considerations which would justify refusal of planning permission.**

8 CONCLUSION

- 8.1 The application under Section 42 of The Town and Country Planning (Scotland) Act 1997 to vary Condition 01 of planning permission 23/00311/FULM is in accordance with the Development Plan. There are no material considerations of sufficient weight that would justify refusal of planning permission.

9 RECOMMENDATION

9.1 It is recommended that planning permission be GRANTED subject to the following conditions:

- 1 **Condition** - the development hereby permitted shall be commenced no later than 13 December 2026.

Reason - to ensure the timeous commencement of development and in compliance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

- 2 **Condition** - development shall not begin until the investigation and risk assessment proposed in the submitted Stage I Desk Study are completed and a remediation strategy to deal with contamination risks at the site has been submitted to and approved in writing by the Council. The strategy shall contain proposals to deal with contamination to include:

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

Reason - in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

- 3 **Condition** – prior to first occupation, 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 order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

- 4 **Condition** - prior to the commencement of any construction works, 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 visual amenity and environmental quality of the development.

- 5 **Condition** - prior to the commencement of development, a scheme of features or measures to conserve, restore and enhance biodiversity, such as those measures set out in the NatureScot Developing with Nature guidance and Section 6 of document 07 – Bat Roost Survey dated May 2023, shall be submitted to and agreed in writing by the Council. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme.

Reason - to ensure that a satisfactory biodiversity enhancement scheme is proposed and implemented, mitigating the biodiversity impact that development has on the site.

- 6 **Condition** – prior to the commencement of development, a detailed hard and soft landscaping plan shall be submitted to the Council for written approval. Thereafter,

landscaping shall be provided on site as the agreed details prior to first occupation of the development hereby approved. 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 the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local streetscape in the interests of the visual amenity of the area.

- 7 **Condition** – prior to the commencement of any construction works, 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 sustainable drainage provision and flood protection.

- 8 **Condition** – prior to the commencement of any construction works, 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 and visual amenity.

- 9 **Condition** - prior to first occupation the scheme of sound insulation detailed in Appendix 5 of the Noise Impact Assessment "Proposed Student Accommodation, South Ward Road, Dundee " (Project No: 5220 V6) dated 25 October 2023, shall be implemented in full. If the specified glazing/ventilation is not to be installed, a revised scheme of sound insulation shall be submitted to the Council for approval prior to construction and thereafter implemented in accordance with the approved scheme.

Reason – to ensure adequate noise mitigation measures are implemented in the interests of protecting surrounding land uses and residential amenity.

- 10 **Condition** - the total noise from the mechanical and electrical plant/services shall not exceed NR45, during daytime, and shall not exceed NR35 during night-time, as measured 1 metre external to the facade of adjacent residential property. Furthermore, it shall not exceed NR25 within any adjoining residential property. NR45 is applicable for the period 0700 to 2300 hours and NR35 and NR25 are applicable for 2300 to 0700 hours.

Reason - in the interests of protecting residential amenity.

- 11 **Condition** – the received noise from the electrical substation(s) shall not exceed NR30 as measured 1 metre external to the facade of adjacent residential property.

Reason - in the interests of protecting residential amenity.

- 12 **Condition** - prior to any construction works onsite, full details of the proposed means of providing heating (and/or additional standby/emergency power) to the building, including details of any flues or extracts or similar related works shall be submitted to and approved in writing by the Local Planning Authority. An air quality assessment may also be needed depending on the size, location and fuel type of any combustion appliances

Reason – in the interest of air quality and protecting residential amenity.

- 13 **Condition** - prior to first occupation, the mitigation measures detailed in Section 6 of the Odour Risk Assessment dated 27 October 2023 entitled “Proposed Purpose-Built Student Accommodation, South Ward Road, Dundee” Version 2.1 (Project number 5220) prepared by ITP Energised, shall be implemented in full.

Reason - in the interest of air quality and protecting residential amenity.

- 14 **Condition** – full details of secure and covered cycle storage within the site shall be submitted to the Council for approval. Thereafter, the cycle storage shall be installed as the agreed details prior to first occupation of the development.

Reason – in the interest of ensuring that provision is made for sustainable transport measures.

- 15 **Condition** - a Travel Plan must be in place and agreed with the Council within one year of the development opening.

Reason - in the interest of ensuring that provision is made for sustainable transport measures.

- 16 **Condition** - the development hereby approved shall be used solely for the purposes of providing student accommodation and ancillary facilities associated with their needs, other than from 1 June to 31 August annually when it may be used as short term holiday accommodation, unless otherwise agreed in writing by the planning authority.

Reason - to retain control of use of the building.

- 17 **Condition** - prior to the commencement of development, a site waste management plan shall be submitted to and approved by the Council. The waste management plan shall contain details of how site waste will be controlled during construction and operation of the development.

Reason - in the interest of sustainable waste management.

- 18 **Condition** - prior to the commencement of work on site, full details and samples of all of the proposed finishing materials of the development hereby approved shall be submitted to the Council for written approval. For the avoidance of doubt, these shall include bricks, cladding, render, windows and doors. Thereafter, the proposed development shall be finished in strict accordance with the details approved by this condition.

Reason - in the interests of visual amenity and to ensure the character and setting of surrounding listed buildings is maintained.

- 19 **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 interests of reducing carbon emissions associated with the proposed development.

- 20 **Condition** - Prior to the commencement of any works on site, a construction management plan shall be submitted to the Council for written approval. The plan shall include details

of road closures, site management and temporary secure boundary treatments to be used during demolition and construction operations. Thereafter, the agreed construction management plan shall be implemented in full.

Reason - to minimise disruption to neighbouring businesses during the construction period.