

Section 42 Application to Extend the Time Period for Implementing Planning Permission 24/00101/S42 for the Erection of Purpose-Built Student Accommodation by 18 Months

KEY INFORMATION

Ward Maryfield

Address

Site Of Jumpin Jaks
South Ward Road
Dundee

Applicant

Morton Properties
(Dundee) Limited
c/o Graham & Sibbald

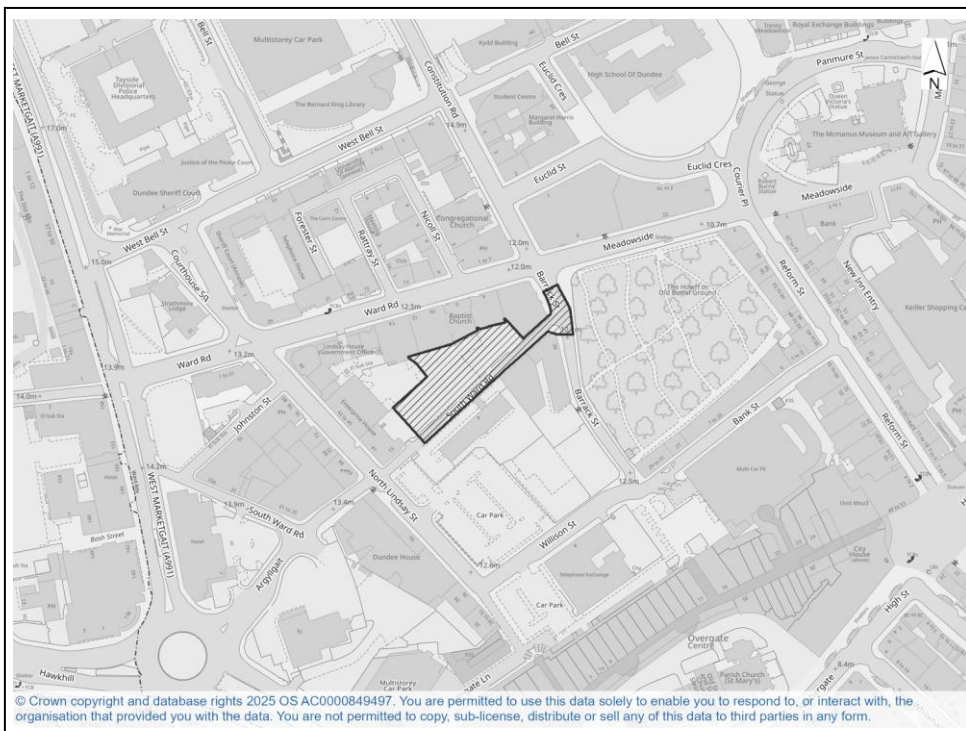
Agent

Zander Planning Ltd

Validated 24 Oct 2025

**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 1 of planning permission 24/00101/S42 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 extant planning permission expired on 15 November 2025 and development was not commenced. The planning agent submitted this application prior to the expiry of the existing planning permission, seeking further time in which to commence development. The developer was not lawfully able to commence development within the required timescale as the planning conditions have not been fully discharged. While the developer has progressed discharging some conditions, the applicant states that the development has been delayed due to factors including ground contamination and economic conditions. Further time is requested to discharge the outstanding conditions.
- The statutory neighbour notification process was undertaken. Two letters of objection were received.
- As this application relates to a condition attached to a Major planning application, it requires to be determined by the Planning Committee.
- More details can be found at: [25/00589/S42 | Erection of purpose built student accommodation together with access, landscaping and engineering/infrastructure works \(Section 42 application to vary condition 1 of 24/00101/S42 to extend the duration of the planning permission by 18 months.\) | Site Of Jumpin Jaks South Ward Road Dundee.](#)

