

Change of Use To Unlicensed Buffet Restaurant (Class 3) and Associated External Alterations - 25/00053/FULL

KEY INFORMATION

Ward - Maryfield

Address

Arnold Clark Showroom
East Dock Street
Dundee
DD1 3HB

Applicant

Hot World Cuisine Ltd

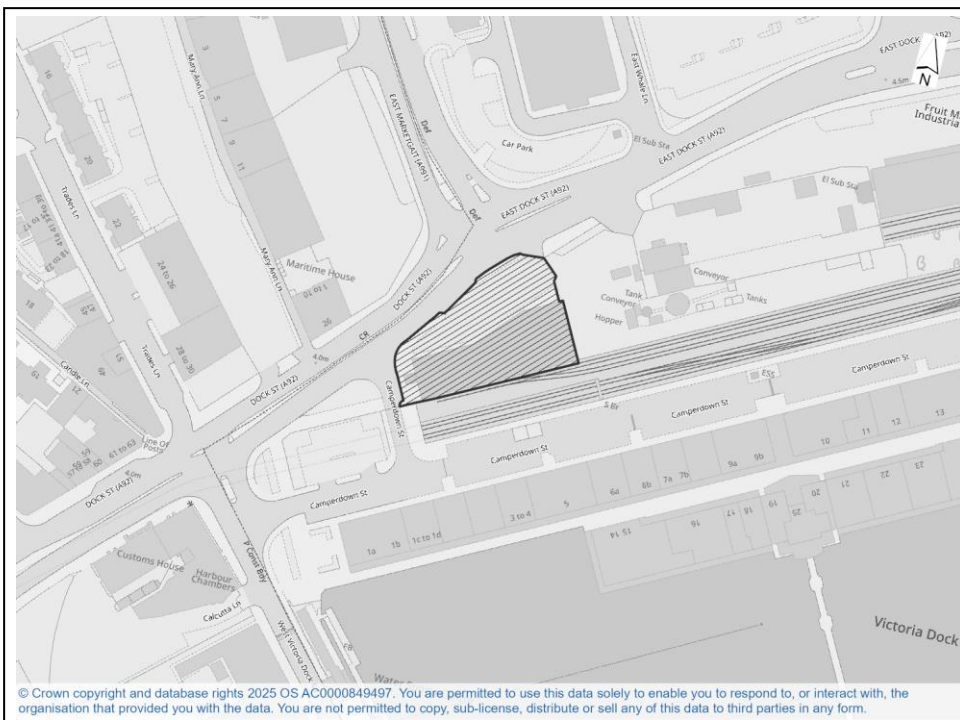
Agent

Jewitt & Wilkie Architects Ltd

Registered: 3 Feb 2025

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

Contact: Edward Bean



SUMMARY OF REPORT

- Planning Permission is sought for the change of use of a former car showroom to an unlicensed buffet restaurant, along with associated external alterations.
- The application site is the former Arnold Clark Vauxhall car dealership on the south side of East Dock Street, with a site area of 0.58 acres (0.2375 hectares) and a floor area of 2,630 square metres.
- The applicant has submitted detailed plans including site layouts, elevations and floor plans along with supporting information including a design statement, sequential assessment and transport statement.
- The application is not fully in accordance with the requirements of the Development Plan as there is a shortfall in parking.
- The statutory neighbour notification process was undertaken. In total, 24 letters of objection were received. The letters of objection raise concerns with impact on existing restaurants, parking pressure, impact on road safety, and amenity impacts.
- 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.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=SR3YWOGCIEV00>

