

Section 42 Application to Extend the Time Period for Implementation of Planning Permission 24/00415/FULM for the Erection of Purpose-Built Student Accommodation by 18 Months

KEY INFORMATION

Ward Maryfield

Address

Land At 56
Barrack Street
Dundee

Applicant

Prospect Capital Limited And
Orchid Student Holdings Ltd

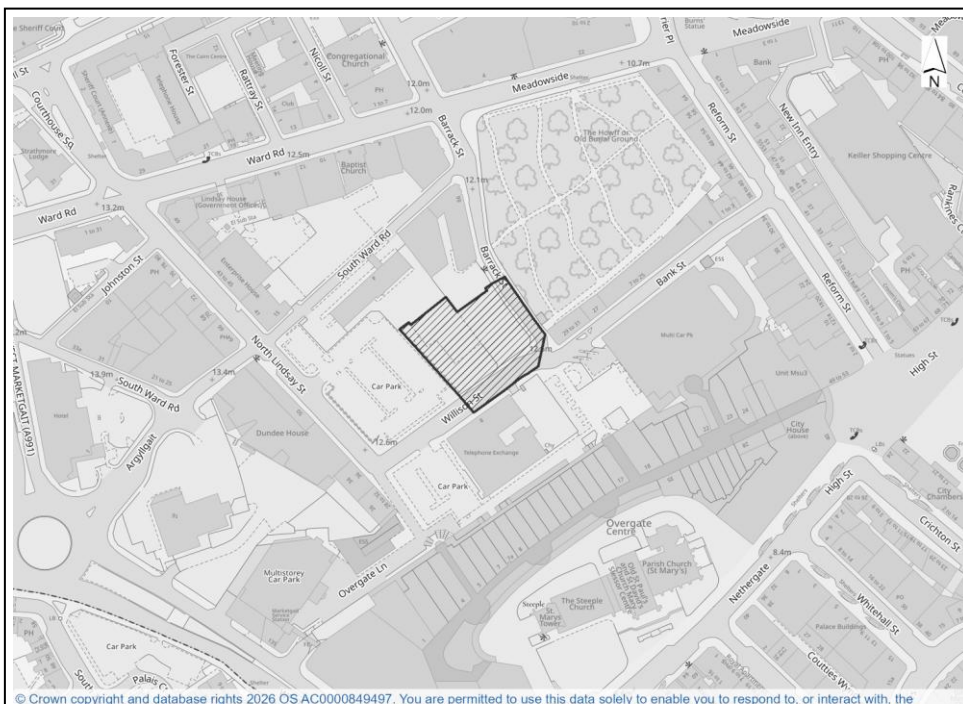
Agent

Seona MacBean - Icen
Projects Ltd

Validated 30 March 2026

**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 24/00415/FULM to allow a further 18 months for the erection of purpose-built student accommodation to commence.
- Planning permission was granted on 10 December 2024 with a condition stating the development had to commence within 18 months of that consent. The Planning Authority can only consider the matter of the conditions subject to which planning permission was granted.
- The planning permission expired on 10 June 2026 and development has not been commenced. The planning agent submitted this application prior to the expiry of the existing planning permission, seeking further time in which to commence development.
- No planning conditions have been addressed, and the development cannot lawfully commence. The applicant states the development has not progressed within 18 months due to market and construction instability. To enable the development to progress, the applicant submits that they require more time to address the planning conditions.
- 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: [26/00194/S42 | Erection of purpose built student accommodation \(PBSA\) together with associated access, landscaping and engineering/infrastructure works \(Section 42 application to vary condition 1 of 24/00415/FULM to extend the duration of the planning permission by 18 months\) | Land At 56 Barrack Street Dundee](#)

