

KEY INFORMATION**Ward** West End**Proposal**

Change of Use and Internal Conversion of an Existing Retail Unit (Class 1) and Store/Warehouse Facility to 25 Student Studio Apartments

Address

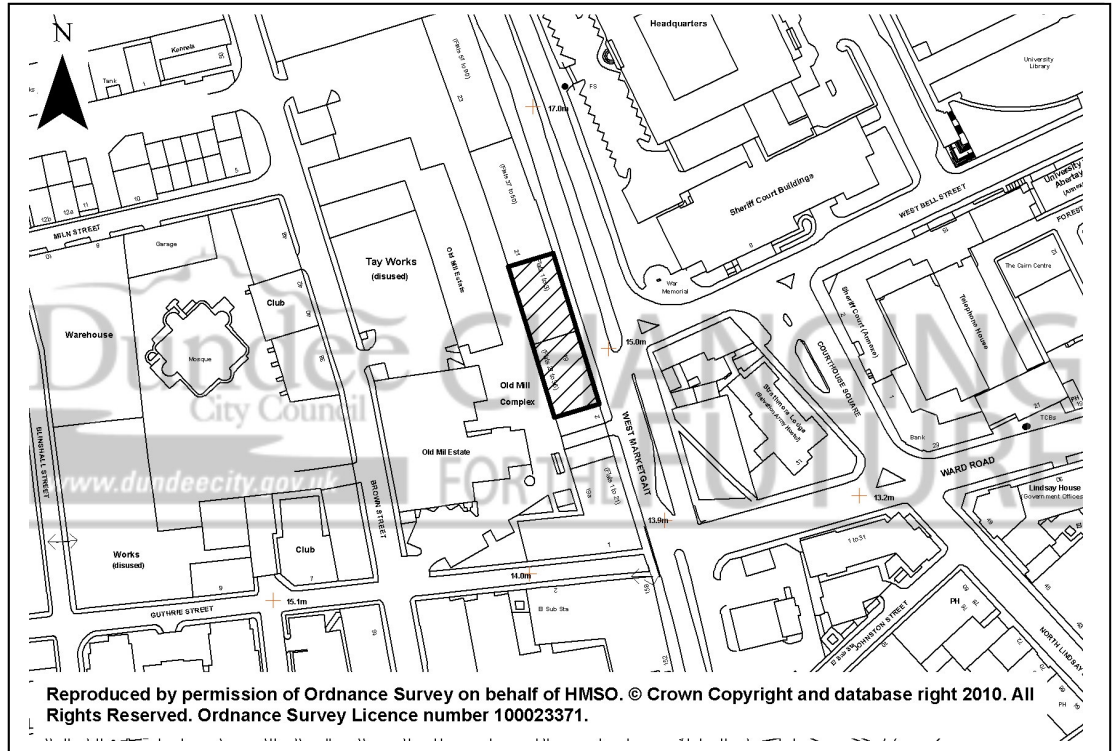
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Registered 24 Feb 2010**Case Officer** P Macari

Proposed Ground Floor Conversion to Student Apartments at West Marketgait

The Change of Use and Internal Conversion of an Existing Retail Unit (Class 1) and Store/Warehouse Facility to 25 Student Studio Apartments is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

RECOMMENDATION

The proposals fail to satisfy the requirements of Policy 9, 59, and 60 of the Dundee Local Plan Review 2005. The supporting information submitted by the applicant fails to demonstrate that there are material considerations that would justify laying aside the provisions of the Development Plan to grant planning permission. The application is therefore recommended for **REFUSAL**.

SUMMARY OF REPORT

- This application seeks planning permission to change the use of an existing vacant ground floor retail and storage unit to form 25 student apartments within the A listed building at 19 Brown Street, Dundee.
- Policy 9 (Student Housing), Policy 26 (General Economic Development Areas), Policy 28 (Higher Education Development), Policy 59 (Alternative Uses of Listed Buildings), Policy 60 (Alterations to Listed Buildings) and Policy 61 (Development in Conservation Areas) of the Dundee Local Plan Review 2005 are relevant to the outcome of this planning application.
- The applicant has submitted a variety of reports outlining support for the proposed development.
- The proposals fail to satisfy the requirements of Policy 9, 26, 59 and 60 of the Dundee Local Plan Review 2005.
- In addition the proposals also fail to satisfy the requirements of the Scottish Planning Policy 2010 and the Scottish Historic Environment Policy 2008.