RECOMMENDATION

The application under Section 42 of The Town and Country Planning (Scotland) Act 1997 to vary Condition 1 of planning permission 24/00101/S42 fails to comply with the Development Plan. There are no material considerations of sufficient weight to justify approval of the application. It is therefore recommended that planning permission be **REFUSED**.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission 22/00493/FULM for the erection of purpose-built student accommodation together with access, landscaping and engineering/infrastructure works was approved in November 2022. This planning permission was approved subject to conditions, including condition 1 which required development to begin within 18 months. As development had not commenced within 18 months, the applicant submitted planning application 24/00101/S42 which sought to amend condition 1 and extend the planning permission for a further period of 18 months. This application was approved at Planning Committee in April 2024 and extended the planning permission for student accommodation up to 15 November 2025.
- 1.2 Condition 1 of that planning permission states: "*The development hereby permitted shall be commenced no later than 15 November 2025.*" The reason for the condition is "*To ensure the timeous commencement of development and in compliance with Section 58 of the Town and Country Planning (Scotland) Act 1997.*"
- 1.3 Since planning permission for application 24/00101/S42 was granted on 18 April 2024, no development has commenced. The applicant was previously working to address the planning conditions. However, ground investigations identified potential hydrocarbon contamination within the site. Until this is addressed, planning condition 2 of 24/00101/S42 cannot be discharged and the planning permission cannot be implemented. The applicant has engaged with Dundee City Council and SEPA to agree a solution. However, these matters have not been concluded to date. In addition, the applicant states that increasing construction and materials costs, and the general economic climate have further impacted on delivery timescales. To allow further time for these elements to be concluded and development commenced, the applicant is seeking an amendment of condition 1 to allow a further 18 months for development to commence. It is proposed to amend the condition to read:
- "The development hereby permitted shall be commenced no later than 15 May 2027."*
- 1.4 This is the only change proposed to the planning permission. The development would be the same in all other respects as approved under 24/00101/S42.

