

Erection of Mixed Use Development Including Office, Residential Flats and Commercial Units

KEY INFORMATION

Ward West End

Address

Dundee West Mineral Yard,
Greenmarket, Dundee

Applicant

Crucible (Dundee) Limited C/o
Crucible Alba Group

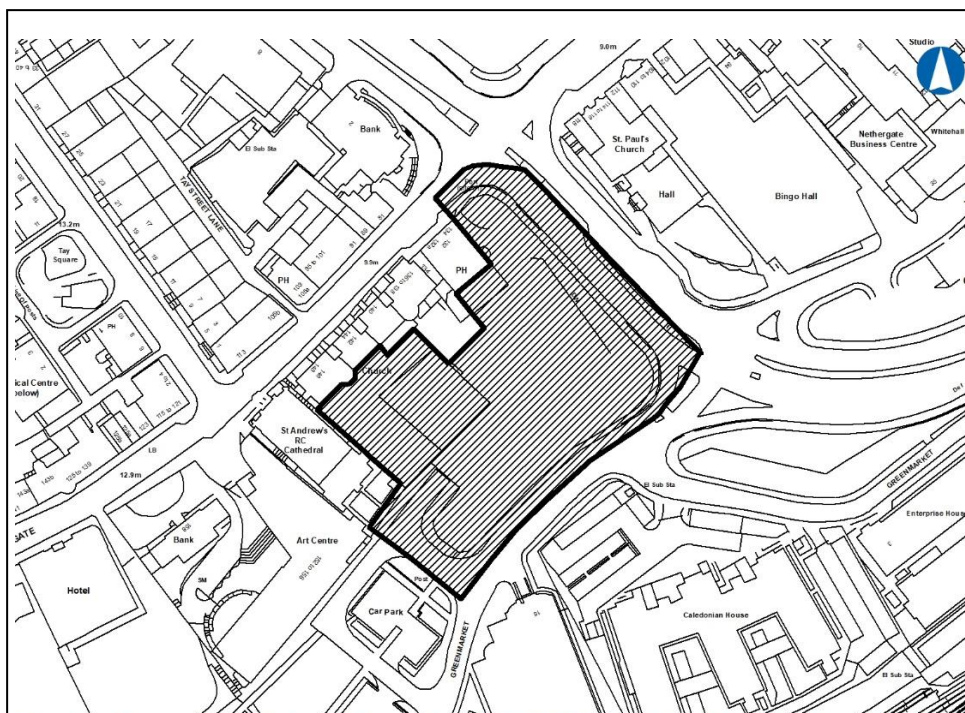
Agent

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Registered 16 April 2021

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

Contact: Craig Swankie



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SUMMARY OF REPORT

- Planning permission is sought for the erection of a mixed use development including office, residential, cafe/restaurants and retail with associated access, landscaping, parking and infrastructure.
- The application is in accordance with the Development Plan.
- The applicant has undertaken pre-application consultation with members of the public in accordance with the requirements for a Major planning application.
- In total, 2 letters were received objecting to the proposal. The letters of objection raise concerns with the design of the proposed building and access to existing buildings on Nethergate. One letter of support was received from Dundee Civic Trust.
- Supporting information including a Design Statement, Heritage Statement and Noise Impact Assessment have been provided with the application.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as it is a Major development.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=summary&keyVal=QRND6JGCHM300>

RECOMMENDATION

The proposal is in accordance with the Development Plan. There are no material considerations of sufficient weight to justify refusal of planning permission. It is therefore recommended that planning permission be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of office accommodation, 16 residential apartments and four commercial units.
- 1.2 The proposed office accommodation would be located within the centre and south of the site. The building will provide 7,095m² of Grade A office space, and will accommodate 900 members of staff within a purpose built headquarters building. The five storey building has been designed to provide an active ground floor frontage onto surrounding streets, with the main entrance to the office on the south elevation and two retail units proposed to the east elevation. The building would provide a strong and distinctive development within this prominent site, and includes design features such as balconies, recessed elements and finish materials which reflect the form and finish of surrounding modern and historic buildings. The proposed office building which is of a modern appearance is to feature a masonry finish at ground and first floor levels with metal finish to upper floors. Within the ground floor the building will include reception and office spaces, along with staff facilities including cycle storage and changing area. Within the upper floors flexible office spaces are to be provided. Towards the east elevation onto West Marketgait two retail units are proposed, and to the west of the building a car park is proposed. Areas of landscaping with trees and shrubs are to be provided within the site.
- 1.3 The applicant proposes to utilise the existing vehicle access within the west of site which leads onto Greenmarket, and form pedestrian accesses onto West Marketgait. The proposals include a 20 space car park for tenants of the office and 27 space car park for existing occupiers of properties on Nethergate. No resident car parking is proposed.
- 1.4 The proposed residential accommodation and commercial units would be located within the north of the site. The proposals would include two retail units and the entrance to the flats on the east elevation which are accessed from West Marketgait, with service access and a bin storage area to the rear elevation which is accessed from Nethergate. The building is to be finished in masonry, with shop frontages at ground floor level, and at upper floor level windows associated with the residential flats are to feature metal balustrades. The 16 flats proposed include kitchen/living areas, bedrooms and bathrooms. Cycle storage is to be provided on the ground floor.
- 1.5 The applicant has submitted the following in support of the application:
- Planning Statement;
 - Pre-Application Consultation Report;
 - Design and Access Statement;
 - Transport Assessment;
 - Flood Risk Assessment;
 - Drainage Strategy;
 - Environmental Risk Assessment Report,
 - Heritage Statement;
 - Noise Impact Assessment;

- Air Quality Assessment;
- Preliminary Ecological Assessment;
- Sustainability Statement; and
- Landscaping Masterplan.