DESCRIPTION OF PROPOSAL

This application seeks planning permission to change the use of an existing vacant ground floor retail unit and storage unit to form 25 student apartments within the A listed building at 19 Brown Street, Dundee.

13 of the proposed student apartments shall be located to the north and 12 student apartments shall be located to the south of the existing internal stairwell that provides external access to the existing upper floor student apartments. The 13 student apartments located to the north of the existing stairwell shall be positioned so that 6 of the apartments have east facing windows on to West Marketgait and 7 student apartments have west facing windows on to the courtyard and Brown Street to the rear of the application site. Each of the flats shall be accessed from a central corridor. The proposed flats in the northern sector of the building can be accessed internally from within the welfare facilities serving the existing student apartments or externally from a re-used door opening that previously provided access to the bin store serving the vacant retail unit.

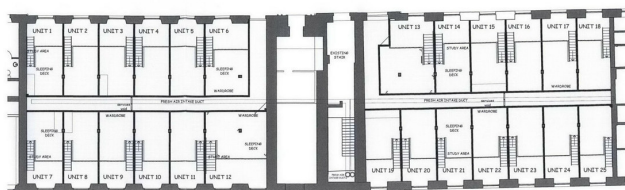
The 12 student apartments to be located in the southern sector of the building shall be arranged so that 6 flats have west facing windows and 6 flats have east facing windows. The flats shall be accessed from a central corridor that can be accessed externally from the Courtyard to the rear of the building or from West Marketgait through the arched entrance to the former mill complex.

The proposals shall involve the creation of a first floor within the existing ground floor of the A listed building. The proposed student apartments shall be duplex in style and shall be spread over two levels with the ground floor of each apartment benefiting from a shower room and open plan kitchen, dining and living area. On the first floor each flat shall benefit from a bedroom and study area. The partitions separating each apartment shall follow the existing internal cast iron column arrangement with the original vaulted ceiling of the A listed building being partially

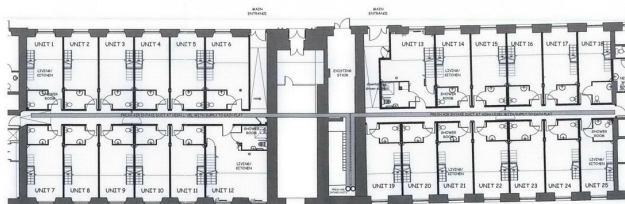
exposed in the bedroom areas of each flat. Only 3 of the original cast iron columns supporting the vaulted ceiling shall be exposed with the remainder being enclosed within the partitions separating each flat.



External alterations involving the creation of new window openings and alterations of existing door openings are proposed to match the appearance of the existing A listed building. This shall involve the use of stone and mortar to make good any door or window openings. In addition it is proposed to install two new extract louvers on the courtyard (west) elevation of the building.



UPPER LEVEL FLOOR PLAN



GROUND FLOOR PLAN

In accordance with the Council's scheme of delegation, this application is being reported to the Development Management Committee at the request of the Director of City Development.

SITE DESCRIPTION

The application site is located to the west of West Marketgait. The application property is the ground floor in a 4 storey commercial building which is Category A listed. The premises were previously occupied by

offices of Telewest. Access to the building is taken from Brown Street. The upper floors of the building are all in residential use. To the west of the building is car parking for the surrounding uses. There are 5 spaces

available for the proposed use. The surrounding uses are mixed industrial, commercial, leisure and retail.

The building is A listed and is situated within the Blackness Conservation Area.