RECOMMENDATION

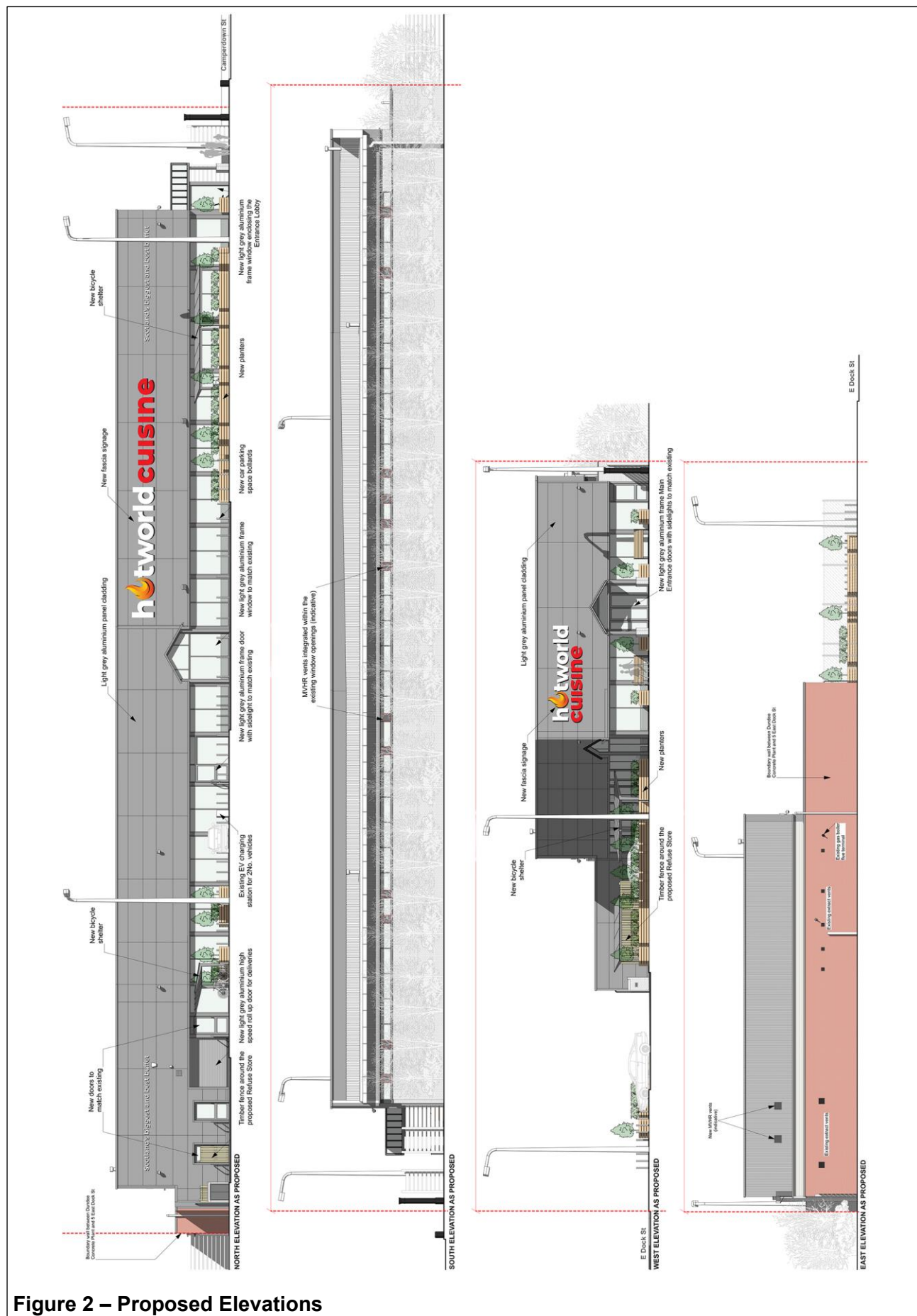
The proposal is not fully in accordance with the Development Plan. There are material considerations of sufficient weight to support approval of planning permission. It is therefore recommended that planning permission be **APPROVED** subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the change of use of a vacant single-storey car showroom at 5 East Dock Street, Dundee into a Class 3 buffet restaurant.
- 1.2 The building, previously used for the sale and display of motor vehicles, will be repurposed to accommodate a large-scale dining facility offering 386 covers. The restaurant will feature a wide variety of international cuisines, and kids/miscellaneous sections, served from perimeter and island buffet counters. It will include a commercial kitchen, dessert preparation area, soft drinks bar, waiting area, prayer room, and staff facilities.
- 1.3 External alterations to the existing building include the following:
- A new glazed entrance lobby within the front (north) elevation of the existing building.
 - A dedicated timber fenced refuse and recycling area to the north of the existing building.
 - The installation of new door openings within the front (north) elevation of the existing building.
 - The installation of mechanical extract vents on the rear (south) and side (east) elevation of the existing building.
- 1.4 The development will otherwise retain the existing building footprint and structure. Cycle storage will be added, and existing EV charging points will be retained.
- 1.5 The submitted elevation drawings show the installation of new signage which will require to be assessed under separate application for advertisement consent.
- 1.6 The applicant has submitted the following in support of the application:
- Planning statement/Design and Access statement;
 - Transport Statement; and
 - Sequential Assessment (Town Centres First).