Figure 1 – Proposed Development Viewed From West Marketgait



Figure 2 – Proposed Nethergate and Greenmarket Elevations

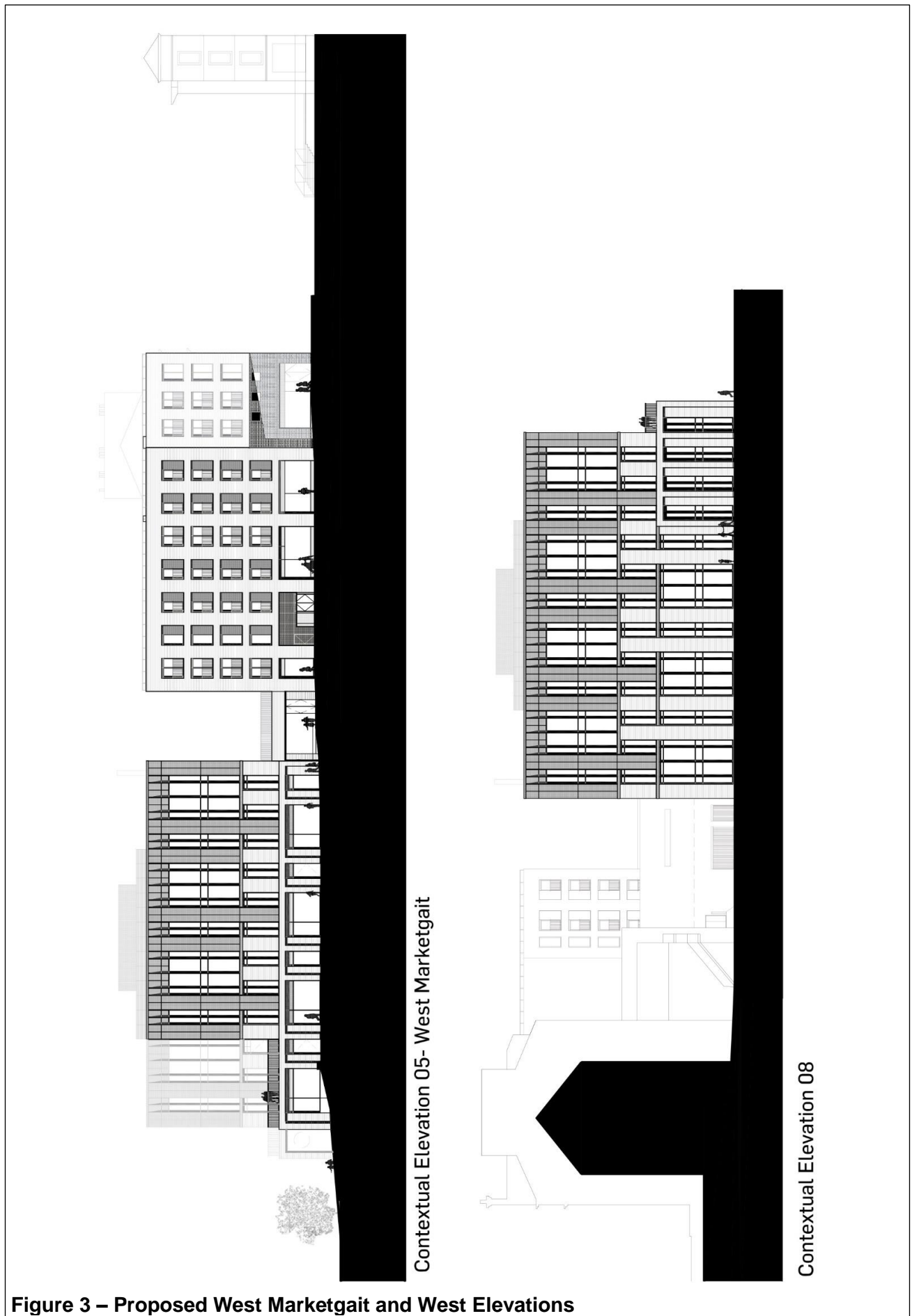
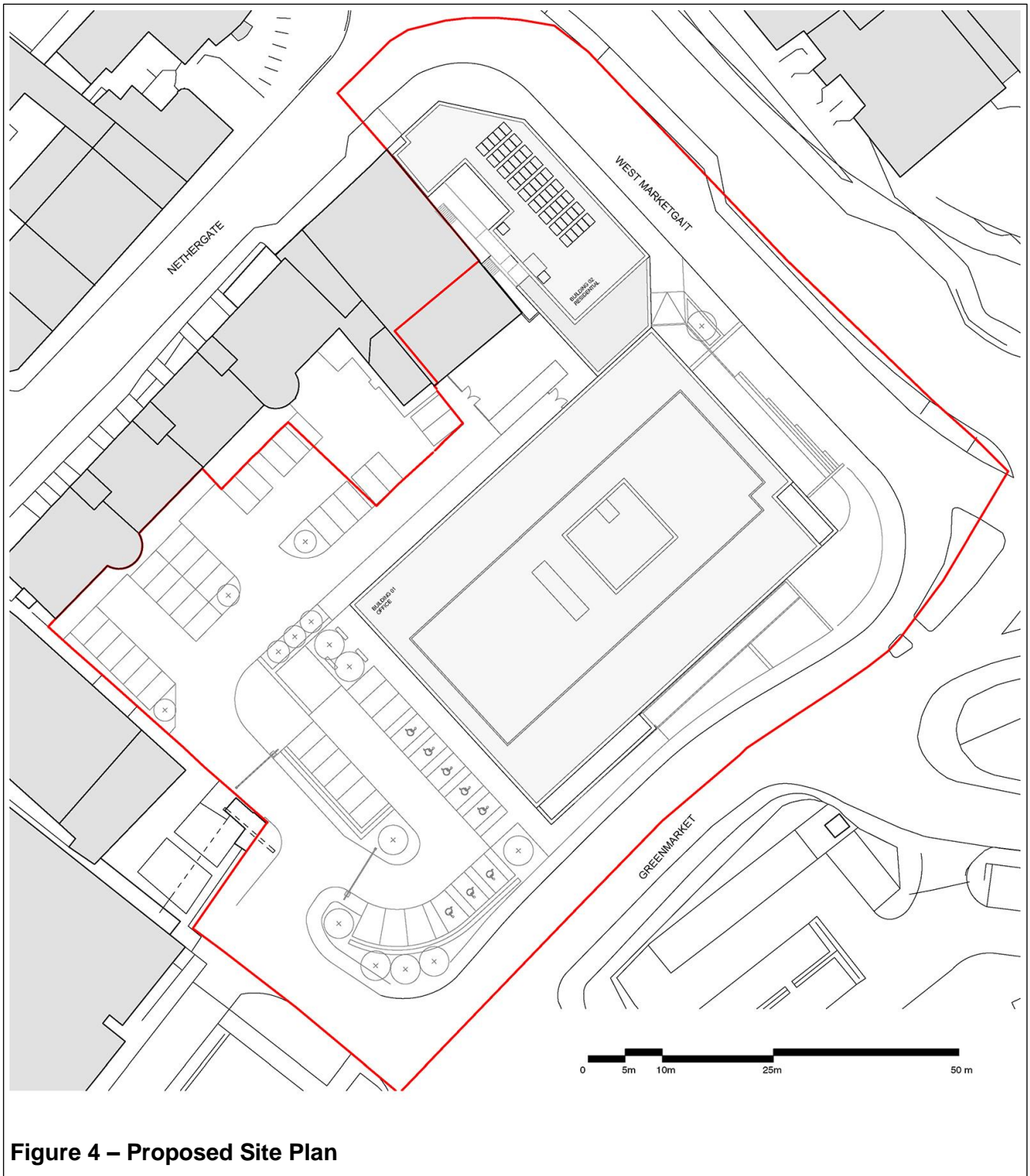