Internally the vacant retail unit and storage unit are the last remaining parts of the A listed mill building that expose the original double height vaulted ceiling and cast iron columns that span the length and depth of the building exposing the original mill floor in its expansive form. The upper floors of the building have been subdivided to form student apartments with the cast iron columns either removed or enclosed within partition walls and the vaulted ceilings covered by modern roof features. The A listed mill building also has large timber framed sliding sash and case windows, sized to reflect the scale and massing of the building and to provide natural light into the mill building.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan 2005

The following policies are of relevance:

Policy 9 - Student Housing - sites identified on the Proposals Map are considered appropriate

for the development of student housing. In addition, student housing proposals on sites within 15 minutes walking distance of the Universities will be supported where this is in accordance with other Local Plan policies. A Section 75 Agreement will be required to restrict occupancy to students unless a higher education institution was a partner in the proposed development, in which case planning conditions would be appropriate. Given the prominent location of many sites close to the

City's Universities, it is important that development proposals are of a very high quality design. Adequate car parking should be provided based on a parking and accessibility assessment that takes account of factors identified in the Addendum to National Planning Policy Guideline 17 - Transport and Planning Maximum Parking Standards, including the need to avoid overspill parking on surrounding streets. Secure bike storage facilities should be included in all proposals.

Policy 26: General Economic Development Areas - in areas designated as General Economic Development Areas, proposals for Class 4, 5 and 6 developments will be supported. Other uses of a wider industrial nature such as car showrooms, wholesaling, taxi offices and scrap yards may be permitted provided:

- a there is no detrimental impact on neighbouring uses and local residential amenity, and
- b there is no unacceptable traffic impact; and
- c the scale of development is appropriate to the size and location of the site.

Class 1 retail will not be permitted unless in accordance with other policies in the Local Plan. Residential development is generally not supported within General Economic Development Areas unless a satisfactory standard of residential amenity can be achieved; housing will not adversely impact on the ongoing operation of adjacent industrial areas; and evidence demonstrates that the site is no longer suitable for economic development purposes.

Policy 28: Higher Education Development - the City Council will support further higher education development generally and particularly in association with relevant business and research expansion. Development proposals in the Blackness area will be encouraged subject to other Local Plan policies and agreed Masterplan.

Policy 59: Alternative Uses For Listed Buildings - suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric must be undertaken carefully and sensitively and have minimum impact

on the architectural and historic interest, character and setting of the building. Reference should be made to other policies in the Plan.

Policy 60: Alterations to Listed Buildings - the alteration of a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character. Alterations will not be permitted where the works would diminish the architectural integrity of the building or its historic interest. The City Council will provide specific supplementary guidance on the following: window and door alterations, advertisements, shopfronts, roller shutters, treatments to masonry and painting and use of materials.



Policy 61: Development in Conservation Areas - within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features and the historic pattern of streets and spaces, as identified in the Conservation Area management plans to be advanced in the near future.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

Scottish Historic Environment Policy 2009

Scottish Planning Policy (SPP) 2010

Non Statutory Statements of Council Policy

There are no non statutory Council policies relevant to the determination of this application.

SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

SITE HISTORY

This application is accompanied by an application for listed building consent for internal alterations to the A listed building to form 25 student apartments. This application shall be decided by delegated powers and does not require to be reported to the Council's Development Management Committee.

PUBLIC PARTICIPATION

The Council has followed the statutory neighbour notification procedure outlined in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

No objections have been received in relation to the proposed change of use.

CONSULTATIONS

The Head of Environmental Health and Trading Standards has raised concern that the application site may be contaminated by historic uses. However, from the level of information provided by the Applicant the Head of Environmental Health and Trading Standards is satisfied that this matter can be addressed by a condition should the Committee be minded to grant planning permission.

Historic Scotland has confirmed that they have no objections to the principle of the proposed development and shall address any adverse impact upon the character or setting of the A listed building in the assessment of listed building consent application ref: 10/00097/LBC that seeks consent for alterations to the A listed mill building to form 25 student apartments.

OBSERVATIONS

Statutory Requirements

Section 25 of the Act provides that an application for planning permission (other than for a national development) shall be determined in accordance with the development plan unless material considerations indicate otherwise.

