

Sub-Division of Existing Dwellinghouse to Create 3 Flats and Erection of a House In Garden Ground

KEY INFORMATION

Ward Maryfield

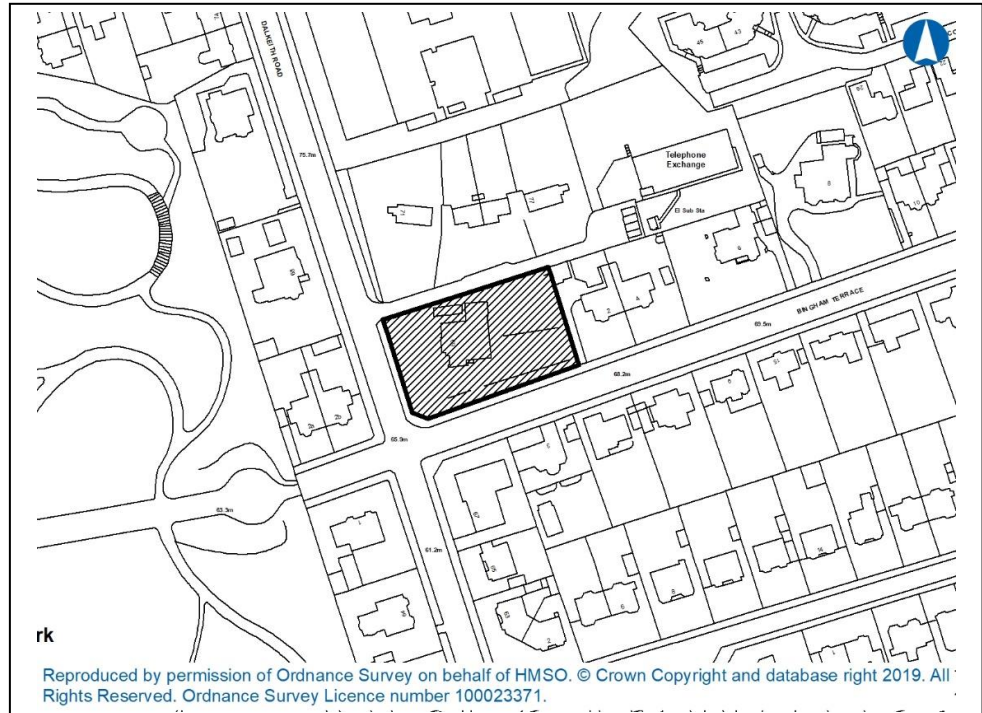
Address
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Applicant
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Agent
Neil Gray

Registered 10 March 2020

Report by Head of Planning & Economic Development



SUMMARY OF REPORT

- Planning permission is sought for the sub-division of an existing dwellinghouse to create 3 no flatted dwellings and erect a single dwellinghouse in the garden ground including formation of a new access.
- The application is generally in accordance with the Development Plan with the exception of fully meeting the Appendix 4 standards in relation to the floor area of one flat and the minimum window to window distances. However, given the need to preserve the floor layout of the listed building, and the level/angle differences between the windows there is justification to approve the application.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. One letter of objection and 1 letter of support have been received.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee at the request of an Elected Member.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=Q6OJKTGcj2400>

RECOMMENDATION

The proposal generally complies with the Development Plan. There are material considerations of sufficient weight to justify approval of planning permission. It is therefore recommended that planning permission be **APPROVED** subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for proposed alterations and conversion of the existing dwellinghouse to form 3 flatted units and the erection of a four bedroom house within the garden ground.
- 1.2 The proposal involves the sub-division of the existing building to create 1no. four bedroom flat and 2no two bedroom flats. The proposal includes external alterations to the existing building by proposing the replacement of an existing window opening to reinstate an access door on the south elevation of the property as well as the installation of a new heritage style rooflight to be installed on the east elevation.
- 1.3 In addition, a four bedroom house within the garden ground is proposed. The proposed house within the garden ground would be located to the east of the existing building with vehicular access proposed through a breach in the low boundary wall to the south east of the site with garden ground provision to the south and north of the proposed property.
- 1.4 Parking provision for the proposed flatted units would be provided to the west of the existing house to form 5 parking spaces. The existing access to the west is proposed to be widened to accommodate the vehicular movement and the existing access to the south west of the site would be blocked off. Communal garden ground for the flats is proposed as well cycle parking and waste and recycling storage.
- 1.5 Supporting design statements and reports were submitted as part of the application with further information on the proposed sub-division of the B-listed building, the proposed house in garden ground and tree report.
- 1.6 The applicant has submitted the following in support of the application:
 - Planning Statement;
 - Design Statement;
 - Tree Report; and
 - Viability Statement.