Figure 1 – Proposed Site Layout



2 SITE DESCRIPTION

- 2.1 The application site is at 5 East Dock Street, Dundee and is located to the east of the city centre, occupying approximately 0.58 acres (0.2375 hectares) with a floor area of 2,630 square metres. It is a single-storey, steel-framed, mono-pitched metal-clad building, complete with a glazed entrance porch and ground-level glazing on the northern elevation. The building is currently vacant but formerly operated as a car dealership.
- 2.2 The site is surrounded by a mix of industrial, commercial, and transport-related infrastructure. To the south, it is bordered by a railway cutting and a naturally formed landscape buffer. On the west side, a link road connects East Dock Street to Camperdown Street, which hosts several existing restaurants. To the east, the site adjoins a concrete mixing plant. The north boundary faces the junction of East Marketgait and East Dock Street, with the Gallagher Retail Park on the north east side of the junction.
- 2.3 The application site is not allocated for any particular use, and is located within the Inner City area as defined in the Dundee Local Development Plan 2019.



Figure 3 – Façade of Building



Figure 4 – Rear of Building



Figure 5 – Side Entrance to Building



Figure 6 – Façade of Building

3 POLICY BACKGROUND

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

National Planning Framework 4 (NPF4)

Policy 1: Tackling the climate and nature crises
Policy 2: Climate mitigation and adaptation
Policy 3: Biodiversity
Policy 7: Historic assets and places
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 22: Flood risk and water management
Policy 23: Health and safety
Policy 27: City, town, local and commercial centres

Dundee Local Development Plan 2019 (LDP)

Policy 1: High Quality Design and Placemaking
Policy 21: Town Centre First Principle
Policy 27: Public Houses, Restaurants and Hot Food Takeaways
Policy 37: Sustainable Drainage Systems
Policy 39: Environmental Protection
Policy 41: Land Contamination
Policy 44: Waste Management Requirements for Development
Policy 49: Listed Buildings
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 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 24 letters of objection were received.
- 5.3 The letters of objection raise the following valid material grounds:
- impact on existing city centre eateries and restaurants;
 - a sequential assessment should be provided to illustrate that no Town Centre or District Centre sites are available;

- insufficient parking and increased parking pressure in local vicinity;
- risk to pedestrian safety;
- vehicular congestion in the local vicinity;
- contrary to LDP Safe Sustainable Transport Policy;
- inadequate sight lines for merging traffic will be unsafe and dangerous;
- access arrangements onto the A92 will create risk of vehicles stopped on A92;
- lack of suitable drainage;
- increase in air pollution as a result of vehicle movements;
- the proposal will result in the generation of a substantial amount of waste;
- removal of vegetation and greenspace to accommodate development;
- negative effect on biodiversity;
- potential for nearby residential amenity to be impacted; and
- potential for existing nearby industrial businesses to be impacted by noise and odour complaints from patrons of the proposed restaurant.

6 CONSULTATIONS

- 6.1 **Head of Sustainable Transport and Roads** – has no objections and does not recommend any conditions.
- 6.2 **Transport Scotland** – has no objections and does not recommend any conditions.
- 6.3 **City Centre and Harbour Community Council (CCHCC)** – objects to the application and raises the following concerns:
- lack of parking considering the number of potential customers;
 - impact on the surrounding road network from increased visitors to the site;
 - loss of business to local businesses as a result of parking competition;
 - contrary to NPF4 Policies 13, 27 and 30; and
 - no transport assessment provided.

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

- 7.2 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

- 7.3 **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.
- 7.4 **NPF4 Policy 9d:** states that development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses.
- 7.5 The proposed buffet restaurant would be a sustainable reuse of the site. The site has not naturalised to an extent that it has any notable biodiversity value.
- 7.6 **The proposal complies with Policy 9a and 9d of NPF4.**
- 7.7 **NPF4 Policy 27b: City, Town, Local and Commercial Centres** - states that development proposals will be consistent with the town centre first approach. Proposals for uses which will generate significant footfall, including commercial, leisure, offices, community, sport and cultural facilities, public buildings such as libraries, education and healthcare facilities, and public spaces:
- i will be supported in existing city, town and local centres, and
 - ii will not be supported outwith those centres unless a town centre first assessment demonstrates that:
 - all centre and edge of centre options have been sequentially assessed and discounted as unsuitable or unavailable;
 - the scale of development cannot reasonably be altered or reduced in scale to allow it to be accommodated in a centre; and
 - the impacts on existing centres have been thoroughly assessed and there will be no significant adverse effect on the vitality and viability of the centres.