In accordance with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.

In accordance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Due to the nature of the proposals, Policy 9 (Student Housing) of the Plan applies. This Policy identifies sites for the development of student housing and also advises that proposals on sites within 15 minutes of the main Universities will be supported where this is in accordance with other local plan policies. The preamble to this policy also advises that the Universities will need to keep under review the demand for student accommodation to ensure that supply is managed to guard against a surplus emerging.

The site has not been identified in the Dundee Local Plan Review 2005 as a site appropriate for student housing although historically approximately 395 bed spaces have been created in the upper floors of the A listed Tay Mills building. The applicants have failed to provide a full justification for the selection of this site and for this form of development.

Both Dundee and Abertay Universities have been replacing their existing student accommodation. In addition, private developments providing student accommodation have been built and others granted planning permission. Since the adoption of the Local Plan (2005), progress has been made on the majority of the identified

sites in the Local Plan for the development of student housing.

Since 2003, a total of approximately 2,544 bed spaces have received planning permission for purpose built student accommodation. This includes both University and private sector development. Of these approximately 349 have been direct replacements within the existing sites (mainly the main Dundee University campus area and West Park). Of those granted planning permission only the conversion of the listed building in Guthrie Street for 125 bedspaces remains to be completed.

Therefore, due to the number of existing approved planning applications for student accommodation (approximately 2,544 bed spaces), it is considered that at present there is no demand or justification for additional student apartments within the City.

A surplus in student accommodation has the potential to create pressure for the conversion of the proposed student flats contained within this development to mainstream residential accommodation. However, due to the relaxed standards applied to student housing in terms of floor space, car parking and amenity ground, it is considered that this would create a poor level of residential amenities for mainstream housing. Policy 9 requires proposals for student housing to be secured by a Section 75 legal agreement prohibiting the use of the student apartments as mainstream residential accommodation. The applicants are aware of this requirement. Should the Committee be minded to approve this application, planning permission shall be granted subject to the completion of a Section 75 legal agreement restricting the use of the proposed student apartments.

The existing student apartments within the Tay Mills complex and managed by Crosslane Investment Partners LLP are afforded 27 car parking spaces within the car park to the west of the application site. However, no additional car parking or secure cycle storage facilities are proposed as part of the proposed development. The application as submitted fails to address the requirement for the submission of a parking and accessibility assessment as required by Policy 9.

The proposals therefore fail to satisfy the requirements of Policy 9.

Policy 26 (General Economic Development Areas) presumes in favour of developments within these areas that fall within Classes 4, 5 and 6 of the Use Classes Order. Exceptions to this may be permitted where uses of a wider industrial nature can meet certain criteria.

With regard to the provision of residential developments within such areas, this is generally not supported unless a satisfactory standard of residential amenity can be achieved; housing will not adversely impact on the ongoing operation of adjacent industrial areas; and evidence demonstrates that the site is no longer suitable for economic development purposes. The applicants have not submitted evidence to accompany this application that fully demonstrates that the site cannot be used for future economic development purposes.

In light of the above the proposals are considered to be contrary to Policy 26 of the Plan

Policy 28 (Higher Education Development) seeks to support further higher education development particularly in association with relevant business and research expansion. It is not the intention of this Policy to provide support for further student accommodation within these areas. In addition, the application site has not been formally identified as part of an agreed Masterplan with either Dundee or Abertay University.

It is considered that the proposals are not supported by Policy 28 of the Plan, but neither do they contravene it.

Policy 59 (Alternative Uses of Listed Buildings) is supportive of proposals for alternative uses of listed buildings that seek to safeguard the future of the building. However, any adaptation of the fabric must be undertaken carefully and sensitively and have minimum impact on the architectural and historic interest, character and setting of the building.

Policy 60 (Alterations to Listed Buildings) is supportive of proposals that seek to preserve or enhance the architectural or historic character of listed buildings.