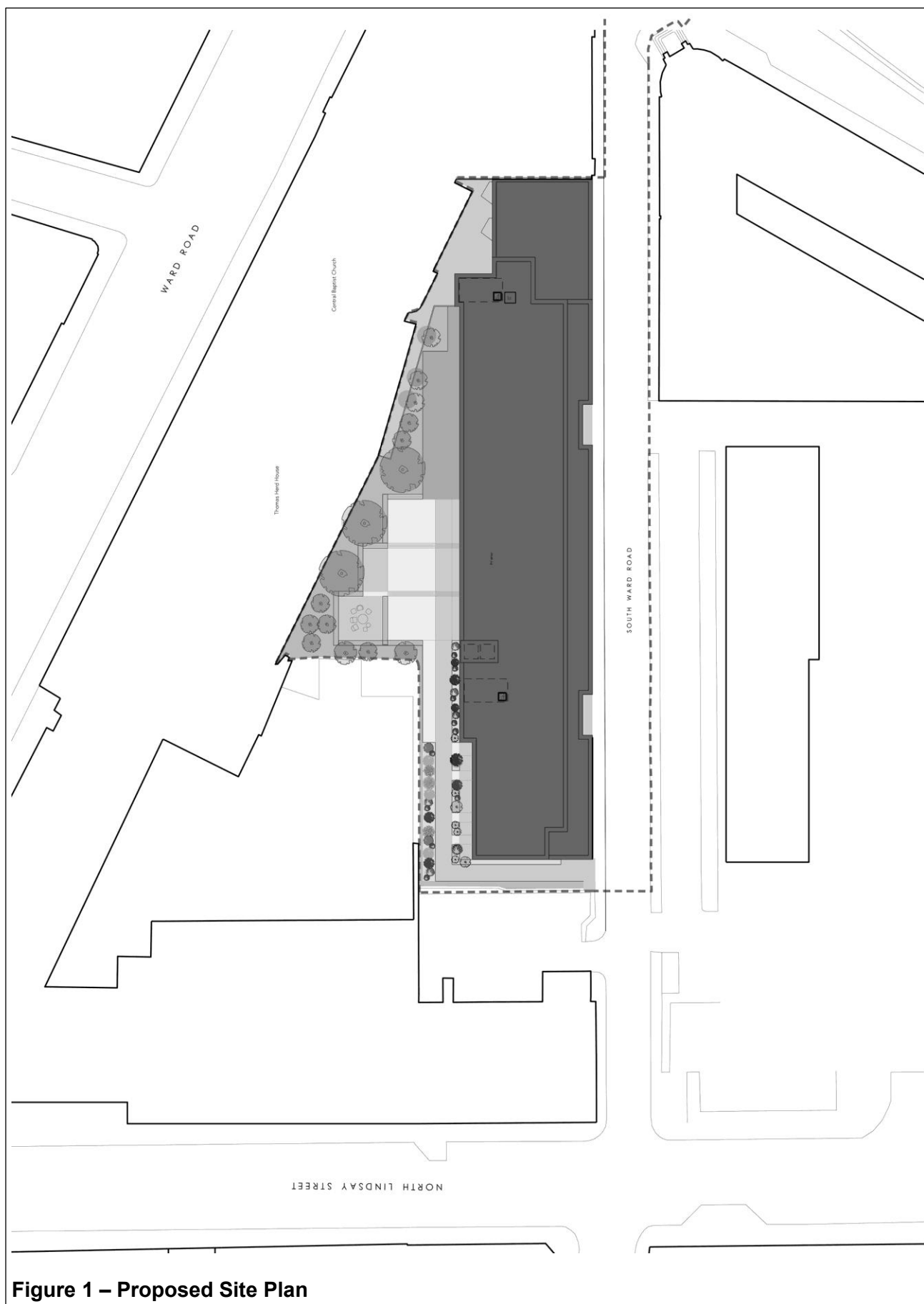


Figure 1 – Proposed Site Plan



Figure 2 – Proposed Elevations

2 SITE DESCRIPTION

- 2.1 The application site is located on the north side of South Ward Road. The site is 0.22 hectares and level in nature, with buildings to the north, east and west boundaries.
- 2.2 The site previously contained a substantial stone-built mill building which operated as warehouses and a nightclub for several years before the building was demolished in 2014. The “saw tooth” roof form of that building comprised high roof gables along the north and south of the building. The main walls of the building were equivalent in height to 2-3 modern storeys.
- 2.3 The site was cleared following the demolition in 2014 and it is presently surfaced in gravel and hardstanding and is bounded by a temporary fence and a short section of the warehouse walls. The site can be accessed via the one-way South Ward Road, which provides connections to surrounding roads and footways.
- 2.4 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 contained within 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 4: View of Site From South Ward Road



Figure 3: View of Site from South Ward Road

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4 (NPF4)

Policy 16c: Quality Homes

DUNDEE LOCAL DEVELOPMENT PLAN 2019 (LDP)

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 22/00303/PAN for the erection of student accommodation together with access, parking, landscaping and engineering/infrastructure works was submitted in May 2022.
- 4.2 Planning application 22/00493/FULM for the erection of purpose-built student accommodation together with access, landscaping and engineers/infrastructure works was approved subject to conditions in November 2022.
- 4.3 Planning application 24/00101/S42 for the variation of condition 1 of planning permission 22/00493/FULM to extend the period for implementation of planning permission to 15 November 2025 was approved subject to conditions in April 2024.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 Two letters of objection were received, raising the following matters:
- The applicant has failed to progress works within the approved timescales. The continuing delay without demonstrable progress undermines the planning process.
 - The site is presently a blight on the local landscape. The existing planning permission should be allowed to lapse so that a development which is deliverable can be progressed on site.
 - There are concerns with over concentration of PBSA in this part of the city with five PBSA developments approved within 250 metres of the application site. This over concentration will create an excess of studio flats within the city centre, impacting on choice, creating noise disturbance, increased transient population, and does not address demand for housing or affordable accommodation.
 - The level of demand has reduced as student numbers reduce, particularly at University of Dundee. There is therefore no demand for further PBSA within the city, with potential for oversupply if this development is progressed.

- 5.3 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 No consultation 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 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 **NPF4 Policy 16c: Quality homes** 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 **LDP Policy 15: Student Accommodation** 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.
- 7.4 The preamble to LDP Policy 15 states that 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
- 7.5 The applicant submitted a Student Demand Assessment in support of application 22/00493/FULM which related to academic years up to 2020/21. The report provided analysis of the student population and student accommodation within the city at that time. The study considered that the full-time student population within the city had grown in recent years. With regard to unmet demand, the submitted report identified there to be 3,463 full time students who required purpose-built accommodation but were unable to access it in the city. Through analysis of supply in relation to the growing student population at the time, the report

demonstrated there to be sufficient demand for the proposed 242-bedroom development to provide new build, accessible purpose-built student accommodation within the city.