RECOMMENDATION

The application under Section 42 of The Town and Country Planning (Scotland) Act 1997 to vary Condition 1 of planning permission 24/00415/FULL fails to comply with the Development Plan. It is therefore recommended that planning permission be REFUSED.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission 24/00415/FULM for the erection of purpose-built student accommodation (PBSA) together with associated access, landscaping and engineering/infrastructure works was approved by the Planning Committee in December 2024. This planning permission was approved subject to conditions, including condition 1 which required development to begin within 18 months. The planning permission would therefore expire on 10 June 2026.
- 1.2 As development has not commenced within 18 months, the applicant is seeking to extend the planning permission. Condition 1 of that planning permission states: *"The development hereby permitted shall be commenced within 18 months of the date of this permission."* 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 24/00415/FULM was granted on 10 December 2024, the applicant has not addressed any of the planning conditions and no development has commenced. Until the planning conditions are addressed, development cannot commence and the planning permission cannot be implemented.
- 1.4 The applicant states they intend to address the planning conditions; however, they do not intend to do so prior to the existing planning permission expiring. The applicant states whilst matters including market and construction instability have impacted on timescales, they remain committed to progressing the development.
- 1.5 To allow further time for the planning conditions to be addressed and development to be 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 10 December 2027."
- 1.6 This is the only change proposed to the planning permission. The development would be progressed in all other respects as approved under 24/00415/FULM.