While the Council is supportive of proposals to re-use listed buildings,

only proposals that are sympathetic to the historic fabric, architectural and historic character and setting of the building shall be supported. The existing vacant retail space maintains the original form of the ground floor of the A listed building with no partitions or mezzanine floor levels obscuring the original vaulted ceiling or cast iron columns. The proposals shall involve the creation of 25 duplex style apartments. The partitions separating each apartment shall follow the vaulted pattern of the original roof and therefore 21 of the original 24 cast iron columns supporting the vaulted ceiling shall be enclosed within the proposed partitions. Part of the vaulted ceiling shall be exposed within each of the proposed apartments.

The true character and setting of the A listed building is demonstrated by its grand scale and external appearance coupled with the high vaulted ceilings and great expanse of floor area illuminated through early 20th century gothic styled window openings glazed by timber framed sliding sash and case window units proportioned to match the scale and massing of the building and the high ceilings.

The proposed sub-division of the ground floor which is the last area of original floor space of the A listed mill building to remain intact shall diminish the remaining historic character of the internal workings of the original building. This is because the vaulted ceiling and cast iron columns in their entirety contribute significantly to the character and appearance of the A listed building by giving a true reflection of the scale and massing of the architectural form of the A listed Tay Mills complex.

The proposed conversion of the existing retail unit on the ground floor of the A listed building at 19 Brown Street to form 25 student apartments and the associated adaptation of the building's historic fabric shall adversely impact on the architectural and historic interest, character and setting of the building. The proposals are therefore contrary to the requirements of Policy 59 (Alternative Uses of Listed Buildings) and Policy 60 (alterations to Listed Buildings) of the Dundee Local Plan Review 2005.

Policy 61 (Development in Conservation Areas) is supportive of proposals that seek to preserve or enhance the character of conservation

areas. The external alterations proposed to the A listed building shall maintain the external appearance of the building and therefore shall have a neutral impact upon the appearance of the West Marketgait and Brown Street streetscapes.

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Statutory Duty

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

In accordance with Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The proposals shall adversely impact upon the historic and architectural character of the building through sub-dividing the vacant ground floor retail unit in the A listed building at 19 Brown Street to form 25 duplex student apartments. The proposals shall result in 21 of the 24 original cast iron columns supporting the original vaulted ceiling being encased within partition walls separating each of the proposed flats. In addition the partition walls separating the proposed flats shall also alter the appearance of the vaulted ceiling whereby in its entirety the original ceiling as existing is one of the last remaining principal architectural features of the A listed mill building. However, sub-divided so that only individual barrel elements of the roof are exposed within each of the flats, the significant contribution of the original vaulted ceiling to the architectural and historic character of the A listed building shall be considerably diminished.

In accordance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 the Council is required to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The requirements of Section 64 have been satisfied in the assessment of the proposals against Policy 61 (Development in Conservation Areas) of the Dundee Local Plan Review 2005.

Other Material Considerations

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

a Quality of Student Accommodation Proposed

The proposed student accommodation shall be located at ground floor level on one of the busiest thoroughfares through the city highlighted by the Head of Environmental Health and Trading Standards as an air quality hot spot with traffic noise generating significant instances of noise disturbance that would adversely affect the level of amenity afforded to the proposed student apartments.

The applicant has submitted a noise impact assessment with recommended attenuation measures and a high level fresh air intake system to alleviate the concerns of the Head of Environmental Health and Trading Standards relating to noise disturbance and air quality. However, even after the refurbishment of the existing windows and the installation of secondary glazing in conjunction with the installation of a fresh air intake system it shall not be possible to open the windows of apartments facing on to the West Marketgait without adversely affecting the environmental quality afforded to the proposed student apartments by virtue of significant noise disturbance from passing traffic and the poor level of air quality due to the emission of noxious gasses from exhausts.