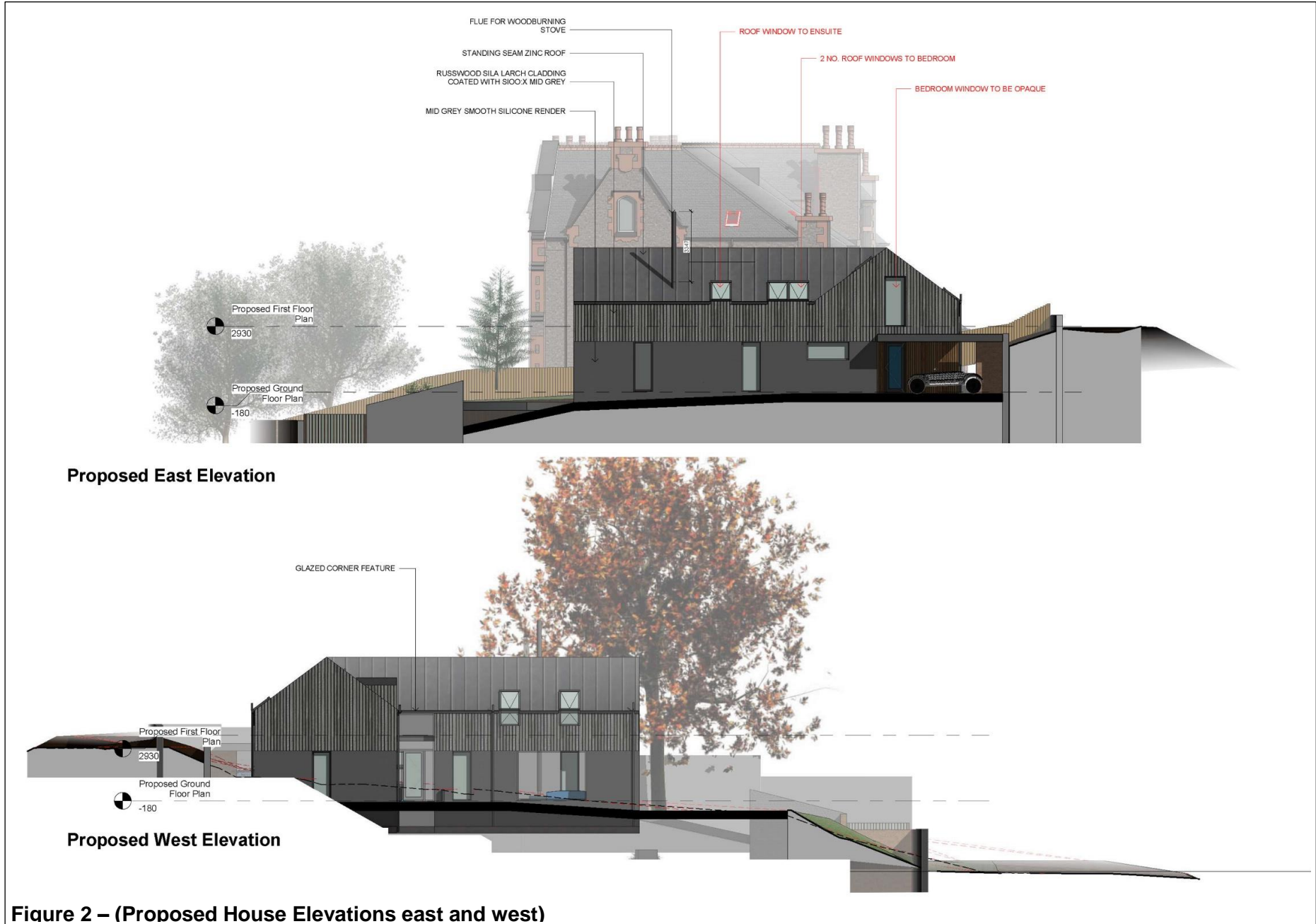


Figure 2 – (Proposed House Elevations east and west)



Proposed North Elevation



Proposed South Elevation

Figure 3 – (Proposed House Elevations north and south)

2 SITE DESCRIPTION

- 2.1 The site comprises a two and a half storey stone built dwelling and its garden ground. The site is located on an elevated corner plot at the east of Dalkeith Road and north of Bingham Terrace. The property at 69 Dalkeith Road is a Category B-listed building dating from 1889-90 and was built as the manse of St Mary's Church. The building is in residential use over three levels (ground floor, first floor and attic). The existing building is a neo-medieval style villa and has an historic decorative interior and attractive external architectural detailing. The building has a pitched sloping slate roof and white timber sash and case windows. The main door access to the property is on the west elevation with garden ground to the south and east of the property.
- 2.2 The boundaries of the site are formed by stone walls and there are a number of existing mature trees and vegetation within the site. The site is located within the Baxter Park Conservation Area.



Figure 4 – (Photo)



Figure 5 – (Photo)

3 POLICY BACKGROUND

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

TAYPlan 2016-2036

The application raises no issues of relevance.

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking

Policy 10: Design of New Housing

Policy 12: Formation of New Residential Accommodation

Policy 13: Development of Garden Ground for New Housing

Policy 34: Protected Species

Policy 35: Trees and Urban Woodland

Policy 48: Low Zero Carbon Technology

Policy 49: Listed Buildings

Policy 51: Development in Conservation Areas

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTICES AND CIRCULARS

Scottish Planning Policy 2014

Historic Environment Scotland Policy for Scotland 2019

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 20/00141/LBC - alterations (sub-division) to Listed Building to create 3 flatted dwellings including alterations to boundary wall. Pending decision.

4.2 19/00026/FULL - sub-division of existing dwelling house to create 5 flatted properties and erection of a single house in garden ground. Application refused in March 2019.

4.3 19/00027/LBC – sub-division of existing B-listed dwellinghouse to create 5 flatted properties with associated parking provision and amenity space. Application refused in March 2019.

5 PUBLIC PARTICIPATION

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

5.2 One objection has been received raising the following valid material grounds:

- concern over the removal of trees along the eastern boundary of the site as the root protection areas are shown within neighbouring site and removal could have potential detrimental impact on the eastern boundary wall.

5.3 One letter of support raising the following valid material planning considerations:

- supports the solution to convert and conserve the existing building;

- supports the design of the contemporary proposed house as it would reflect the architectural periods of Bingham Terrace; and
 - letter also commented that the statements submitted with the application had stated the incorrect address of a neighbouring property.
- 5.4 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 **Consultee: Historic Environment Scotland** – provided comments to the associated concurrent listed building consent application 20/00141/LBC. Historic Environment Scotland advised that they have no objection to the proposal. They commented that the Council may wish to consider the principle of the development as enabling development and that the alterations to block up an existing boundary access could seek to retain the existing appearance of the entrance by fixing closed the gate or to allow pedestrian access only. Further comments were provided advising that the details on external services and ventilation should be submitted to ensure they are sympathetic to the existing building and commented on retaining the original and historic features of the villa including the historic doors and retention of the existing sash and case windows.
- 6.2 **Consultee: Dundee City Council Head of Environment** - has no objection to the application and advised that the proposal positively seeks to retain the prominent existing trees on the west boundary and these provide a high amenity value and add character to the area. The proposal involves the removal of a number of trees along the east boundary of the site. Recommended that conditions should be attached requiring a landscaping plan and landscaping maintenance plan in order to ensure high quality replanting proposal. In addition, it was recommended that conditions should be attached to ensure any tree works are undertaken to the required British standards and that a tree protection plan, bat survey and breeding bird survey are submitted for approval prior to commencement of works on site.
- 6.3 **Consultee: Dundee City Council Head of Community Safety and Protection** - has no objection to the application but noted that a flue had been proposed as part of the proposed house in garden ground and advised that details of the flue and wood burning stove would be required and that a smoke control area informative should be attached to any granting of planning permission.

7 DETERMINING ISSUES

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

THE DEVELOPMENT PLAN

The provisions of the Development Plan relevant to the determination of this application are specified in the Policy Background section above.