Figure 3 – Proposed West Marketgait and West Elevations



2 SITE DESCRIPTION

- 2.1 The application site is a 0.9 hectare area of land on the west side of West Marketgait, within the city centre. The brownfield site presently contains hardstanding within the north west corner which is used for parking vehicles, and the remaining site area contains a mix of loose surfacing and rough landscaping. The longstanding vacant site is in a prominent location, being visible from Greenmarket, West Marketgait and Nethergate.
- 2.2 The site is bound to the north east and south east by public roads, with city centre shops and services beyond. To the north west and south west of the site is bound by the listed buildings facing onto Nethergate. The surrounding area is a mix of commercial and residential premises and properties, including Category A and B listed buildings. Greenmarket Car Park and Dundee Railway Station are within walking distance of the site.



Figure 5 – Application Site Viewed from West Boundary



Figure 6 – Rear Elevation of Listed Buildings On Nethergate, To The Site's North Boundary



Figure 7 – View of Site Towards North and East Boundaries



Figure 8 – Remnant Section of Sea Wall With View Towards The Site's South and East Boundaries

3 POLICY BACKGROUND

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

TAYPlan 2016-2036

Policy 1: Location Priorities

Policy 2: Shaping Better Quality Places

Policy 5: Town Centre First

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking

Policy 2: Public Art Contribution

Policy 10: Design of New Housing

Policy 21: Town Centres First Principle

Policy 29: Outdoor Access and the Dundee Green Network

Policy 34: Protected Species

Policy 36: Flood Risk Management

Policy 37: Sustainable Drainage Systems

Policy 39: Environmental Protection

Policy 40: Air Quality

Policy 41: Land Contamination

Policy 44: Waste Management Requirements for Development

Policy 46: Delivery of Heat Networks

Policy 48: Low and Zero Carbon Technology in New Development

Policy 49: Listed Buildings

Policy 51: Development in Conservation Areas

Policy 52: Scheduled Monuments and Archaeological Sites

Policy 54: Safe and Sustainable Transport

Policy 56: Parking

3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

4.1 Proposal of application notice 18/00186/PAN for a development consisting of a cinema, cafes/restaurants, residential units, hotel and associated access and car parking spaces was submitted in March 2018.

4.2 Proposal of application notice 20/00728/PAN for a development comprising offices, cafes/restaurants, retail, residential units, car parking and associated access and infrastructure was submitted in November 2020.

4.3 The applicant submitted a request for a Screening Opinion 21/00001/EIASCRC in January 2021. The Screening Opinion concluded an Environmental Impact Assessment is not required for the proposed development.

4.4 An application for listed building consent 21/00275/LBC for the alteration and partial removal of remnant parts of wall is currently under consideration.

5 PUBLIC PARTICIPATION

- 5.1 A Pre-application Consultation Report has been submitted with this Major planning application. This sets out what has been done during the pre-application phase to comply with the statutory requirements for pre-application consultation with the public. It outlines the public event that was held and the public comments received prior to submitting the application.
- 5.2 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.3 In total 2 letters of objection were received, raising the following material considerations:
- the design of the proposed building, which would sit within a very prominent city centre site, is not considered to be of high quality. There are concerns with the form of the proposed buildings and the proposed finish materials; and
 - the proposal requires to provide adequate space for an exit route to the side/rear of existing buildings on Nethergate.
- 5.4 One letter of support was received from Dundee Civic Trust. Dundee Civic Trust welcomes the prospect of development within this prominent city centre site and that the proposals would secure office employment and the retention of BT jobs in the city, together with a measure of residential development.
- 5.5 The Trust considers that the buildings are of an appropriate scale and massing, however it is considered there could be some alterations to the elevational treatment. While the West Marketgait frontage has varied building lines, the Trust considers that the design needs to be improved. A BT logo or piece of public art integrated into the design may be appropriate.
- 5.6 The Nethergate corner on Marketgait, with its angled frontage design and overhang, is an interesting and key element of the design, which should be made more of a feature. The roof plan and elevations do not show the positioning of the plant and equipment, the Trust consider plant will require to be integrated into the design of the buildings and not protrude from the top of the roof.
- 5.7 The Trust has raised the opportunity to create a green wall and green roof space with the applicant, which would provide valuable amenity. The proposed 20 space car park for office workers is considered unnecessarily large. Given the nearby Greenmarket car park and the availability of excellent public transport, a smaller car park would be appropriate. Electric vehicle charging points should be clearly marked on the plans and made more readily available in good numbers. The Trust agrees that retail/cafe/restaurant uses are appropriate below the flats, but suggest that the two units under the offices on West Marketgait are best integrated as part of the office development. Finally, the Trust is concerned about the likely major disruption to traffic during construction, particularly of the flats on the Nethergate frontage and corner with West Marketgait.
- 5.8 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

6.1 **Archaeological Consultant** - has no objection but comments that there is a chance of the proposed development impacting on buried archaeological deposits. Accordingly, it is recommended that should permission be granted a condition is attached requiring archaeological works be undertaken and associated reporting submitted.