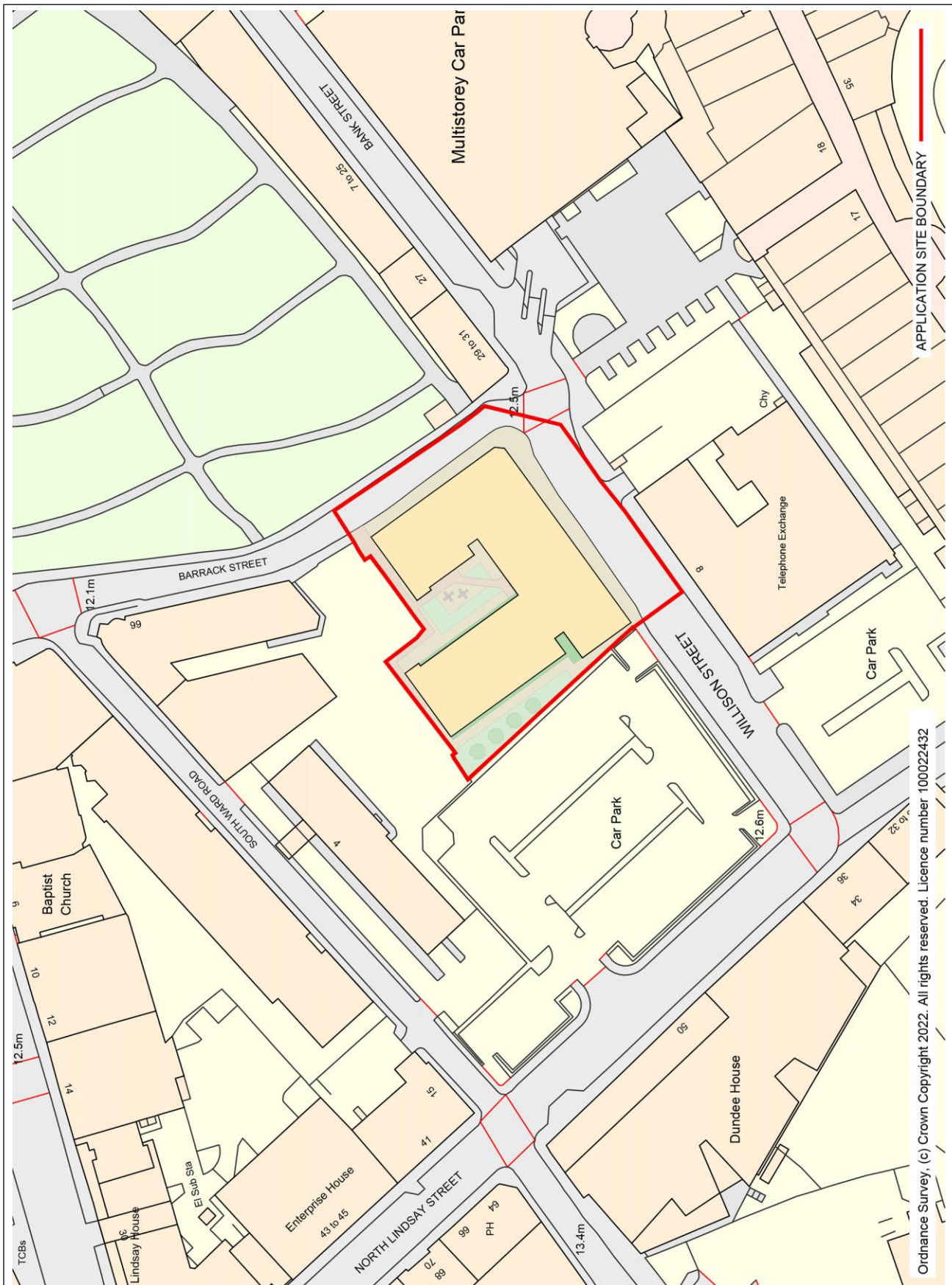


Figure 1 – Proposed Site Plan



2 SITE DESCRIPTION

- 2.1 The application site is located on the north side of Willison Street, at the junction with Barrack Street. The site is level in nature and presently vacant following the demolition of Willison House. There are buildings to the north and east of the site and a car park to the west. To the south is a telephone exchange and the Overgate Shopping Centre.
- 2.2 The site formerly contained Willison House, a home furniture showroom, which, following a fire in November 2022 was demolished in the interest of public safety. The site has since been cleared and a palisade perimeter fence erected. A short section of masonry wall is all that remains of the building. The site can be accessed via Barrack Street and Willison Street.
- 2.3 The surrounding buildings contain various uses including office, commercial and residential premises. The site is close to city centre shops and services including Overgate Shopping Centre, Dundee House, and businesses on Reform Street. The site is located within the Central Conservation Area, with a range of heritage buildings in the vicinity including the category A listed Howff and category B listed buildings adjacent to the site. The surrounding area contains a range of building types including modern offices and traditional stone-built buildings ranging in height from two to eight storeys.



Figure 3: View of Site From Barrack Street



Figure 4: View of Site From Willison Street

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 (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 Listed building consent application 17/00736/LBC for the demolition of a vacant building/structures with façade retention for incorporation into a new build development was approved in March 2018.
- 4.2 Planning application 17/00735/FULM for the erection of two hotels and a restaurant was approved in March 2018.
- 4.3 Proposal of application notice 22/00110/PAN for the erection of student accommodation and demolition of a listed building was submitted in February 2022.
- 4.4 The Council adopted an EIA Screening Opinion 22/00002/EIASCR on 11 March 2022 – EIA is not required.
- 4.5 Proposal of application notice 23/00227/PAN for the erection of student accommodation with associated access, landscaping and engineer works was submitted in April 2023.
- 4.6 Planning application 24/00415/FULM for the erection of purpose-built student accommodation was approved subject to conditions in December 2024.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 No representations 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 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.

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 submitted a statement in support of application 24/00415/FULM which included an analysis of the student population and student accommodation within the city at that time. The report considers that, even with developments which are currently under construction and pipeline projects progressing, there will remain unmet demand within the city.
- 7.5 Between April 2020 and the determination of 24/00415/FULM, planning permission had been granted for twelve PBSA developments. Of those, two new build PBSA developments had been completed and a further two PBSA developments were under construction. The PBSA development proposed under 24/00415/FULM increased the pipeline of developments at that time to 2,614 bed spaces. To ensure there was not an oversupply of student accommodation, 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.
- 7.6 Since 2020, six PBSA developments have been completed within the city, providing 560 student bed spaces. Development is progressing at Telephone House which will provide 422 bed spaces and Lindsay House which will provide 168 bed spaces. Once these developments are completed, there will have been 1,170 new PBSA bed spaces created since 2020.