TAYPLAN 2016 – 2036

- 7.2 **The application raises no issues of relevance.**

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.3 **Policy 1: High Quality Design and Placemaking** - requires all development proposals to follow a design-led approach to sustainable, high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned and designed with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, create a sense of community and identity, enhance connectivity and incorporate creative approaches to urban design, landscaping and green infrastructure, appropriate to the local context and the scale and nature of the development. New development will be required to meet the 6 qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.4 With reference to Appendix 1, the proposal is required to meet the six qualities of successful place – distinctive; safe and pleasant; easy to move around and beyond; welcoming; adaptable and resource efficient.
- 7.5 The existing property is a Category B listed building of a traditional appearance located within the Baxter Park Conservation Area. The proposal site is on an elevated corner site and the site has a number of mature trees which significantly contribute to the character of the site and the surrounding area.
- 7.6 The internal alterations proposed to the listed building have been fully considered in the associated concurrent listed building consent application (20/00141/LBC). The internal alterations would allow for the sub-division of the existing house in order to accommodate 3 no flatted units within the existing building. The internal alterations would allow for the sensitive sub-division of the property and would not have a detrimental impact on the historic fabric and character of the listed building. The proposed external works are of a small scale in appearance and would retain the historic external appearance and character of the property. The proposal largely retains the publicly visible boundary trees on the west elevation and south elevation of the site and the formation of parking provision to the west of the existing building allows for the retention of these existing trees at that location and would not have a detrimental impact on the character or appearance of the site.
- 7.7 During the course of determining the application the applicant provided amended proposal drawings to further reduce the scale and massing of the proposed house and to alter the siting of the proposed house. The amended proposal drawings reduce the height of the proposed one and half storey house. To reduce the physical impact on the listed building the proposed house was sited further to the east. The proposed one and a half storey house would be of a modern appearance using high quality materials in a limited colour palette. The upper section of the walls of the proposed house would be finished using natural materials with vertical larch timber cladding proposed. The lower section of the walls would have a smooth silicon render finish grey in colour and the windows would be formed of timber with grey alu-cladding and the roof would be finished in standing seam zinc.
- 7.8 The proposed amended design, scale and siting of the proposed house would reduce the visual impact and physical impact that the proposed house would have on the existing listed building. The proposal involves the formation of a retaining wall and ground work alterations to the proposed plot in order to build into the sloping ground and this along with the proposed reduction in scale of the proposed house would further reduce the appearance of the scale of

the house in the context of the neighbouring listed building and would lessen the physical impact the proposed house would have on the adjacent listed building.

- 7.9 The proposed use of high quality natural materials finished in a limited palette would complement the natural stone and slate roof of the traditional listed building and would be appropriate high quality finishing materials and colour for the context of the site and surrounding area. The proposed house would have a smaller footprint than the previous development that was refused planning permission (19/00026/FULL) and with the further amendments made to the proposed design, scale, massing and siting of the proposed house the development would not have a detrimental impact on the setting of the listed building or negatively impact the character and identity of the existing site.
- 7.10 In this case, site topography, landmarks, views and skylines are respected in the proposed design. The proposed vehicular and pedestrian entrance to the proposed house are proposed from the south off Bingham Terrace and the north west access to the existing house off Dalkeith Road would be widened to improve access and these openings would be in keeping with the appearance of existing accesses for residential properties within the surrounding area and would not have a detrimental impact on the character of the proposal site. The proposed scale, massing and finish of the proposed house would be in keeping with residential development in the surrounding area. It is recommended that planning conditions are attached requiring the full details of the proposed external finishing materials for the proposed house as well as details of the external alterations to the existing house and surrounding boundary walls in the interests of visual amenity and to ensure a high quality finish. The proposal demonstrates compliance with the six qualities of successful place in accordance with Appendix 1.
- 7.11 The proposal would respect the character and amenity of the existing building and those in the surrounding area and takes into account the positive local features that create a sense of identity within the area.
- 7.12 **The proposal is in accordance with Policy 1.**
- 7.13 **Policy 10: Design of New Housing** - requires the formation of new residential accommodation to ensure that the design and layout would respect and enhance the distinct character and identity of the different parts of the City as well as respect and enhance the character of adjoining properties and the surrounding area. Within the terms of Policy 10, all new housing developments are required to conform to the design standards set out in Appendix 4 of the Local Development Plan as well as meet the six qualities of successful place as set out in Policy 1.
- 7.14 The proposed residential units are required to conform to the suburban standards set out in Appendix 4 for house type, car parking, cycle provision, amenity/garden ground and privacy.
- 7.15 **Appendix 4: Suburban Standards for Flats**
- House Type - flats may be acceptable through the conversion of buildings of merit where conversion to houses is not suitable or achievable or where identified in a site planning brief. Flats should have generous internal space standards with a minimum gross internal floor area of 80sqm.
 - Car Parking – a minimum of 150% car parking should be provided with at least 1 space dedicated to each flat

- Cycle Provision – secure indoor storage for bikes will be provided in accordance with the number of flats being provided. Conversions may require a more flexible and creative approach to cycle storage.
- Amenity/Garden Ground – each case will be treated on its merits considering the curtilage of the existing property. Each proposal must provide a high quality living environment with attractive outdoor space for occupants. This space may be private communal garden or private garden for each flat. Separate drying areas should be provided.
- Privacy – a minimum of 18 metres between the facing windows of habitable rooms. Living room windows and balconies of flats should not overlook private gardens of houses.