- 7.8 **LDP Policy 21: Town Centre First Principle** - states that all new or expanded uses that will generate significant footfall should be located in the City Centre or a District Centre. Proposals for such uses in other locations will only be acceptable where it can be established that:
- 1 no suitable site is available, in the first instance, within the City Centre or District Centres then, edge of town centre and then, Commercial Centres identified in the Local Development Plan, and then out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes;
 - 2 individually or cumulatively the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres or Commercial Centres; and
 - 3 the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres.
- 7.9 The proposed restaurant use is a commercial use and is therefore footfall generating. As such, Policy 27b requires such proposals to be consistent with the town centre first approach. LDP Policy 21 also directs footfall generating uses to the City Centre or a District Centre, consistent with NPF4.
- 7.10 The proposed restaurant comprises a footfall generating use that is not within an existing centre. The application site is located within the 'Inner City' as defined by the adopted Dundee Local Development Plan 2019. The application site is located on the edge of the city centre boundary, and is therefore an 'edge of centre' location.
- 7.11 To justify the proposed restaurant's edge of centre location against the requirements of NPF4 policy 27b and LDP policy 21, the applicant has submitted a Sequential Assessment which considers alternative sites within the city and district centre.
- 7.12 The applicant submits that the building requirements that are essential to the operation of the proposed restaurant includes the need for a single-level floorplate of approximately 1,000 square metres to accommodate seating for over 300 diners, a large buffet area, and extensive kitchen and back-of-house facilities. The applicant submits that the proposed concept also necessitates a dedicated service yard for deliveries and refuse storage, customer car parking including disabled bays, and cycle parking provision. The applicant submits that visual prominence from a main road is a further requirement, as the restaurant is intended to function as a destination venue that benefits from exposure to passing traffic.
- 7.13 The sequential assessment focuses primarily on Dundee's City Centre, particularly the core retail and commercial areas such as the High Street, Overgate, Wellgate and surrounding streets. It evaluates the availability and suitability of existing buildings within this area.
- 7.14 Larger units (over 1,000sqm) within the Overgate and Wellgate Centres were ruled out due to restrictions on evening trading and their designation as key anchor retail units, which are not available for restaurant use. Other city centre buildings were considered by the applicant to be unsuitable due to being of traditional design, limited frontage, and inability to provide the large, open, single-level floorplate required for the proposed buffet-style restaurant. The applicant also explored options within the Waterfront area, which is part of the extended City Centre boundary, however concluded that there are no existing buildings available for conversion. New-build options have been discounted by the applicant due to the cost of new build and viability concerns.
- 7.15 The applicant also considered District Centres, and concluded that there are no premises within the District Centres which are capable of accommodating the operational requirements of the proposed use. The applicant argues that the nature of the proposed restaurant is such

that it seeks to serve the city as a whole, rather than a specific district, and therefore demands a location with high visibility and significant footfall.

- 7.16 Overall, the assessment concluded that no suitable City Centre or District Centre properties could accommodate the scale and operational needs of the proposed restaurant.
- 7.17 The applicant has demonstrated that there are no suitable sites available within the City Centre or District Centres. The assessment includes a detailed review of City Centre and District Centre properties, concluding that no available site can accommodate the scale, layout, and operational requirements of the proposed restaurant.
- 7.18 The proposed restaurant occupies an edge-of-centre site that straddles the defined City Centre boundary, with its main entrance located directly on the boundary line. This edge-of-centre location benefits from strong physical and functional links to the city centre, including proximity to the Apex Hotel, City Quay, and major pedestrian routes such as signalised crossings and core paths leading into the City Centre. The site is highly visible from the inner ring road and is adjacent to complementary uses including leisure, retail, and hospitality. The applicant considers that given these characteristics, the location is well-placed to support the vitality of the city centre by attracting footfall, encouraging linked trips, and enhancing the overall mix of uses in the area. Under these circumstances, the applicant considers that the proposal would not have a significant adverse effect on the vitality or viability of the City Centre or District Centres.
- 7.19 Factoring in the above, it is considered that applicant has provided sufficient justification that the proposed use would not have a significant adverse effect on the vitality or viability of the City Centre or District Centres.
- 7.20 **The proposal complies with NPF4 Policy 27b and LDP Policy 21.**
- 7.21 **LDP Policy 27: Public Houses, Restaurants and Hot Food Takeaways** - states that outwith the City Centre and District Centres proposals for hot food takeaways and restaurants, including external seating areas will only be supported where:
- 1 the proposal has a gross floor area up to 150 square metres and is more than 30 metres from existing or proposed housing or;
 - 2 the proposal has a gross floor area in excess of 150 square metres and is more than 45 metres from existing or proposed housing.
- 7.22 The application proposes a restaurant venue within the Inner City area with a gross floor area of approximately 1,102 sqm.
- 7.23 The building is also located within 96 metres of flats under construction at Harbour Chambers/Customs House, although this is not within such proximity that would be contrary to the above policy.
- 7.24 However, the curtilage of the building is also located within 26 metres of flats to the northwest of the application site at Maritime House and this is contrary to criterion 2 of Policy 27.
- 7.25 **The proposal is contrary to LDP Policy 27.**
- 7.26 **NPF4 Policy 12b: Zero Waste** - states that development proposals will be supported where they reuse existing buildings and infrastructure.