In this instance, by virtue of location the proposed student flats shall be afforded a low level of environmental quality.

b Policy 26 (General Economic Development Areas)

It has been concluded above that the proposals fail to comply with the requirements of Policy 26 of the Dundee Local Plan Review 2005. However, given that the upper floors of the A listed building have been converted into student apartments, the adjoining mill building is used for retail and the previous use of the application site was storage/ retail, a precedent has been set by the existing and previous uses of the Tay Mills complex for purposes falling outwith Class 4, 5 and 6 of the Town Country Planning (Use Classes) (Scotland) Order 1997 as amended. In this instance it would be difficult to customise the use of commercial

activity falling within Class 4, 5 or 6 to minimise the impact upon the level of amenity afforded to the adjoining student apartments and neighbouring retail units. Therefore, there are material considerations that would allow for the use of the application site for purposes falling outwith Classes 4, 5 or 6 of the Town and Country Planning (Use Classes)(Scotland) Order 1997 as amended.

c Supporting Information

The applicant has submitted a range of supporting information in the form of a planning statement and market statement. The supporting information fails to address whether the proposed student housing complies in full with the provisions of the Development Plan and concentrates only on the areas where the proposals partially comply with the criteria of Policy 9, 59, 60 and 61 of the Dundee Local Plan Review 2005, the Scottish Planning Policy 2010 and the Scottish Historic Environment Policy 2009.

The market statement fails to demonstrate that there is a requirement for the proposed student apartments in the chosen location. In addition the proposals also fail to demonstrate that the application site has been marketed in its current form without interest justifying the proposed redevelopment of the A listed building to form 25 student apartments. The supporting information therefore fails to satisfy the requirements of the Scottish Historic Environment Policy 2008 and the Scottish Planning Policy 2010 for proposals involving the alternative uses and redevelopment proposals for listed buildings

d Views of Dundee College and Dundee University

Dundee College has submitted a letter of support for the proposed student apartments. The letter states that the College relies heavily on private sector student accommodation to house its students. The College also states in its letter that the provision of 25 additional student apartments as proposed shall have little impact upon the existing supply of student accommodation within the City.

Dundee University have stated that Dundee is currently well served by student accommodation. With the number of students within the City likely to remain constant it is unlikely

that there shall be a significant demand for addition student accommodation.

It is concluded from the foregoing that insufficient weight can be accorded to the material considerations to justify the grant of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be refused.

Design

The proposed alterations to the facade of the A listed building are in keeping with existing appearance of the building.

CONCLUSION

The proposals fail to satisfy the requirements of Policy 9, 59, and 60 of the Dundee Local Plan Review 2005. The supporting information submitted by the applicant fails to demonstrate that there are material considerations that would justify laying aside the provisions of the Development Plan to grant planning permission. It is therefore recommended that planning permission is refused.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reasons:-

- 1 The proposal is considered to be contrary to Policy 9 (Student Housing) of the Dundee Local Plan Review 2005 by virtue of the failure of the applicants to adequately justify the requirement for additional student bed spaces within the city on a site that is not allocated for such uses on the Proposals Map, and, by failure to provide a Transport Assessment to allow a full assessment of the operational and parking requirements for the proposals. There are no material considerations that would justify approval of planning permission.
- 2 The proposals shall adversely affect the historic character and architectural features of historic importance of the A listed building erasing the last original expansive area of floor space of the Tay Mills complex by subdividing the existing retail unit into 25 student apartments, concealing the cast iron columns supporting the original vaulted

ceiling within partition walls and by exposing only individual barrels of the vaulted ceiling within the individual apartments. The proposals fail to satisfy the requirements of Policy 59 (Alternative Uses of Listed Buildings) and Policy 60 (Alterations to listed buildings) of the Dundee Local Plan Review 2005 as well as the requirements of Section 14 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 as amended. There are no material considerations that would justify support of the proposals.

- 3 The proposed student apartments shall be afforded a low level of environmental quality by virtue of poor air quality and noise disturbance consequent of the location of the application site on the ground floor of the A listed Tay Mills building on the West Marketgait. While there are agreed measures that can be put in place to improve the level of air quality within the building and reduce the impact of noise disturbance from passing traffic it would not be possible to open the windows of the flats fronting on to the West Marketgait. Residents of the proposed apartments would consequently be afforded a low level of amenity.