6.2 **The Head of Community Safety and Protection** - has commented on the following matters:

Air Quality - as the site is within close proximity to a busy dual carriageway and a back-up generator is proposed an Air Quality Report was required. Following a review of the submitted Air Quality Report and supporting information, further assessment of the proposed developments impact on air quality is required. Planning conditions are recommended requiring further information and assessment be submitted including; full details of the back-up generator and an associated operating plan, full details of a whole house ventilation strategy if required, and that a construction dust mitigation plan is implemented during construction.

Contaminated Land – has no objection to the proposal. A preliminary risk assessment has been submitted and reviewed. Conditions are recommended should planning permission be granted.

Noise – has no objection to the proposal. Due to the site's city centre location within close proximity to a range of uses including a dual carriageway and commercial properties, conditions are recommended should planning permission be granted. These conditions relate to measures to mitigate against these noise sources. Conditions will also be used to protect the amenity of new and existing residents in the area by mitigating against the noise sources introduced by the new development and by restricting the hours during which delivery vehicles can visit the office and commercial units

6.3 **The Head of Environment** - has reviewed the submitted the preliminary ecology appraisal. It is recommended that the completion of the further surveys identified with the Ecology report and the provision of bird/bat boxes within the site are controlled by planning conditions.

6.4 **The Head of Sustainable Transport and Roads** - has no objection and has commented on the following matters:

Transport Assessment - the submitted Transport Assessment is supported. The Transport Assessment concludes that the road network/junctions have capacity for the level of generated traffic. The site is in a highly accessible location and sustainable transport measures will be provided, including cycle storage and electric vehicle charging points.

Footpath Alterations – the proposals include alterations to existing footways adjacent to the site. The proposed alterations are acceptable in principle, subject to full details of materials being agreed. Conditions are recommended requiring further information be submitted for approval.

6.5 **Historic Environment Scotland** – has no objection to the proposal.

6.6 **Scottish Water** - has no objection to the proposal.

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 **Policy 1: Location Priorities** - states that the principal settlements within the region have the potential to accommodate the majority of development in the region, and that the re-use of previously developed land and buildings should be priorities; Dundee's core area is identified as a Tier 1 principal settlement.
- 7.3 The proposed office development, commercial units and residential accommodation would be located within the city centre, in an area which contains a range of commercial and residential uses. The proposal would ensure the re-use of a brownfield site which is within a prominent location on West Marketgait. The siting of the proposed development would contribute to the range of accommodation with the city centre, in an accessible location in close proximity to the city centre and public transport networks.
- 7.4 **The proposal would therefore satisfy Policy 1.**
- 7.5 **Policy 2: Shaping Better Quality Places** - Policy 2 seeks to deliver better quality and distinctive places through the arrangement, layout, design, density and mix of developments in the local design contexts with consideration for development to achieve lifetime communities, are accessible, resilient and resource efficient
- 7.6 The proposed layout and access routes reflect the layout and form of the site and support the use of a prominent vacant brownfield site. The proposal includes areas of landscaping within the site, and strong, distinctive frontages onto surrounding street. The proposal would facilitate the returning to use of a prominent brownfield site within the city centre in a manner which would enhance the character and layout of the site and surrounding area.
- 7.7 **The proposal would therefore satisfy Policy 2.**
- 7.8 **Policy 5: Town Centres First** – Policy 5 states planning decisions for land use that generate significant footfall should be based on the sequential priority and other local considerations as appropriate.
- 7.9 The proposed development including office accommodation and commercial units will be located within Dundee City Centre. Policy 5 identifies Dundee City Centre as a regional centre, and the sequentially preferable location for developments which generate significant footfall. The location of the proposed development would support the provision of a range of shops, services and facilities within the city centre, and contribute to the vibrancy and vitality of the surrounding area.
- 7.10 **The proposal would therefore satisfy Policy 5.**

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.11 **Policy 1: High Quality Design and Placemaking** – all development proposals should 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 six qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.12 With regard to the character and amenity of West Marketgait and Nethergate, the scale, massing and design of the proposed development is such that the proposal will integrate into the existing streetscape. The height and form of the proposed buildings are in keeping with that of buildings to the north west and east of the site, and maintain the height and massing of buildings on Nethergate. The proposed office building would be in keeping with the height of listed buildings to the north of the site, and the proposed residential building would be in keeping with the ridge height of neighbouring listed buildings on Nethergate. The proposals are considered to be an acceptable scale of development in this location, which reflects the general height of buildings along Nethergate and within the wider city centre area.
- 7.13 The proposal would result in a distinctive development which respects the existing building lines and street pattern, and returns a long standing, prominent vacant site to use within the city centre. The provision of balconies and recessed elements within the office building, and Juliet balconies within the residential building would provide visual interest and ensures the building provides high quality and active frontages onto surrounding streets. The location and height of the balconies and external spaces which are to be formed would not result in any overlooking of private amenity spaces within the surrounding area, and there would be no detrimental impact on privacy within neighbouring buildings. Windows within the rear of the office building are located 27 metres from the rear of buildings on Nethergate. Due to the nature of the proposed office use and the distances between the buildings there would be no significant impact on the privacy of commercial and residential properties to the north of the site.
- 7.14 Due to the prominent location of the development on West Marketgait the provision of high quality materials within the development is essential to ensure the proposals contribute positively to the local streetscape and maintain the character of neighbouring listed buildings. The applicant has proposed materials including light brown masonry brick and metal cladding which are acceptable in principle and would create a development which maintains the character and quality of development in the local area. Given the prominence of the building and the importance of materials on this particular development, full details and samples of the proposed finish materials will be controlled by condition to ensure the finishes create a development which contributes to the character and quality of the local area which includes listed buildings and the University Conservation Area.
- 7.15 The proposed ground floors would contain reception and office spaces, and commercial spaces which are accessible from surrounding streets ensuring an active street frontage. The office and residential buildings also include associated servicing areas to the rear and cycle storage areas which would be fully accessible to staff and residents. Safe pedestrian access is provided from the surrounding streets and there is excellent public transport provision in the surrounding area with bus stops on West Marketgait and Nethergate and Dundee railway station some 300 metres to the east of the site. The proposal would therefore support ease of movement and the use of sustainable transport.