7.27 The proposal involves the conversion of a vacant commercial building into active use, thereby securing its future and reducing the levels of embodied carbon associated with a new build project.

7.28 **The proposal complies with NPF4 Policy 12b.**

Design

7.29 **NPF4 Policy 14a: 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.

7.30 **NPF4 Policy 14c:** states that development proposals which are poorly designed, detrimental to amenity or inconsistent with the qualities of successful places will not be supported.

7.31 **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, which are: healthy; pleasant; connected; distinctive; sustainable; and adaptable.

7.32 The proposal involves the re-use of an existing building, with minor physical alterations which include a new glazed entrance lobby, new entrance doors, refuse and recycling area and wall mounted extract terminals.

7.33 Overall, the proposed physical alterations are modest and in keeping with the existing building. The physical alterations proposed would retain the building's original character and would not be harmful to the character and appearance of the surrounding area.

7.34 The proposal would not result in any loss of privacy due to harmful overlooking, nor a harmful loss of sunlight or daylight.

7.35 The proposal is of a design and form which has no detrimental impact on the character or amenity of the locality.

7.36 **The proposal is in accordance with NPF4 Policy 14a and c and LDP Policy 1.**

Climate and Nature Crises

7.37 **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.

7.38 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.

7.39 **The proposal is in accordance with NPF4 Policy 1.**

- 7.40 **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.
- 7.41 The proposal involves the conversion of a prominent vacant building into active use, thereby securing its future and reducing the levels of embodied carbon associated with a new build project.
- 7.42 **The proposal is in accordance with NPF4 Policy 2.**
- 7.43 **NPF4 Policy 12a: Zero Waste** - states development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.
- 7.44 **NPF4 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 including:
- a provision to maximise waste reduction and waste separation at source;
 - b measures to minimise the cross-contamination of materials, through appropriate segregation and storage of waste;
 - c convenient access for the collection of waste; and
 - d recycling and localised waste management facilities.
- 7.45 **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.
- 7.46 Dedicated refuse and recycling areas are included within the proposed service yard area to the north of the existing building.
- 7.47 The proposal will utilise the two existing vehicular accesses from East Dock Street, with the service yard and staff parking area accessed by its own dedicated vehicular access. As such, the development will allow for safe access by refuse, emergency and large delivery vehicles. The dedicated waste storage area within the service yard will be accessible to waste pickup vehicles.
- 7.48 There is sufficient provision for waste reduction and waste separation within the development site. The proposal would support waste separation, recycling and reduction in line with the waste hierarchy. A planning condition is recommended to secure the submission of details for a waste management strategy.
- 7.49 **The proposal is in accordance with NPF4 Policy 12a and LDP Policy 44, subject to condition.**

Biodiversity

- 7.50 **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.
- 7.51 The application site is currently hard surfaced. The site does not currently benefit from any existing level of biodiversity or planting, and it would be difficult to deliver enhancements due to the lack of any soil on the site, preventing the establishment of any new planting. Under these circumstances, it is considered that it would not be proportionate to require the applicant to carry out additional planting or to install biodiversity measures.
- 7.52 **The proposal is in accordance with NPF4 Policy 3c.**