7.16 In respect of the above standards for flats:

- House Type – the proposal would be for the conversion of an attractive B-listed building to form a total of 3 flatted units and sub-division to houses would not be appropriate due to the floor layout of the existing historic building. The proposed flats would have a floor area of 270sqm, 128sqm and 77sqm respectively. The proposed flat at 77sqm is just below the 80sqm standard for flats, however this has been dictated by existing plan form of the listed building and the proposal would sensitively sub-divide the historic building and would minimise the sub-division of the existing plan form of existing rooms and would not require any modern extensions to the building which could significantly compromise the appearance of the listed building. The proposed flatted units would all have a generous floor area as well as access to indoor storage space and would allow for the sensitive conversion of a listed building. The proposal generally complies with the required standard, with the exception of the 77sqm flat which falls 3sqm short of the standard but is considered to be acceptable due to the restrictions of the existing floor layout of the listed building.
- Car Parking – the proposal indicates that 5 car parking spaces would be formed for the 3 no flatted units which would achieve the minimum 150% parking provision as required by the standard. The proposal complies with the required standard.
- Cycle Provision – the proposal has indicated secure outdoor storage for cycle provision. It is recommended that planning condition are attached requiring the full details of the cycle storage solution to be submitted and agreed prior to commencement of development. The proposal could comply with the required standard.
- Amenity/Garden Ground - the supporting amenity space drawing submitted with the application has stated there would be 500sqm of private communal garden ground for the proposed flatted units. The proposed drawings indicate the areas which are to be considered as useable and private communal garden ground. The proposal for the house in garden ground does result in the loss of the existing garden ground area to the east of the existing building, however, the communal garden ground areas that have been identified on the supporting amenity space plan would be considered to be useable areas and would provide an acceptable level of attractive outdoor space for the 3 no proposed flatted units. In addition, the applicant has also provided a supporting open space analysis which identifies provision of open space within a 300-600m radius of the site and identifies that there are a range of public open spaces within the surrounding area with Baxter Park the closest distance at 72 metres from the site. In terms of identifying a separate drying area, in the interests of preserving the appearance and setting of the listed building this is not considered to be a necessary requirement for this proposal. The proposal would comply with the required standard.

- Privacy – the proposed sub-division results in two windows of habitable rooms on the east elevation of the flatted units being within 17 metres from the facing windows on the west elevation of the proposed house. The proposal also results in a bathroom window which would have opaque glazing and would not result in overlooking issues. The two facing windows would overlook part of the proposed garden ground but it is not considered to be a significantly detrimental impact as the useable garden ground area is located further to the east and not detrimentally overlooked. The proposal does not fully comply with the required standard as it would result in facing windows of habitable rooms falling marginally short of the 18 metres standard.

7.17 Appendix 4: Suburban Standards for Houses:

- House Type - houses should have a minimum gross internal floor area of 100sqm.
- Car Parking - all car parking should be located within the curtilage of the house. Private houses with 4 or more bedrooms should have at least 3 spaces.
- Cycle Provision – one secure, covered space per house must be provided unless a suitable garage or other secure area is provided within the curtilage of the house.
- Amenity/Garden Ground – Brownfield sites will provide an average private useable garden round of 140sqm per house with a minimum garden size of 120sqm.
- Privacy – a minimum of 18 metres between the facing windows of habitable rooms.

7.18 In respect of the above standards for houses:

- House Type – the proposed house in garden ground would have 4 bedrooms with an internal floor area at 237sqm. The proposal complies with the required standard.
- Car Parking – proposed access to the proposed house would be from the south off Bingham Terrace with a large driveway proposed and carport there would be space to accommodate 3 parking spaces. The proposal complies with the required standard.
- Cycle Provision – the proposal includes secure storage provision within the house. The proposal complies with the required standard.
- Amenity/Garden Ground – the supporting amenity space plan submitted in support of the application indicates the area of useable garden ground would be to the south of the house with an area to the west and north of the house and the useable area would measure 472sqm. The proposed area of useable garden ground would be considered to be commensurate with the size of the proposed house and would provide an attractive area of garden ground provision for the house in excess of the minimum requirements. The proposal complies with the required standard.

Suburban Standards - General Requirements

- provision for waste and recycling should be provided in accordance with the Council's waste management strategy;
- parking areas should include provision for electric car charging points; and
- flatted developments should include storage areas in addition to cycle storage.

In respect of the above general requirements:

- the location of the provision for waste and recycling storage for the flatted units and proposed house has been shown on the proposed layout and this would be acceptable;
- provision for electric car charging points has been shown as part of the proposal and the proposal would meet this general requirement; and
- the proposed floorplans for the flatted units demonstrate that storage areas would be provided at the ground floor level and external cycle storage for the flatted properties would also be provided to the north of the property and so the proposal would meet this requirement.

7.19 **The proposal is generally in accordance with Policy 10, with the exception of fully meeting the minimum floor area and window to window standards required in Appendix 4.**

7.20 **Policy 12: Formation of New Residential Development** - the creation of new residential accommodation through the development of existing roof/basement space or the sub-division of existing residential accommodation or change of use will be supported where:

- 1 the requirements for the design of new housing (Policy 10 and Appendix 4) are met;
- 2 all new dwellings will have a quality surrounding environment;
- 3 main living areas will be located on a principal elevation or on an elevation with an attractive open aspect; and
- 4 it will not have a detrimental effect on the environmental quality enjoyed by existing residents by virtue of the loss of amenity/garden ground, the loss of both off/on street parking provision and increased traffic movements.

7.21 As outlined above the proposal would not fully comply with the requirements of Policy 10 and Appendix 4.

7.22 The proposed sub-division would sensitively result in the sub-division of the existing listed building and would involve small scale external alterations that would not impact the existing historic character of the existing building and its setting. Each of the proposed flatted units proposed would have a quality surrounding environment with the main living areas being afforded an open aspect to the south. The proposed communal area would be commensurate and useable space for the 3 proposed flatted units. The proposal complies with criterion 2.

7.23 The proposed flats would result in the existing building being sub-divided to form 3no flatted units. Unit 1 would be a 4 bedroom flat located on the western side of the building at ground floor, first floor and attic level. Unit 2 would be a two bedroom flat located on the eastern side of the building at ground floor level. Unit 3 would be a two bedroom flat located on the eastern side of the building at first floor and attic floor level. All of the proposed flatted units would have main living areas located on the principal elevation facing south and each would have an attractive open outlook. The proposal complies with criterion 3.

7.24 The proposal would be to reuse the existing B-listed building. The proposal for the conversion of the building would in itself not result in the loss of amenity/garden ground. The associated proposed house in garden ground would result in the loss of an area of garden ground to the east, however as assessed against Policy 10 the proposed 3no flatted units would have a communal area of garden ground that would provide attractive and useable amenity space.

The proposal has demonstrated that an acceptable level of parking provision could be accommodated for the proposed flats to the west of the existing building and that this would not detrimentally impact the existing mature trees and the proposal would not have a detrimental impact on the environmental quality enjoyed by existing residents. Should Members be minded to approve the application planning conditions are recommended to be attached requiring the full details of the vehicular access, electric parking provision and works to existing accesses. The proposal complies with criterion 4.