- 7.16 The long standing vacant brownfield site which formerly contained railway yards is to be cleared and remnant sections of sea wall towards the centre of the site would be demolished. The remnant sections of sea wall are in poor condition and the removal of the remaining section would not result in any major impact on the setting or significance of listed buildings immediately to the north of the site. To reflect the line of the sea wall, the applicant proposes to include elements of public art within the site which illustrate the route of the former sea wall. As discussed above, the proposed development would contribute positively to the local streetscape and would have no detrimental impact on the character or setting of neighbouring listed buildings.
- 7.17 Within the site, sustainable drainage provision would be provided by surface water storage cells below the car park to manage water before being discharged at a controlled rate into the existing surface water network. The applicant has provided detailed plans and calculations for the proposed drainage systems which demonstrate an acceptable solution would be provided.
- 7.18 With regard to Appendix 1, this states that the scale, nature and location of the development will determine the extent to which the six qualities are appropriate to the assessment process. Appendix 1 is assessed as follows:

Distinctive - a Design Statement has been submitted which addresses the design, access and development concepts of the proposed office, commercial and residential development. The development comprises two main buildings, an office development with two commercial units and a residential development with two commercial units.

The office building would be 5 storeys in height when viewed from the south, west and north, and four storeys in height when viewed from West Marketgait due to the change in surrounding street levels. The residential building would be 4 storeys in height. The buildings would be finished in a range of modern materials, including masonry and metal cladding in colours which reflect buildings within the surrounding area. The variety and form of finish materials will contribute positively to and add interest to the development. The existing vehicle accesses from Greenmarket will be retained and a service access is to be provided to the rear of the proposed residential building. The proposal responds positively and sensitively to the character of the area and maintains the established density of development in this city centre location.

Safe and Pleasant – the proposed development is to be sited in a prominent location on the west side of West Marketgait. The site is bound by public roads and footpaths to the north east and south west, with existing commercial and residential properties to the north west. The proposals would connect to the existing road and path network linking the development to the surrounding area. There is to be landscaping within the site and there are pedestrian links to surrounding open spaces including Slessor Gardens. The proposal will create a vibrant and attractive place.

Easy to Move Around and Beyond – the proposed development would connect to existing footpaths to the south, east and north of the site, ensuring sensitive integration into the surrounding area. This provides access to city centre shops and services and open space within the waterfront area. The site also benefits from access to public transport links including bus stops on Nethergate/West Marketgait within 250 metres of the proposed development. Access for service vehicles is to be taken from Greenmarket. The proposal considers place and responds positively and sensitively to the needs of people.

Welcoming – the proposal would provide a prominent frontage onto Greenmarket and West Marketgait, with main entrances and frontages towards the principle elevations ensuring an active frontage. The proposals would utilise existing footpaths around the site providing

connections to the surrounding city centre area and waterfront. The proposal positively promotes wayfinding and a sense of orientation.

Adaptable – this site is a prominent area of brownfield land which presently contains hardstanding and unmaintained shrubs and grass. The proposed development would be a positive addition to the city centre and mix of development within the surrounding area, which includes a range of multi storey buildings containing office, commercial and residential developments. Landscaping is to be incorporated within the development as are links to the surrounding area.

Resource Efficient – a Sustainability Statement and Planning Statement have been submitted. The proposal has been designed to include energy efficient materials and low carbon technologies which reduce heat loss and emissions.

7.19 The proposal meets the requirements of Appendix 1.

7.20 The proposed office, commercial and residential development would contribute positively to the range, size and types of development within the city centre area. The design and layout of the development has been considered to ensure the buildings are of a height and massing which integrates with the scale of surrounding buildings. The proposed building has been designed to provide a visually attractive development with a good quality finish which will contribute to the character and appearance of the surrounding area.

7.21 The proposal is in accordance with Policy 1.

7.22 **Policy 2: Public Art Contribution** – all developments in Dundee with construction costs of £1 million or over will be required to allocate at least 1% of construction costs for the inclusion of art projects in a publicly accessible/visible place or places within the development.

7.23 The applicant states a scheme of public art is to be provided, with initial proposals including the reuse of stone from the sea wall to create features within the site. However, full details have not been submitted as part of the application. Therefore, it is recommended that the details and public art project is secured by condition.

7.24 The proposal is in accordance with Policy 2, subject to a condition.

7.25 **Policy 10: Design of New Housing** – the design and layout of new housing developments in Dundee should be of a high quality and contribute to creating places that respect and enhance the distinct character and identity of the different parts of the city. All new housing developments should meet the six qualities of successful place, as set out in Policy 1 and should provide a balanced choice and type of housing. All new housing developments will be required to conform to the guidance on the Design of New Housing set out in Appendix 4. All new housing developments will need to ensure that the design and layout respects and enhances the character of adjoining properties and the surrounding area and does not have a detrimental impact on residential amenity and parking.