Environmental Protection/Amenity

- 7.53 **NPF4 Policy 23e:** 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.
- 7.54 **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.
- 7.55 The nearest residential properties are located to the northwest at Maritime House. As such, several conditions are necessary to maintain a suitable level of residential amenity within those existing dwellings.
- 7.56 To protect residential amenity, noise from mechanical and electrical plant or services must not exceed NR45 during daytime hours and NR35 during the night. Additionally, all deliveries and servicing activities, including loading and unloading, are prohibited between 2200 and 0700 hours. These controls have been included as conditions should planning permission be granted.
- 7.57 In terms of potential for odour nuisance, due to the location of the premises and the proposed discharge point for the kitchen extraction system to the east side of the premises, it is not anticipated there to be the likelihood of odour nuisance.
- 7.58 Overall, the proposed development can be accommodated without significant negative impact on surrounding residential amenity.
- 7.59 **The proposal is in accordance with NPF4 Policy 23e and LDP Policy 39 subject to conditions.**

Land Contamination

- 7.60 **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.

- 7.61 **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.
- 7.62 Dundee City Council records show that three underground storage tanks were installed in 1964 and decommissioned in 1979 by cement slurry infilling. There is no record of the tanks being excavated or removed, and the applicant does not intend to disturb them as part of the proposal. There is therefore no requirement for further investigation or remediation measures.
- 7.63 **The proposal complies with NPF4 Policy 9c and LDP Policy 41.**

Flood Risk and Drainage

- 7.64 **NPF4 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.
- 7.65 **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.
- 7.66 The proposal will utilise the existing drainage infrastructure of the building. The design statement confirms that the development will not impact surface water drainage and that the increased waste water demand can be accommodated within the current foul water drainage system on East Dock Street.
- 7.67 On this basis it is considered that the proposals would not increase the risk of flooding, nor result in a detrimental impact on the ecological quality of the nearby water environment.
- 7.68 **The proposal complies with NPF4 Policy 22c and LDP Policy 37.**

Traffic and Transportation

- 7.69 **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.

7.70 **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.

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.

7.71 In respect of NPF4 Policy 13 part b) standards:

- i the site is immediately adjacent to the Green Circular core path network;
- ii the site is within 200m of bus stops on Seagate, so is readily accessible by public transport;
- iii the integration of transport modes is relevant to larger scale applications; however the applicant proposes cycle parking to support active travel alongside access by private car;
- iv EV charging spaces are proposed within the curtilage of the site with ducting installed to support future expansion;
- v cycle parking is proposed within the curtilage of the site, with capacity for 24 cycles;
- vi as the proposal is for the reuse of an existing building, it not considered appropriate to require new safety measures;
- vii accessible parking spaces are proposed; and
- viii there would be no impact on local public access routes.

7.72 The application has been assessed by the Head of Sustainable Transport and Roads, who requested that a Transport Statement be submitted to support the proposal.

7.73 In terms of trip generation, the submitted Transport Statement advises that the proposed restaurant is expected to generate approximately 144 vehicle trips per day, compared to 135 trips per day associated with the previous car showroom use, representing a negligible increase in daily traffic. The transport statement indicates that the restaurant will primarily generate trips during late weekday and Saturday afternoons, avoiding peak traffic periods, therefore concluding that the development is unlikely to contribute to network congestion.

7.74 Based on the above, the Head of Sustainable Transport and Roads raised no objections around the effect that the proposed development would have on the capacity or safe functioning of the existing road network.

7.75 The application has also been assessed by Transport Scotland, who do not raise any concerns regarding road safety or vehicular access arrangements.

7.76 Overall, the proposal would have no detrimental effect on the capacity or safe functioning of the existing road or rail networks.

7.77 For similar reasons to NPF4 Policy 13b, the proposal complies with the criteria set out in LDP Policy 54.

7.78 **The proposal is in accordance with NPF4 Policy 13b and LDP Policy 54.**

7.79 **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.

7.80 In terms of parking provision, the Transport Statement acknowledges that the proposed 21 spaces fall short of the 75 spaces recommended by national guidance for the proposed floor area. However, this shortfall is considered acceptable due to the site's central location, strong public transport links, and accessibility by active travel modes such as walking and cycling. In addition, there are existing car parks near the site which can be accessed.