7.25 **The proposal is generally in accordance with Policy 12 with the exception of fully meeting all of the Appendix 4 standards.**

7.26 **Policy 13: Development of Garden Ground for New Housing** - is supportive of the erection of houses in garden ground where the following criteria can be met:

- 1 the proposed new house meets the requirements for the design of new housing (Policy 10 and Appendix 4);
- 2 no new building is proposed in front of the principal elevation of the existing house;
- 3 both the curtilage of the existing house and the proposed house maintain the prevailing density of the surrounding area;
- 4 that the useable private garden ground of the existing house is maintained to a level in keeping with the scale of the house and that of similar houses in the surrounding area;
- 5 that sufficient off street car parking is maintained/provided with the existing house in accordance with its size; and
- 6 the development will not have a detrimental effect on the existing house and neighbouring properties in terms of physical impact, overshadowing or overlooking.

7.27 For the reasons stated above, the proposal does not fully comply with the requirements of Policy 10 and Appendix 4.

7.28 The principal elevation of the existing house is the south (front) elevation which fronts onto Bingham Terrace. The proposed house would be located within the garden ground to the east of the existing house and would not be in front of the principal elevation. The proposal would comply with criterion 2.

7.29 In terms of criterion 3, the site is surrounded by a mixture of house types with large detached and semi-detached units along Dalkeith Road and predominately detached houses along Bingham Terrace situated in generous site plots. The application site is a large, elevated and prominent corner plot that has a different character to the smaller detached and semi-detached houses on Dalkeith Road and Bingham terrace. The supporting planning statement highlights the 2 neighbouring B-listed property located further to the east of the site have been subdivided into flats and HMO properties respectively and that the proposed sub-division of the proposal site to form two plots would reflect the size of the majority of plots of similar size properties in the surrounding area.

7.30 The sub-division of the proposed site as shown on the site plan would result in the formation of 2 plots which would measure 1,385sqm for the existing house and 915sqm for the proposed house. The proposed plot sizes particularly for the existing house would be commensurate for the size of the house and would reflect the sizes of some of the larger plots particularly of the sub-divided listed buildings in the surrounding area. Both of the proposed plots would be afforded a generous size curtilage space which would not detrimentally impact the setting or

character of the existing house. The proposed sub-division of the proposal site would maintain the prevailing density of the area. The proposal would comply with criterion 3.

- 7.31 The existing house which is proposed to be sub-divided to form 3 flats would have a communal garden ground provision measuring 500sqm which would be considered to be useable space for the number of proposed units and would be commensurate with the size of the flats proposed. The applicant has also provided supporting information and an open space analysis detailing the location of existing areas of open space within the surrounding area. The proposed useable communal garden ground provision for the B-listed building would be sufficient and would be to a level which would be commensurate with the historic building. The proposal would comply with criterion 4.
- 7.32 The proposal includes the provision of 5 off street parking spaces to the west of the existing building that would provide 150% parking provision for the 3no. proposed flatted units. The proposal would comply with criterion 5.
- 7.33 The proposed sub-division of the existing house would result in the formation of 3 flats within the existing building and each flat would have an open aspect and communal useable amenity space surrounding the building. Given the amenity provision and open aspect afforded to the proposed flatted units the sub-division of the plot would not have a detrimental physical impact on the existing building. The proposed house in the garden ground has been designed so that it would be one and a half storey in height and would be built into the slope to reduce the scale of the building and to limit the physical impact on the existing adjacent listed building. In addition, during the course of determining the proposal the design of the proposed house was amended to reduce the height and scale of the building and the siting of the house was positioned further to the east away from the listed building. The proposed house has been designed and sited to limit the physical impact on the existing listed building and as a result would not have a detrimental impact on the adjacent listed building. The proposed house would have vertical window opening with obscured privacy glazing at first floor level of the existing house that would be within 12 metres of facing windows of the neighbouring house to the east as well as potential for overlooking into the neighbouring garden ground. The proposal includes the removal of a number of poor quality mature trees on the east elevation which currently provide screening to the neighbouring property. It is recommended to use planning conditions to ensure the first floor vertical window on the east elevation is installed with privacy glazing prior to the occupation of the house in the interests of the residential amenity of the neighbouring dwelling, and to require the full details of the flue to be agreed to ensure it is of the required height for the wood burning stove. With the inclusion of conditions the proposal would comply with criterion 6.
- 7.34 **The proposal is generally in accordance with Policy 13 with the exception of fully meeting all of the Appendix 4 standards.**
- 7.35 **Policy 34: Protected Species** – states that development proposals which are likely to have a significant effect on a European protected species will not be supported unless:
- 1 there is no satisfactory alternative; and
 - 2 the development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature or which have beneficial consequences of primary importance for the environment.
- 7.36 With the development of a traditional building in close proximity to trees, there is a need to assess potential impact on bats. Whilst there is not expected to be any significant impact, a condition is recommended to be attached requiring the submission of a bat survey of the site

and for any required habitat mitigation measures to be agreed in writing prior to commencement of construction work.

7.37 **The proposal is in accordance with Policy 34, subject to condition.**

7.38 **Policy 35: Trees and Urban Woodland** - supports the enhancement of tree planting and requires that new development must ensure the survival of existing healthy mature trees through encouraging sensitive development site layouts both during and after construction.

7.39 Within the proposal site there are a number of existing healthy mature trees. The site is located within a conservation area and so the trees are protected as a result. The proposal has been supported by a tree report detailing the existing tree condition and proposed trees to be removed. The proposal has positively sought to retain the trees on the west elevation boundary and the south elevation boundary of the site that add significantly to the character of the site and surrounding area.

7.40 In order to accommodate the proposed house in garden ground the proposal involves the removal of trees to the east of the existing house. The supporting planning statement and tree report have provided details that the majority of the trees to be removed are Category U and Category C which are trees that are unsuitable for retention and those of a low quality. Two of the proposed trees to be removed are Category B and are of moderate quality. The proposed removal of the trees would be largely on the east boundary of the site and these trees are not considered to be of a high quality and as such do not add significantly to the character of the site. The proposal highlights locations within the site for replanting of trees and in the interests of ensuring a high quality replanting and long term amenity of the site it is recommended that conditions are attached requiring the agreement of a landscaping plan, a landscaping maintenance schedule and a tree protection plan to ensure the protection of the trees to be retained during construction work.