7.26 The proposal is required to meet the city centre standards for houses and flats set out in Appendix 4 which requires the following:

House Type – all houses/flat should have 2 or more bedrooms or a minimum gross internal floor area of 60m².

Response – the proposed includes 2 bedroom flats and 1 bedroom flats with a minimum floor area of 60m². Therefore the proposal meets this standard.

Car Parking – 100% car parking provision for new build properties. Flexibility on the provision may be applied where car free schemes or alternative arrangements such as car clubs are proposed or provision is impractical.

Response – the proposed flats would not feature any dedicated parking provision. However, the site is in a highly accessible city centre location with access to a range of public transport options within walking distance. Greenmarket Car Park is within 200 metres of the site and further multi storey car parks are located within the city centre. Due to the site's city centre location, the provision of no on-site parking for the residential flats is acceptable in this instance.

Cycle Provision – secure indoor storage for bikes to be provided in accordance with the number of flats being provided.

Response – a cycle storage area is to be provided within the ground floor of the building.

Amenity/Garden Ground – to be provided where site specific circumstances allow including separate drying areas. Where garden space cannot be provided, balconies and/or roof gardens that are useable and attractive in terms of size and outlook should be provided.

Response – no garden ground is proposed due to the physical constraints of the application site with listed buildings to the west and public roads to the north and east. However, a number of the flats feature Juliet balconies and the site is within walking distance of public open spaces including Slessor Gardens.

Privacy - generally a minimum of 18 metres between the facing windows of habitable rooms or between balconies and the facing windows of habitable rooms.

Response – there would be at least 18 metres between the windows of habitable rooms of the proposed flats and the existing housing.

General Requirement - provision for waste and recycling should be provided in accordance with the Council's waste management strategy.

Response – all flats would be served by a waste storage area at ground floor level to the rear of the proposed residential building. Provision can be achieved in accordance with the Council's Waste Management Strategy.

General Requirement – parking areas should include provision for electric car charging points.

Response – as no parking areas are proposed for the residential flats, this requirement is not applicable. There is existing provision of publicly accessible electric car chargers within the surrounding area including at Greenmarket Car Park.

7.27 **The proposal is in accordance with Policy 10 and the Appendix 4 standards.**

7.28 **Policy 21: Town Centre First Principle** - requires that all new or expanded uses that would generate significant footfall should be located in the City Centre or a District Centre. Proposals for such uses in other locations would only be acceptable where it can be established that:

- 1 no suitable site is available, in the first instance, in the City Centre or District Centres, then edge of town centre, then identified Commercial Centres, and then out-of-centre locations that are easily accessible by a choice of transport modes;

- 2 the proposal would not have a significant adverse effect on the vitality or viability of the City Centre, District Centres, or Commercial Centres, either individually or cumulatively; and
- 3 the proposal would address a deficiency in provision which cannot be met within or on the edge of these centres.

The Policy emulates the Scottish Government's Town Centre First Principle by locating footfall generating uses sequentially within the City and District Centres etc.

7.29 The proposals comprise a five-storey office building, 16 residential flats and 4 commercial units for use within Use Class 1, 2 or 3.

7.30 The proposed development would generate significant footfall. It is contained in a highly accessible location within the city centre and would help support the role and function of the City Centre. The proposed development would provide a well-connected development within a prominent location which supports the vibrance and vitality of the city centre.

7.31 **The proposal is in accordance with Policy 21.**

7.32 **Policy 27: Public Houses, Restaurants and Hot Food Takeaways** - states proposals for new public houses will not be supported in locations out with the City Centre. Within District Centres proposals for hot food takeaways and restaurants, including external seating areas, may be supported subject to the hours of operation being limited to between 7.00am and 11.00pm and there being no significant detrimental impact on amenity through issues of noise and odour. Outwith the City Centre and District Centres, proposals for hot food takeaways and restaurants, including external seating areas, will be supported where:

- 1 the proposal has a gross floor area up to 150m² and is more than 30 metres from existing or proposed housing, or
- 2 where the proposal has a gross floor area of more than 150m² and is more than 45 metres from existing or proposed housing.

Proposals for hot food takeaways, sandwich shops and coffee shops which do not meet these requirements may be permitted subject to the hours of operation being limited to between 7.00am and 7.00pm, and the hot food being prepared only by microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of noise or odour.

7.33 In this case, the application site is located within the City Centre. The potential provision of restaurants or cafes within the ground floor commercial units would therefore fully comply with the requirements of this policy.

7.34 **The proposal is in accordance with Policy 27.**

7.35 **Policy 29: Outdoor Access and Dundee Green Network** - states the Council will seek to safeguard, improve and extend the network of outdoor access routes, with particular emphasis on the Core Path network and routes identified in the Dundee Cycling Strategy which support the development of the Dundee Green Network. When considering development proposals the Council will:

- 1 safeguard the line of any existing or proposed outdoor access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed;