- 7.81 EV charging spaces are proposed within the curtilage of the site with ducting installed to support future expansion.
- 7.82 No objection has been raised by the Head of Sustainable Transport and Roads around parking pressure in this context.
- 7.83 **The proposal is not fully in accordance with LDP Policy 56.**

Historic Environment

- 7.84 **NPF4 Policy 7c: Historic assets and places** - states that development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.
- 7.85 **LDP Policy 49: Listed Buildings part c** - states that Development proposals in close proximity to or within the curtilage of a listed building, should have regard to the preservation or enhancement of the setting of the listed building.
- 7.86 Of significance to this application is the Category C listed East Dock Street gates and gate piers at the entrance to Victoria Dock which lie directly to the southwest of the application site.
- 7.87 The form and scale of the development is such that it would have no greater physical impact on the setting of the nearby listed building than the existing situation at the site. The proposed development would preserve the character and special architectural and historic interest and the setting of the listed building adjacent to the application site.
- 7.88 **The proposal is in accordance with NPF4 Policy 7c and LDP Policy 49c.**
- 7.89 **It is concluded that the proposal does not fully accord with the Development Plan.**

MATERIAL CONSIDERATIONS

- 7.90 The letter of objection received from the City Centre and Harbour Community Council (DCCHCC), raises the following points:
- 7.91 **Objection** - lack of parking considering the number of potential customers.
- 7.92 **Response** - parking provision is considered in the assessment above against Dundee LDP Policy 56: Parking, where it is determined that the proposed development would not result in any significant parking pressure due to the availability of public car parks near the site.
- 7.93 **Objection** - impact on the surrounding road network from increased visitors to the site.
- 7.94 **Response** - impact of the proposed development on the local road network is considered in the assessment above against Policy 13b of NPF4 and Policy 54 of the Dundee LDP, where it is determined that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.
- 7.95 **Objection** - loss of business to local businesses as a result of parking competition.
- 7.96 **Response** - parking provision is considered in the assessment above against Dundee LDP Policy 56: Parking, where it is determined that the proposed development would not result in any significant parking pressure.
- 7.97 **Objection** - contrary to NPF4 Policies 13, 27 and 30.

7.98 **Response** - Policies 13 and 27 of NPF4 are considered in the assessment above, where it is determined that the proposal would comply with these policies. Policy 30 (Tourism) of NPF4 is not considered relevant to the determination of the application, as the proposal is not tourism related development.

7.99 **Objection** - no transport assessment provided.

7.100 **Response** - the applicant has provided a Transport Statement, the findings of which have been reviewed and accepted by the Council's Head of Sustainable Transport and Roads.

A - REPRESENTATIONS

7.101 Aside from the above letter received from DCCHCC, the letters of objection raise the following grounds:

7.102 **Objection** - impact on existing city centre eateries and restaurants.

7.103 **Response** - the impact on the City Centre is considered in the assessment above against NPF4 Policy 27b and Dundee LDP Policy 21, where it is determined that the proposed development would not have a significant adverse effect on the vitality or viability of the City Centre or District Centres.

7.104 **Objection** - a sequential assessment should be provided to illustrate that no Town Centre or District Centre sites are available.

7.105 **Response** - the applicant has provided a sequential assessment, the findings of which are discussed and accepted in the assessment above against NPF4 Policy 27b and Dundee LDP Policy 21. The assessment finds that there are no suitable sites within the City Centre or District Centres.

7.106 **Objection** - insufficient parking and increased parking pressure in local vicinity.

7.107 **Response** - parking provision is considered in the assessment above against Dundee LDP Policy 56: Parking, where it is determined that the proposed development would not result in any significant parking pressure.

7.108 **Objection** - risk to pedestrian safety.

7.109 **Response** - the application has been considered in detail by the Council's Head of Sustainable Transport, who does not raise any concerns regarding pedestrian safety.

7.110 **Objection** - vehicular congestion in the local vicinity

7.111 **Response** - impact of the proposed development on the local road network is considered in the assessment above against Policy 13b of NPF4 and Policy 54 of the Dundee LDP, where it is determined that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network. No objections have been received from the Head of Sustainable Transport and Roads or Transport Scotland who are responsible for this section of road.

7.112 **Objection** - contrary to LDP Safe Sustainable Transport Policy

7.113 **Response** - the proposed development is assessed above against Policy 13b of NPF4 and policy 54 of the Dundee LDP, where it is determined that the proposed development is in accordance with both policies.