7.41 Further conditions are recommended to be attached requiring the tree works to be carried out to the required standards, and given the potential for bats and breeding birds at the site to require the submission of a bat survey and breeding bird survey.

7.42 The proposal demonstrates that the proposed new development would result in the survival of the existing healthy mature trees that are of a good quality through a sensitive site layout.

7.43 **The proposal is in accordance with Policy 35, subject to conditions.**

7.44 **Policy 48: Low and Zero Carbon Technology in New Development** - requires proposals for all new buildings to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technologies. This requirement applies to the proposed new house but in accordance with the policy it does not apply to the proposed sub-division of the existing building.

7.45 The planning and design statement for the proposed house states that it is proposed to incorporate on-site low or zero carbon technologies into the project. It is recommended that conditions are attached that require the further approval of the low and zero carbon technology that would be installed.

7.46 **The proposal is in accordance with Policy 48, subject to condition.**

7.47 **Policy 49: Listed Buildings** - requires where alternative uses, alterations to listed buildings and developments affecting the setting of the listed buildings is proposed these will only be

acceptable where the proposals have regard to the preservation or enhancement of its architectural or historic character.

- 7.48 Criterion a) of the policy states that suitable uses will be considered where this is necessary to secure their future. The supporting planning statement and viability statement states that the proposed change of use is as a result of the existing house not being economically viable to maintain and is enabling development. Further details as to the proposed level of development was provided within the statement and supporting viability statement. Following pre-application discussions the applicant has proposed a level of development that proposes to sensitively subdivide the existing house and to maintain the historic room proportions largely intact particularly on the ground and first floor where there are more features of historic significance. The proposed works involved to sub-divide the building include the reconfiguration and partitioning of existing rooms, inclusion of internal staircase and partial removal of small section of internal walls. The proposed external alterations are relatively small scale and would not detrimentally impact the character of the building. The level of proposed works in order to accommodate 3no. flats units within the existing building would sensitively retain the key historic features and would not result in a detrimental impact on the existing historic fabric and character of the listed building. The proposal would meet the requirements of criterion a).
- 7.49 Criterion b) of the policy requires alterations to listed buildings to have a regard to the preservation or enhancement of the building or its setting or any features of special architectural or historic interest which it possesses. The proposed works to the listed building have been fully assessed in the concurrent application for listed building consent (ref 20/00141/LBC). The proposed internal works to the existing building would largely retain the existing plan form, and the room proportions would not be detrimentally compromised. The proposal would also reinstate door openings from the original plan form of the building and where alterations are being made to subdivide the property this has been proposed to be sympathetically done by fixing closed the existing doors so that the existing historic door panel would remain visible and the character of the property would be retained. The existing external appearance of the building is characterised by a historic complex slated roof and the proposal retains this key feature with the only inclusion being a small heritage style roof light opening on the east elevation. On the south elevation the proposal includes the reinstatement of an access door to replace the existing window.
- 7.50 These external alterations to the property would not detrimentally alter the appearance of the historic character of the existing property. In the interests of maintaining the historic character of the listed building, a condition is recommended to be attached that would require the full details of the external alterations including the rooflight window, the access doors and any alterations or works to the existing timber windows. The proposed alterations to form new access in the low boundary walls to the south and widen existing access on the north west and block access at the south west would be of a scale that would not impact the character of the listed building and to ensure the full details of these works are of a high quality a separate condition is recommended to be attached to ensure that a schedule and method statement for the alterations to the listed boundary walls are submitted for approval by the Council. The proposed external works would not diminish the historic architectural integrity of the existing listed building and would retain the character and appearance of the existing property. The proposal would comply with criterion b).
- 7.51 Criterion c) refers to the setting of listed buildings and requires proposals in the curtilage of a listed building to have regard to the preservation or enhancement of the setting of the listed building. The existing setting of the B-listed building is characterised by a generous curtilage and open aspect on multiple elevations. The proposed house in garden ground would result in the sub-division of the curtilage of the proposal site two distinct plots each with a separate vehicular access. The proposed house would be located to the east of the existing building

with a new access formed to the south. The proposed house has been designed to be built into the sloping garden ground and would be one and a half storey in height and of a contemporary design. During the assessment of the application further design alterations were made to reduce the height and massing of the building as well as siting the building further to the east. The proposed house has been designed to reduce the physical impact on the existing house and has been set back into the site to further limit the visual impact the appearance the new house would have on the setting of the existing listed building from prominent streetscapes from the south and west. The proposed house in garden ground has been designed and sited to limit the physical impact on the adjacent listed building and the appearance of the proposed house would not have a detrimental impact on the setting of the adjacent listed building. The proposal would comply with criterion c).

7.52 The proposal is in accordance with Policy 49, subject to conditions.

7.53 Policy 51: Development in Conservation Areas - requires that all development proposals within conservation areas will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features that contribute to the character and appearance of the conservation area. As has been stated above in the assessment against Policy 1, Policy 35 and Policy 49 the proposal would preserve the character and setting of the Baxter Park Conservation Area. The proposal would sensitively sub-divide the existing house retaining the traditional and historic internal features and room proportions and would involve minimal external alterations to the external appearance of the listed building. The proposed house in garden ground has been designed as a one and a half storey development that would be set back and sited into the slope to reduce the physical impact and visual impact on the adjacent listed building. The proposed house would be a contemporary design with a muted colour palette using high quality natural timber cladding and high quality zinc roof and would be a high quality appearance which would not have a detrimental impact on the surrounding Conservation Area. The proposal would retain the existing healthy mature trees on the west boundary and south elevations of the site that are prominent and visible from the public elevations and add significantly to the character of the site and conservation area. The proposed alterations to form a vehicular and pedestrian access to the south and to widen the existing access to the north west and block the existing access to the south west would not be of a scale that would impact the character or appearance of the building and the proposal would be in keeping with the appearance of existing accesses to residential properties within the surrounding area. The proposal would preserve the character and appearance of the surrounding Baxter Park Conservation Area.

7.54 The proposal is in accordance with Policy 51.

7.55 It is concluded that the proposal generally complies with the requirements of the Development Plan.

STATUTORY DUTIES

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

7.56 Section 59(1) of the Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 as amended states that in considering whether to grant planning permission for a development which affects a listed building or its setting, the planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

7.57 Section 64(1) of the Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 as amended states that with respect to any buildings or land in a conservation area, special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

- 7.58 For the reasons set out above, the proposal would comply with the Dundee Local Development Plan 2019. The development would sensitively preserve the fabric, character and appearance of the B listed building and would preserve the appearance of the Baxter Park Conservation Area.
- 7.59 The statutory duty set out in Section 59 and 64 of the Act would therefore be satisfied by the approval of planning permission.