- 2 seek to secure any additional outdoor access opportunities which may be achievable as a result of the development; and
 - 3 where an outdoor access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.
- 7.36 The site is located within the Tay Corridor Green Network Area, which stretches along the Tay Estuary from Riverside Nature Park in the west to Broughty Ferry, and includes the Central Waterfront Area.
- 7.37 The proposed development would safeguard existing outdoor access routes which bound the site, and would provide access to the Core Path Network on Greenmarket, West Marketgait and Nethergate. The proposals include frontages and public accesses onto surrounding streets and will support walking and cycling through the provision of cycle storage and staff changing facilities. The site is also within walking distance of open spaces including Slessor Gardens and footpaths along the River Tay.
- 7.38 There is potential for temporary disruption to the core path network during construction works. The provision of full details of affected footpaths/roads and the provision of temporary alternative routes can be controlled by condition.
- 7.39 **The proposal is in accordance with Policy 29, subject to a condition.**
- 7.40 **Policy 34: Protected Species** - states 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.
- 7.41 Development proposals which would be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range will not be supported.
- 7.42 Development proposals that would be likely to have an adverse effect on a species protected under the Wildlife and Countryside Act 1981 (as amended) will not be supported unless the development is required for preserving public health or public safety. For development affecting a species of bird protected under the 1981 Act there must also be no other satisfactory solution.
- 7.43 A Preliminary Ecological Appraisal was submitted with the application. The application site contains a mixture of surfaces and there are historic buildings to the site's north boundary. The Ecological Assessment recommends that further surveys are completed in relation to invasive non-native species and bat roosting locations prior to the commencement of any works within the site as bats and non-native invasive species are known to be present in the surrounding area. It is recommended the provision of the additional surveys and implementation of any identified mitigation measures be controlled by condition to ensure the proposals has no detrimental impact on wildlife.
- 7.44 The Head of Environmental Management comments there are areas where the development can contribute to the enhancement of local ecology, including the provision of native trees and

boxes for bats and birds. The applicant has provided landscaping plans which are acceptable in principle, and stated they would be agreeable to providing bird/bat boxes within the site. However, full details of tree species and the location of bird/bat boxes require to be agreed with the Council. It is recommended that provision of landscaping and bird/bat boxes within the site are agreed by condition.

7.45 **The proposal is in accordance with Policy 34, subject to conditions.**

7.46 **Policy 36: Flood Risk Management** – states within Low to Medium Risk Areas with a 1 in 1000 to 1 in 200 year annual probability of flooding will be suitable for most development. A flood risk assessment may be required at the upper end of the probability range or where the nature of the development or local circumstances indicates heightened risk. These areas are generally not suitable for essential civil infrastructure. Where such infrastructure must be located in these areas, it should be capable of remaining operational and accessible during extreme flooding events.

7.47 A Flood Risk Assessment has been submitted which considers the proposed development is at little to no risk of flooding from fluvial, tidal, ground water or pluvial sources including sewer flooding.

7.48 The flood risk assessment considers that any future flood event would not pose a risk to the proposed development, and the site is out with any areas which are at risk of extreme flood events. The provision of a surface water drainage scheme will ensure on site water is discharged into the surface water network at a controlled rate, and therefore not creating any flood risk. As the site is not at risk of flooding, no mitigation measures are identified as being required.

7.49 In summary, the proposed development would not be at risk from flooding, and would not increase the risk of flooding in the surrounding area.

7.50 **The proposal is in accordance with Policy 36.**

7.51 **Policy 37: Sustainable Drainage Systems** - surface water discharging to the water environment from new development must be treated by a Sustainable Drainage System (SuDS) except for single houses or where discharge is to coastal waters. SuDS should be designed so that the water level during a 1:200 year rainstorm event plus allowances for climate change and future urban expansion is at least 600mm below finished floor levels. This incorporates an allowance for the effect of climate change. In addition, proposals will be encouraged to adopt an ecological approach to surface water management, ensure an appropriate level of treatment and exploit opportunities for the system to form an integral part of the Dundee Green Network through habitat creation or enhancement through measures such as the formulation of wetlands or ponds. Proposals should have no detrimental impact on the ecological quality of the water environment.

7.52 A Drainage Strategy, including proposed drainage plans and calculations has been submitted. The drainage strategy includes proposals for on-site storage of surface water beneath the car park within the west of site, with controlled discharge into the existing surface water network beneath Greenmarket to the south of the site.

7.53 The proposal is considered acceptable in principle and it has been demonstrated that an acceptable drainage solution can be achieved. Conditions are recommended to ensure that the drainage details as agreed are implemented in the interest of flood protection.

7.54 **The proposal is in accordance with Policy 37, subject to conditions.**

- 7.55 **Policy 39: Environmental Protection** – all new development or an extension to an existing development that would generate noise, vibration, odour, emissions to air, dust or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing development in close proximity to existing sources of noise, vibration, odour, emissions to air, dust or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses.
- 7.56 The site is within the city centre and within close proximity to sources of noise including road traffic on West Marketgait/Nethergate and surrounding commercial premises such as bars and hot food takeaways which may impact upon residential amenity.
- 7.57 The applicant has submitted a Noise Impact Assessment (NIA). With regard to the proposed residential accommodation, the NIA identifies a requirement to provide suitable glazing and ventilation systems to ensure desired internal noise levels are met and an acceptable level of residential amenity is achieved. The Head of Community Safety and Protection has no objection to the proposal subject to conditions, but does note that enhanced glazing will be required to provide sufficient noise mitigation in relation to traffic noise. As the applicant has not identified a proposed glazing unit for the development, planning conditions are recommended requiring full details of noise mitigation measures be provided to demonstrate compliance with the internal noise levels identified within the NIA.
- 7.58 Further to the provision of an NIA, conditions are recommended to restrict noise levels from electric and mechanical plant, proposed plant within the site and the hours in which delivery vehicles can service the site to ensure an acceptable level of residential amenity is achieved for both new and existing residents in the local area.
- 7.59 **The proposal is in accordance with Policy 39, subject to conditions.**
- 7.60 **Policy 40: Air Quality** - states there is a general presumption against development proposals that could significantly increase air pollution or introduce people into areas of elevated pollution concentrations unless mitigation measures are adopted to reduce the impact to levels acceptable to the Council.
- 7.61 The entire City is an Air Quality Management Area (AQMA) for nitrogen dioxide and pollutant particulate matter. An Air Quality Assessment (AQA) has been prepared due to the nature of the development proposed and its location within close proximity to Nethergate/West Marketgait. The AQA indicated that the proposal would introduce people into an area of elevated pollution.
- 7.62 The submitted air quality assessment does not fully consider the impact of the proposed development on air quality within the surrounding area. As the proposed development is of a large scale and includes a diesel-powered back-up generator for use in the event of power cuts, the development could contribute to pollution in the local area. The Head of Community Safety and Protection has requested that an amended Air Quality Assessment is provided to demonstrate the impact of the proposed development on local air quality, and to ensure the back-up generator is served by a flue/stack of appropriate height. Full details of the generator type, fuel, emissions and operating hours are required. Conditions are recommended to ensure an updated Air Quality Assessment, including full assessment of the back-up generator is submitted to the Council, and any required mitigation measures implemented.
- 7.63 The east façade of the proposed development is within close proximity to West Marketgait. Due to high traffic volumes on West Marketgait, air quality in this location is poor and could have a detrimental impact on health. To ensure residents of the proposed development are provided with a supply of clean air a mechanical ventilation system(s) may be required.