- 7.6 At the time of determination of 22/00493/FULM, three other planning applications for purpose-built student accommodation were under consideration. Proposal of Application Notices had also been submitted for other purpose-built student accommodation developments within the city. To ensure there is not an oversupply of student accommodation, in alignment with the intent of LDP Policy 15, and to encourage the early implementation of planning permission the normal time limit for implementation of the planning permission was reduced from three years to 18 months.
- 7.7 As set out in Appendix 1, six PBSA developments have been completed within the city since 2020, providing 560 student bed spaces. Development is progressing at Telephone House which will provide a further 422 bed spaces. In addition, planning permission has been granted for eight PBSA developments, including this development, which have not yet commenced construction. This has created a pipeline of 1,644 bed spaces. There are currently no other planning applications pending consideration for purpose-built student accommodation.
- 7.8 In support of this application to extend the planning permission by a further 18 months, the applicant has provided a statement which provides an assessment of PBSA within the city updated to February 2025. The statement references a need and demand assessment which notes that the student population reduced by 9.9% in the 2024 term. However, the applicant's statement considers even with this reduction, there remains a potential unmet demand of up to 5,866 beds.
- 7.9 With six PBSA developments being completed since 2020, and a development currently under construction, the available bedspaces has been significantly increased in recent years. Excluding this development, there are seven PBSA developments with planning permission which would introduce a further 1,402 rooms if constructed. There is therefore a significant pipeline of developments with planning permission to accommodate student bed spaces at a time when there is a downturn in the student population in the city.
- 7.10 The proposed development would introduce a further 242 bedspaces to the pipeline of 1,402 approved bedspaces. Student numbers within the city reduced in the academic year 2023/2024, and while figures have not been published for 2024/25, initial data indicates a further reduction. As there is a significant pipeline of developments with planning permission, introducing a further 242 bedspaces would not address any identifiable demand. While the applicant's supporting information states a potential unmet demand of 5,866 bedspaces, this is based on estimates which would only be relevant if student numbers were continuing to increase in Dundee in line with trends presented in previous planning submissions. However, there has been a reduction in the student population, and many of the existing PBSA developments in the city are not fully occupied this academic year. This indicates a decline in the need and demand for PBSA in Dundee.
- 7.11 The proposed development has not commenced within the required time, and there is a significant number of pipeline bedspaces. There is therefore potential for an oversupply. While the amendment of condition 1 would provide the developer with additional time to address the outstanding conditions, there has been no progress on these matters in the last 18 months. Further time may therefore not address this. With regard to encouraging the early implementation of the permission, the applicant has had three years to commence works but has not concluded the planning conditions or made a start on site. With a significant pipeline of PBSA, there is no longer an identifiable need or demand for the proposal. The requirements of criterion 1 of LDP Policy 15 have therefore not been demonstrated.

- 7.12 The location and design of the proposed development would remain as previously approved. Accordingly, the requirements of criteria 2 and 3 of LDP Policy 15 would be met.
- 7.13 In this case, it is considered that allowing a further extension of time for implementation of the planning permission would not address any identified need or demand for such provision and would result in an oversupply of the type of accommodation proposed.
- 7.14 **The proposal fails to accord with NPF4 Policy 16c and LDP Policy 15.**
- 7.15 **It is concluded that the proposal fails to accord with the Development Plan.**

MATERIAL CONSIDERATIONS

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

A – SCOTTISH GOVERNMENT CIRCULAR 4/1998

- 7.17 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.
- 7.18 Condition 01 of planning permission 24/00101/S42 states: "*The development hereby permitted shall be commenced no later than 15 November 2025.*"
- 7.19 The time in which development could be commenced was controlled by condition to ensure a timeous implementation of the planning permission. When planning application 22/00493/FULM was approved, there were three planning applications for PBSA under consideration. The Council had also received Proposal of Application Notices for further purpose-built student accommodation developments within the city. To ensure there would not be an oversupply of PBSA, and that sites would not be sitting vacant for several years until developers can attract funding, the normal time limit for implementation of a planning permission was reduced from 3 years to 18 months. This was to allow a reasonable period of time for pre-commencement planning conditions to be agreed and to encourage timely development.
- 7.20 Following the approval of 22/00493/FULM, initial works on site identified a ground contamination issue which has impacted on the progress of this development. Investigations into the source of the contamination were being progressed but were not concluded prior to 22/00493/FULM expiring. Planning application 24/00101/S42 was submitted seeking a further 18 months for development to commence. With investigations into the ground contamination ongoing and no significant increase in the number of approved PBSA developments at that

time, the extension of planning permission for a further 18 months was approved by the Planning Committee.