- 7.7 Planning permission for a PBSA development on South Ward Road as 24/00101/S42 has expired. However, there are six PBSA developments, including this development, which have planning permission, but construction has not yet commenced. These developments create a pipeline of 867 bed spaces. There are currently no other live planning applications for purpose-built student accommodation.
- 7.8 With this application, the applicant has provided a supporting statement which provides assessment of PBSA within the city. The statement references a need and demand assessment which considers the 2022/23 academic year. At that time there was unmet demand for PBSA bedspaces in the city. The applicant has not provided any up-to-date assessment of current need and demand.
- 7.9 The proposed development comprises 367 bedspaces, contributing to the live pipeline of 867 approved bedspaces. Student numbers within the city reduced in the academic year 2023/2024, and whilst figures have not been published for 2024/25, initial data indicates a further reduction. As there have been a significant number of new bed spaces created since 2020, and there would remain a significant pipeline of development with planning permission, the proposed development would not address any identifiable demand. Whilst the applicant's supporting information states there remains a potential unmet demand for student accommodation, this is based on estimates had student numbers continued to increase in the city. There has however been a reduction in the student population, and there are PBSA developments which are not fully occupied this academic year.
- 7.10 The proposed development has not commenced within the required time period, and there is a significant number of pipeline bedspaces. There is therefore potential for an oversupply. Whilst the amendment of condition 1 would provide the developer with additional time to address the planning 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 18 months to commence works but has not addressed any of the planning conditions or made a start on site. There has been no progress on commencing the development and with a significant pipeline of PBSA there is no longer an identifiable demand for the proposal. The requirements of criteria 1 of LDP Policy 15 are not met.
- 7.11 The location and design of the proposed development is to remain as previously approved, accordingly the requirements of criteria 2 and criteria 3 of LDP Policy 15 are met.
- 7.12 In this case, it is considered that allowing the extension of time for implementation of the planning permission would not address any gap in provision and would result in an oversupply of the type of accommodation proposed. The proposal fails to accord with NPF4 Policy 16c and LDP Policy 15.
- 7.13 **It is concluded that the proposal fails to accord with the Development Plan.**

MATERIAL CONSIDERATIONS

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

A – Scottish Government Circular 4/1998

- 7.15 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 six tests:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

7.16 Condition 1 of planning permission 24/00415/FULM states: "The development hereby permitted shall be commenced within 18 months of the date of this permission."

7.17 After consideration of the tests in the Circular, and to ensure it is precise and enforceable, the proposed wording has been amended to read:

"The development hereby permitted shall be commenced no later than 10 December 2027."

7.18 When planning application 24/00415/FULM was approved, there was a live pipeline of 2,247 PBSA bedspaces, two PBSA developments had recently been completed and a further two were under construction. 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.

7.19 Since the approval of 24/00415/FULM, no condition discharge requests have been submitted, and no works have commenced on site. The developer has also not provided any updates on the progress of the project or confirmed a date in which development will commence.

7.20 Since the approval of 24/00415/FULM, planning permission has been granted for a further three PBSA developments in the city, and developments on Brown Street, Douglas Street, West Marketgait and at Caledonia House have been completed. Two further developments of PBSA at Telephone House and Lindsay House are under construction. As considered 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.

7.21 The proposal to vary condition 1 of planning permission 24/00415/FULM by a further 18 months would effectively extend planning permission to a period of three years. The development has not progressed on site and several PBSA developments have opened. An extension of time to allow development to commence could result in an oversupply of PBSA and would not address the requirement for timeous implementation of planning permission.

7.22 Based on the supporting information provided by the applicant, current student population within the city and consideration of existing and pipeline student accommodation, the provision of a further 18 months to commencement development would not be reasonable. In this instance, the proposals fail to adhere to the requirements of Circular 4/1998.

- 7.23 **The proposal does not adhere to Scottish Government Circular 4/1998.**

B – CITY CENTRE STRATEGIC INVESTMENT PLAN

- 7.24 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.
- 7.25 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.
- 7.26 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.
- 7.27 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.
- 7.28 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.
- 7.29 Overall, the proposed development would 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.
- 7.30 **It is concluded that there are no material considerations of sufficient weight which would justify approval of planning permission contrary to 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 24/00415/FULM 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 and 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 which justify the 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	Planning Permission Expired	22/00493/FULM	Site Of Jumpin Jaks, South Ward Road	15/11/2022	242	15/11/2025	Permission has lapsed
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
17	Approved	24/00760/FULL	St Margarets Home	28/03/2025	36	28/03/2028	No activity
18	Approved	24/00733/FULL	St Andrews Lane	09/06/2025	23	09/06/2028	No activity
19	PAN	24/00790/PAN	Keiller Centre				No activity
20	Under construction	25/00186/FULL	Lindsay House, 30 Ward Road	23/07/2025	168	23/07/2028	Planning Conditions being discharged