- 7.114 **Objection** - inadequate sight lines for merging traffic will be unsafe and dangerous
- 7.115 **Response** - the application has been considered in detail by the Council's Head of Sustainable Transport and Transport Scotland, who do not raise any concerns regarding visibility splays.
- 7.116 **Objection** - access arrangements onto the A92 will create risk of vehicles stopped on A92
- 7.117 **Response** - the application has been considered in detail by the Council's Head of Sustainable Transport and Transport Scotland, neither of which raise any concerns regarding vehicular access arrangements.
- 7.118 **Objection** - lack of suitable drainage.
- 7.119 **Response** - the proposal will utilise the existing drainage infrastructure of the building. The design statement confirms that the development will result in any changes to the existing surface water drainage arrangements and that the increased waste water demand can be accommodated within the current foul water drainage system on East Dock Street.
- 7.120 **Objection** - increase in air pollution as a result of vehicle movements
- 7.121 **Response** – the increase in vehicle movements as a result of the proposed development is negligible over that which existed with the previous use of the site. As such, there will be no significant increase in air pollution as a result of the development.
- 7.122 **Objection** - the proposal will result in the generation of a substantial amount of waste.
- 7.123 **Response** - waste is considered above against NPF4 Policy 12a and 12c and LDP Policy 44, where it is determined that there is sufficient provision for waste reduction and waste separation, and the proposal would support waste separation, recycling and reduction.
- 7.124 **Objection** - removal of vegetation and greenspace to accommodate development.
- 7.125 **Response** - the proposal does not involve any removal of vegetation.
- 7.126 **Objection** - negative effect on biodiversity.
- 7.127 **Response** - biodiversity is assessed above against Policy 3c of NPF4. The proposal does not involve any removal of vegetation or affect any habitats. Therefore, the proposals would not have a negative effect on biodiversity.
- 7.128 **Objection** - potential for nearby residential amenity to be impacted.
- 7.129 **Response** - residential amenity is assessed above in relation to Policy 23e of NPF4 and Policy 39 of the Dundee LDP - the proposed development can be accommodated without significant negative impact on surrounding residential amenity.
- 7.130 **Objection** - potential for existing nearby industrial businesses to be impacted by noise and odour complaints from patrons of the proposed restaurant.
- 7.131 **Response** - the agent of change principle places the onus on new development to ensure that it does not compromise the continued operation of existing uses, particularly those that may generate noise or other impacts. However, in this case, the proposed restaurant use is not a use which is sensitive to noise or odour.
- 7.132 The matters raised in the representation are not considered to be of sufficient weight to justify refusal of planning permission.

B - DEVELOPMENT PLAN DEPARTURE

- 7.133 There is a shortfall of parking within the site. 21 spaces are proposed within the site, and the applicable standard requires 75 spaces. As the site is located on the edge of the city centre, is well connected by footways and pedestrian crossings and that there are easily accessible car parks opposite the site, the shortfall in parking is acceptable on this occasion. In addition, cycle parking for customers and staff is to be provided within the site to promote active travel. In this context, the availability of parking nearby and active travel options are material considerations of sufficient weight to justify approval of planning permission despite a shortfall in parking on site.
- 7.134 The closest residential properties at Maritime House are within 45m of the application site Policy 27. However, these properties are located within the City Centre, where neighbouring restaurant uses can be anticipated. Furthermore, as assessed above in relation to Policy 23d and 23e of NPF4 and Policy 39 of the Dundee LDP, the residential amenity of these dwellings can be maintained with the imposition of several conditions relating to odour and noise from mechanical and electrical plant or services. In this context, the ability of odour and noise to be controlled, together with the location of the flats in the City Centre are material considerations of sufficient weight to justify approval of planning permission despite the proximity of the proposed restaurant.
- 7.135 **There are material considerations of sufficient weight to justify approval of the application.**

8 CONCLUSION

- 8.1 The application fails to fully comply with the requirements of the Development Plan. However, there are material considerations of sufficient weight that justify approval of planning permission. It is therefore 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, 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.
 - 3 **Condition** - the total noise from mechanical and electrical plant/services shall not exceed NR45 during the day and shall not exceed NR35 during night - as measured 1 metre external to the facade of adjacent residential property.

For the avoidance of doubt night time shall be 2300 to 0700 hours.

Reason - in the interests of surrounding residential amenity.

- 4 **Condition** – deliveries and servicing of the restaurant, including loading, unloading or lay-up, shall not take place between 2200 and 0700 hours.

Reason - in the interests of surrounding residential amenity.

- 5 **Condition** – prior to occupation of the development, a waste management strategy shall be developed for the prior approval of the planning authority.

Reason - in the interests of environmental protection.

Informative

The site is within an area where basic radon protection measures should be installed as a matter of course in all new developments. This may include a suitable barrier membrane and ventilation. There is further information available at www.ukradon.org or the applicant may wish to discuss this with a Building Standards or Contaminated Land Officer.