- 7.21 That second 18-month period has now lapsed, and in that time there has been no further contaminated land investigations or reporting submitted to the Council. The developer has also not addressed any further planning conditions nor confirmed a date in which development will commence.
- 7.22 As outlined in Appendix 1, since the approval of 24/00101/S42 planning permission has been granted for a further three PBSA developments in the city, and developments on Brown Street, Douglas Street and West Marketgait have been completed. As set out within the policy assessment above, over the same period the student population in the city has reduced. The reducing student population and increase in available PBSA within the city has addressed the immediate demand for accommodation.
- 7.23 The proposal to vary condition 1 of planning permission 24/00101/S42 by a further 18 months would extend planning permission 22/00493/FULM to a period of four and a half years. The development, which has already been extended by 18 months, has not progressed on site and a number of PBSA developments have opened. A further extension of time to allow development to commence would result in an oversupply of PBSA and would not address the requirement for timeous implementation of planning permission.
- 7.24 Based on the supporting information provided by the applicant, current student population within the city and, taking into account the existing and pipeline of student accommodation, the provision of a further 18 months to commence development would not be reasonable.
- 7.25 The condition sought to ensure the timeous implementation of the planning permission to address demand for PBSA. There has been no progress on site in the last three years, and no planning conditions discharged in the last 18 months. As above, there have been a number of PBSA developments approved in the city, and demand for student accommodation is reducing. The amendment of the condition would not therefore be reasonable. In this instance, the proposals fail to adhere to the requirements of Circular 4/1998.

C – CITY CENTRE STRATEGIC INVESTMENT PLAN

- 7.26 The City Centre Strategic Investment Plan sets out a long-term strategic 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 by encouraging the development of a range of accommodation to meet the demands of a diverse range of households.
- 7.27 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.
- 7.28 The redevelopment of the vacant site and provision of student accommodation would support the target of doubling the residential population in the city centre and the returning to use of an unused site. However, other forms of residential development would also achieve this.
- 7.29 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. The proposed development would contribute positively to the variety and form of development within the city centre and support the creation of diverse communities. However, other forms of mainstream residential

development on the site could better achieve this outcome and avoid an over-supply of PBSA in and around the city centre.

- 7.30 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 support the vitality and viability of shops and services within the city centre. The development is located within walking distance of a range of facilities and is aligned with the 20-minute neighbourhood approach.
- 7.31 Overall, the proposed development would generally align 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. However, this could also be achieved with other forms of residential accommodation. The CCSIP is not a material consideration of sufficient weight to support PBSA on the site.

D – REPRESENTATIONS

- 7.32 In total two letters of objection were received, raising the following concerns.
- 7.33 **Objection** - the applicant has failed to progress works within the approved timescales. The continuing delay without demonstrable progress undermines the planning process.
- 7.34 **Response** – the applicant has provided a supporting statement which provides justification for the request to extend the period in which development can commence. This includes factors related to ground contamination and economic conditions.

As considered within the above policy assessment, the student population has declined in 2024, and there are several PBSA schemes constructed and with planning permission. There has been no progress to address the outstanding planning conditions or commencing development. The proposed extension of the planning permission for another 18 months is therefore not considered to be acceptable.

- 7.35 **Objection** - the site is presently a blight on the local landscape; the existing planning permission should be allowed to lapse so that a development which is deliverable can be progressed on site.
- 7.36 **Response** – this planning application was submitted prior to the existing planning permission lapsing on 15 November 2025. Should this planning permission be approved, it would result in the site being subject of a planning permission until 15 May 2027. However, if refused the site would not be subject to any live planning permission. The determination of this planning application does not preclude the submission of a planning application for an alternative development within the site.
- 7.37 **Objection** - there are concerns with over concentration of PBSA in this part of the city, with five PBSA developments approved within 250 metres of the application site. This over concentration will create an excess of studio flats within the city centre, impacting on choice, creating noise disturbance, increased transient population, and does not address demand for housing or affordable accommodation.
- 7.38 **Response** – the objector references five planning permissions for PBSA within 250 metres of the site. While there are extant planning permissions for five developments, only two are currently being progressed at West Marketgait (24/00204/S42) and Telephone House (23/00684/FULL). The remaining three at Lindsay House (25/00186/FULL), Willison House (24/00415/FULM) and Liquid Nightclub (24/00712/S42) have not been implemented to date.

While these developments are within proximity of each other, this part of the city centre is positioned between both higher education institutions. This minimises the distances students must travel to education facilities, provides access to a range of amenities within the city centre and supports use of sustainable transport options. The provision of PBSA bed spaces in the city centre would have no impact on the existing range or choice of housing options in the city centre. Through the provision of purpose-built student bedspaces, existing housing that is currently occupied by students could return to the market enhancing housing options for other households.