MATERIAL CONSIDERATIONS

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

A - SUPPORTING INFORMATION

Supporting Planning and Design Statements and Previous Planning History

- 7.61 The applicant has provided Planning Statement and Design Statement as well as supporting Tree Report which have been taken into consideration during the assessment of the proposal against the relevant policies and national guidance in the report above.
- 7.62 The Planning and Design Statements were submitted by the agent in support of the proposed sub-division of the B-listed building and the proposed house in garden ground. These documents include an analysis of the site, proposed design principles and concept as well as an assessment of the proposals against policies within the Dundee Local Development Plan as well as explanation on the alterations that have been made to the proposal since the previous application 19/00026/FULL and 19/00027/LBC was refused in 2019.

Planning and Design Statement Proposed Sub-division of 69 Dalkeith Road

- 7.63 The applicant states that the primary concept of the change of use of the building was that as a result of the size of the house the running costs and maintenance were unmanageable for a single owner and a viability statement has been provided. The design solution states that the proposal would have full consideration for the conservation and salvation of the historically important architectural details of the internal and external fabric of the building. Furthermore the proposal would preserve and respect the listed building to provide high quality residential flats with minimal alterations to the external fabric. As assessed above and in the assessment of the concurrent application ref 20/00141/LBC the proposed sub-division would be considered to sensitively retain the historic character and internal features particularly on the ground and first floor where the existing plan and room proportions would be retained. The external alterations to the property are minimal and would preserve the character and appearance of the listed building.

Planning and Design Statement Proposed House

- 7.64 The statement provides further information on the overview, use, setting and scale as well as design of the proposed house in garden ground. The assessment of the proposed house in garden ground has been made in the policies above. The proposed house has been designed and sited so that it would be set back within the site and built into the sloping ground so that it would reduce the physical impact and visual appearance on the adjacent listed building. As a result of the amended design of the proposed house to reduce the scale and height as well as siting the building further east the proposal would not detrimentally impact the setting of the listed building. The applicant has provided an amenity plan demonstrating the area of useable

communal garden for the proposed flatted units and the proposed house in garden and this would be commensurate with the size of the buildings. The proposal has substantially reduced the level of overlooking between the proposed house and proposed sub-divided flatted units in comparison to the previous application. The alterations to the design and scale of the proposed house would reduce the impact on the adjacent listed building so that it would not have a detrimental visual impact and the proposal would not detrimentally impact the setting of the listed building.

- 7.65 As assessed in the report above the submission of the Tree Report and supporting planning statement address matters previously raised in relation to loss of mature trees on the site and demonstrates the retention of the good quality trees on the west and south boundary and provides condition report on the quality of trees that are to be removed.

B - OTHER RELEVANT STATUTORY OR NON STATUTORY STATEMENTS OF POLICY

Scottish Planning Policy and Guidance

- 7.66 Scottish Planning Policy (2014) and Historic Environment Scotland Policy for Scotland 2019 should be considered when determining applications for listed building consent. Scottish Planning Policy advises that development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and its setting. The Historic Environment Scotland Policy Statement seeks to identify the key characteristics of the historic environment and establish the boundaries within which change can continue so that it enhances rather than diminishes historic character; the historic environment should be valued as an asset, rather than thought of as a barrier to development.
- 7.67 Managing Change in the Historic Environment: Guidance Notes provide guidance on making changes in line with Scottish Historic Environment Policy and Scottish Planning Policy. Guidance on New Design in Historic Settings states that new development should respond to the urban structure, urban grain, density and mix, scale, materials and detailing, landscape, views and landmarks and historical development. Specifically, it states that new development should seek to make a positive contribution to the pattern of development blocks, streets and buildings and should respect the pattern of streets and spaces.
- 7.68 **It is concluded that the proposal would comply with national planning guidance with regard to development affecting a listed building and its setting.**

C - JUSTIFICATION FOR FLOOR AREA AND WINDOW TO WINDOW DISTANCE

- 7.69 The proposal would not fully comply with the required standards of Appendix 4 because of 2 windows on the east elevation of the proposed Unit 3 flat being located a distance of 17 metres from facing windows on the west elevation of the proposed house and because one of the proposed flatted units would have an internal floor area of 77sqm, 3sqm short of the 80sqm standard.
- 7.70 The proposed windows would be within 18m distance and therefore depart from the above policies. The rooms are at first floor level and proposed attic level and are higher than the windows of the proposed house. Given the height difference, the distance between the windows and dual aspect nature of the rooms with windows also on the south elevation it is not considered that there would be a significant level of direct overlooking to a level that would detrimentally impact the amenity afforded to the residents of either the proposed house or the residents within the flatted property. The proposed flat at 77sqm is just below the standard for flats, however this has been dictated by the existing internal layout of the listed building and the proposal would sensitively sub-divide the historic building and would minimise the

sub-division of the existing plan form of existing rooms and would not require any modern extensions to the building which could significantly compromise the appearance of the listed building.

7.71 It is concluded that whilst the proposal does not fully comply with the Appendix 4 standards there is justification to support the proposal.

D – REPRESENTATIONS

7.72 One objection has been received raising the following valid material grounds:

- concern over the removal of trees along the eastern boundary of the site as the root protection areas are shown within neighbouring site and removal could have potential detrimental impact on the eastern boundary wall.

7.73 **Response** – the applicant has provided a supporting tree report that evidences the tree condition of those to be removed on the east boundary are not of a good quality and others that are unsuitable for retention. Should Members be minded to approve the application conditions have been recommended to be attached subject to the granting of permission that require the tree works to be undertaken to the required British tree works and construction standards and no alterations to the boundary wall have been proposed as part of the application. The concerns relating to the structural integrity of the boundary wall would not be a valid planning matter, however should repair work to the listed boundary wall be required there is a condition that requires the full details of the works to the to be submitted to the Council for agreement.

7.74 One representation in support of the application has been received stating the following:

- supports the solution to convert and conserve the existing building and support for the design of the contemporary proposed house which would reflect the architectural periods of Bingham Terrace. Letter also commented that the supporting statements had given the incorrect address of a neighbouring property.