- 7.39 **Objection** - the level of demand has reduced as student numbers reduce, particularly at University of Dundee. There is therefore no demand for further PBSA within the city, with potential for oversupply if this development is progressed.
- 7.40 **Response** – following steady growth in the student population in recent years, numbers have reduced by 9.9% in the 2024 academic year. There are a number of PBSA developments within the city which are currently operating or under construction, and there are further developments with planning permission as noted under Appendix 1. This provides both currently available PBSA and future PBSA to meet demand over the coming academic years. Should this 242 bedspace development be approved, in addition to existing PBSA provision and developments which have planning permission, there is potential for overcapacity should student numbers continue to reduce.
- 7.41 There are matters raised in the letters of representation which would justify the refusal of planning permission.
- 7.42 **It is concluded that there are no material considerations that would justify approval of planning permission contrary to the provisions of the development plan.**

8 CONCLUSION

- 8.1 The application under Section 42 of The Town and Country Planning (Scotland) Act 1997 to vary condition 1 of planning permission 24/00101/S42 fails to comply with the Development Plan. There are no material considerations of sufficient weight that would justify approval of planning permission.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be REFUSED for the following reason:
- 1 **Reason** – the proposed development of student accommodation would not address any identifiable gap in provision. The applicant has failed to demonstrate that need and demand exists for the proposal, and approval of the application could result in an oversupply of the type of accommodation proposed. The proposal fails to accord with NPF4 Policy 16c and LDP Policy 15. There are no material considerations of sufficient weight to justify approval of planning permission, contrary to the requirements of the Development Plan.

APPENDIX 1

Site No	Status	Application Ref	Address	Date Approved	No Of Beds	Expiry Date	Progress
1	Complete	20/00729/FULM	63 Brown Street	20/04/2021	163	20/04/2024	Phase 1 Complete (163 rooms of 361 approved)
2	Approved	20/00679/FULM	Garage, West Marketgait	20/04/2020	179		Discharging conditions - NID Submitted.
3	Approved	23/00403/FULL	Former Dundee College 30 Constitution Road	27/09/2023	414		Discharged conditions. Demolition Works Commenced.
4	Complete	21/00478/FULL	56 Brown Street	19/11/2021	147		Complete
5	Complete	22/00205/FULL	Dundee West Mineral Yard North Car Park Greenmarket, Dundee	21/06/2022	55		Complete
6	Approved	22/00493/FULM	Site Of Jumpin Jaks South Ward Road	15/11/2022	242	15/11/2025	Discharging conditions Extended time
7	Complete	22/00725/FULL	16-18 Constitution Terrace	24/10/2022	20		Complete
8	Approved	24/00415/FULM	Willison House 56 Barrack Street	10/12/2024	367	10/06/2026	No activity
9	Pre-app	PREAPP/021/2024	West Ward Works 19 Guthrie Street		680		No activity
10	PAN (Historic)	20/00236/PAN	Locarno Works Brown Street		300		No activity
11	PAN (Historic)	17/00453/PAN	Queen Victoria Works 203 Brook Street		500		No activity
12	Approved	23/00311/FULM	South Ward Road	13/12/2023	215	13/12/2026	Extended time
13	Complete	23/00397/FULL	Caledonian House	27/03/2024	77		Complete
14	Under construction	23/00684/FULL	Telephone House 21 Ward Road	19/02/2024	422	19/08/2025	Under construction
15	Complete	23/00519/FULL	10 Douglas Street	13/02/2024	98		Complete
16	Approved	24/00760/FULL	St Margarets Home	28/03/2025	36	28/03/2028	No activity

Site No	Status	Application Ref	Address	Date Approved	No Of Beds	Expiry Date	Progress
17	Approved	24/00733/FULL	St Andrews Lane	09/06/2025	23	09/06/2028	No activity
18	PAN	24/00790/PAN	Keillor Centre				No activity
19	Approved	25/00186/FULL	Lindsay House 30 Ward Road		168		Phase 1 Complete (163 rooms of 361 approved)
20	PREAPP	PREAPP/014/2025	Queen Victoria Works 203 Brook Street, Dundee	23/07/2025	325	23/07/2028	
21	Complete	20/00729/FULM	10 Douglas Street		163		