7.75 The issues raised in the representations have been considered and addressed in the report and the grounds raised are not of sufficient weight to justify refusal of planning permission.

7.76 **It is concluded that there are material considerations of sufficient weight in this case to justify approval of planning permission.**

8 CONCLUSION

8.1 The application for sub-division of existing dwellinghouse to create 3no. flatted dwellings and erect a single dwellinghouse in garden ground including formation of new access generally complies with the Development Plan with the exception of the window to window distances and the floor area of one of the flats. However, there are material considerations of sufficient weight to justify approval of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

9.1 It is recommended that planning permission be GRANTED subject to the following condition(s):

- 1 **Condition** – prior to commencement of development, details of all new and replacement external finishing materials shall be submitted to the Council for approval and shall only be completed in accordance with the approved details. For the avoidance of doubt, this shall include details of all new and replacement external finishing materials for the existing building and proposed house.

Reason - in order to ensure a high standard of design and appearance.

- 2 **Condition** - prior to the commencement of development on site full details of all works to the windows of the listed building shall be submitted to and approved in writing by the Council. For the avoidance of doubt the details shall indicate what works and repairs are being carried out to every window contained within the development site and include full details of any secondary glazing to be installed. The works shall thereafter be implemented in full accordance with the agreed details.

Reason - in order to ensure the character and appearance of the Category B Listed Building

- 3 **Condition** – prior to commencement of development, full details of the proposed new rooflight window and proposed external doors of the listed building shall be submitted to the Council for approval and the works shall be carried out only in accordance with such approved details.

Reason - in order to ensure the character and appearance of the Category B Listed Building

- 4 **Condition** – prior to commencement of development, full details of the position and form of all proposed ducts, flues and vents shall be submitted for approval and the development shall be carried out only in accordance with such approved details.

Reason - in order to ensure the character and appearance of the Category B Listed Building

- 5 **Condition** – prior to commencement of development, the full details and method statement shall be submitted for the works, repair and treatment of the listed boundary walls for approval by the Council. Thereafter the development shall be carried out only in accordance with such approved details.

Reason - in order to ensure the character and appearance of the Category B Listed Building.

- 6 **Condition** – prior to commencement of development, details of the proposed privacy glazing to be installed in the first floor bathroom window on the east elevation of proposed Unit 3, shall be submitted for approval by the Council. Thereafter, the privacy glazing shall be installed prior to occupation and shall be maintained as such for the lifetime of the development.

Reason - in the interests of residential amenity.

- 7 **Condition** – prior to occupation of the proposed house, the proposed privacy glazing on the east elevation vertical windows at first floor of the proposed house shall be installed and shall be maintained as such for the lifetime of the development

Reason - in the interests of residential amenity.

- 8 **Condition** – prior to the commencement of development hereby approved, the full details of the landscaping scheme and works shall be submitted to and approved in writing by the Council.

Details of the landscaping scheme shall include:

- a existing trees, shrubs and hedges to be removed;
- b existing trees and landscape features to be retained;
- c the location of new trees, shrubs, hedges, grassed areas; and
- d a schedule of planting to comprise species, plant sizes and proposed numbers and density.

Reason - to ensure that the residential development has a satisfactory external appearance in the interests of the visual amenities of the area.

- 9 **Condition** - prior to the commencement of development, a maintenance schedule for the new planting and landscaping as well as a tree protection plan shall be submitted to and approved by the Council and all protection in place prior to construction and remain for the duration as per BS5837:2012 Trees and Construction. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.

Reason - to ensure that the residential development has a satisfactory external appearance in the interests of the visual amenities of the area.

- 10 **Condition** – prior to commencement of development, a bat survey shall be submitted for approval and any required habitat mitigation measures shall be agreed prior to construction work. A breeding bird survey should be carried out and submitted to the Council for approval if tree work is to occur between March and September.

Reason – in the interests of ensuring the development implements appropriate mitigation measures for protected species.

- 11 **Condition** – prior to commencement of development, a Sustainability Statement demonstrating the extent to which the development will meet the requirements of Policy 48 of the adopted Dundee Local Development Plan 2019 shall be submitted for the approval of the Council and the works shall be completed in accordance with the approved Statement.

Reason - in order to demonstrate that the new development will meet the required carbon emissions reduction standards in the interests of the environment.

- 12 **Condition** – prior to commencement of development, details of the proposed vehicle accesses must be submitted for approval and thereafter accesses must be formed and constructed to Dundee City Council standards and specification.

Reason - in the interests of vehicle and pedestrian safety.

- 13 **Condition** - any proposed driveway gates must open into the driveway and not over the adjacent public footway.

Reason - In the interests of vehicle and pedestrian safety

- 14 **Condition** – prior to commencement of development, any existing accesses that are no longer required as part of the proposed development must be made good as footway to Dundee City Council specifications.

Reason - in the interests of vehicle and pedestrian safety.

- 15 **Condition** – prior to the occupation of the first unit, electric car charging points shall be provided at a location and number to be agreed.

Reason - in the interests of sustainable travel measures.

- 16 **Condition** - prior to commencement of development, details of secure and covered cycle parking shall be agreed.

Reason - in the interests of sustainable travel measures.

- 17 **Condition** – the hard surface within the curtilage should be made of porous materials or provision should be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

Reason - to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

- 18 **Condition** – prior to the commencement of work on site, full details of the flue on the proposed house and the specification details of the wood burning stove shall be submitted to the Council for written approval. Thereafter, the flue shall be installed in accordance with the details approved by this condition.

Reason - in the interest of public safety.

Informative: Vehicular Access

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

Informative: Smoke Control Area

The property lies within a Smoke Control Area, as designated under The Clean Air Act, 1993. Therefore, only authorised fuels are permitted to be burnt. Alternatively, if the intention is to burn unauthorised fuels such as wood then an exempt appliance must be used. Compliance with the appliance manufacturer's guidance forms part of the conditions for exemption. Particulars generally include maximum fuel moisture content and minimum flue termination heights: such details should be adhered to. Advice on this matter may be obtained from Neighbourhood Services Community Safety and Protection or <https://www.dundee.gov.uk/service-area/neighbourhood-services/community-safety-and-protection/air-quality-in-dundee/smoke-control-areas-authorised-fuels-and-exempt-appliances>