- 7.64 The Head of Community Safety and Protection has been consulted and, should the revised Air Quality Assessment determine the need for a mechanical ventilation system, it is recommended the provision of full details of a suitable system, including the location of the air intake(s), are controlled by condition within any consent granted.
- 7.65 Lastly, due to the site's proximity to existing residential and commercial premises, The Head of Community Safety and Protection recommends a Construction Dust Management Plan is implemented during construction to ensure dust from the site has no adverse impact on neighbouring properties. This will be controlled by condition.
- 7.66 **Subject to conditions, the proposal satisfies Policy 40.**
- 7.67 **Policy 41: Land Contamination** – development of potentially contaminated or statutorily identified contaminated land will be considered where:
- 1 a site investigation is submitted establishing the nature and extent of contamination; and
 - 2 the Council is satisfied that remediation measures proposed for the development, adequately address contamination risks to all receptors, such that the land demonstrably does not meet the statutory definition of contaminated land and is suitable for the planned use.
- 7.68 A Preliminary Environmental Risk Assessment has been submitted as part of the application. The Head of Community Safety and Protection has reviewed the report and recommended planning conditions should planning permission be granted. These relate to the completion of further investigation and site assessment as detailed in the submitted study, and the provision of verification reports to ensure any contamination identified within the site is addressed prior to construction works beginning.
- 7.69 **The proposal is in accordance with Policy 41, subject to conditions.**
- 7.70 **Policy 44: Waste Management Requirements for Development** - development proposals should demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012. The policy also requires site waste management plans be prepared and used during the construction of major developments.
- 7.71 The proposed office accommodation and commercial units will be provided with bin storage areas within the north of site, with associated vehicle access to be provided onto Greenmarket. The proposed residential units will be provided with a bin storage area and pedestrian access to the rear of the proposed building, with access onto Nethergate.
- 7.72 The application site contains direct access to a loading area where refuse vehicles will be able to safely remove waste. The bin storage area associated with the proposed residential flats and existing buildings to the west of the site will be accessed from Nethergate, as the existing situation. The proposed bin storage areas are of a size and form which can accommodate sufficient space for waste separation and the collection of recyclables.
- 7.73 As the proposal is a major development, it is recommended the provision of a site waste management plan and its implementation during construction works be controlled by condition.
- 7.74 **The proposal is in accordance with Policy 44, subject to a condition.**

- 7.75 **Policy 46: Delivery of Heat Networks** - requires new development to consider the feasibility of meeting their heat demand through heat networks. A statement is required to be submitted with applications that are Major planning applications or are within locations identified within the Scotland's Heat Map or the City's Heat Strategy as close to significant heat supply or a planned heat network. Development layouts should be designed to be capable of connecting to a heat network or heat source and areas for pipe runs within the development should be safeguarded to enable future connectivity.
- 7.76 The application site lies within the city centre, to the east of an existing heat network at University of Dundee. As the proposed development is to include energy efficient materials and renewable technologies including air source heat pumps for heating and cooling within the proposed buildings, there is considered to be a limited need for a connection to a heat network as part of the proposed development. In addition, given the time frame for the development it is not viable for the development to be linked to this heat network and associated infrastructure provided. Notwithstanding this, the type of development proposed with centralised heating facilities in a city centre location would be suitable for connection to a heat network in future should such infrastructure be progressed.
- 7.77 Whilst a viable connection to the existing heat network is not available at present, plant rooms and a substation are located within the site which could accommodate future infrastructure. The proposal therefore has potential to connect into a heat network in future without any significant on-site works being required.
- 7.78 **The proposal is in accordance with Policy 46.**
- 7.79 **Policy 48: Low and Zero Carbon Technology in New Development** - proposals for all new buildings will be required 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. A statement will be required to be submitted with an application for planning permission to demonstrate compliance with this requirement.
- 7.80 A Sustainability Statement has been submitted. This outlines that carbon and emission reductions are achieved through the use of fabrics within the development that have a high thermal performance, providing low carbon technologies such as solar PV panels within rooftop spaces or air source heat pumps within the site and use of high efficiency boilers.
- 7.81 The statement demonstrates the office building, commercial and residential units proposed can comply with the requirements of Building Standards and that renewable technologies are to be provided.
- 7.82 **The proposal is in accordance with Policy 48.**
- 7.83 **Policy 49: Listed Buildings** - states development proposals in close proximity to or within the curtilage of a listed building should have regard to the preservation or enhancement of the setting of the listed building.
- 7.84 The proposed development is of a suitable design, scale and form for this location and respects the scale and form of the adjacent listed buildings on Nethergate/West Marketgait. The proposed office building would be 27 metres from Category A listed buildings 136-148 Nethergate which is sufficient to ensure there is no significant impact on the setting of the listed building.
- 7.85 The proposals include the removal of surviving parts of the former sea wall to the rear of 136-148 Nethergate, and minor works to make good sections of the associated building once the wall is removed. The surviving sections of wall which formed both a sea wall and rear

garden wall of listed properties on Nethergate, does contribute to the interest of the listed building. However, the sections of wall are now fragmented due to later developments and land reclamation has pushed the edge of the Tay to the south. The removal of the few remaining sections of wall would not result in major impacts on the significance of the A-listed building, and would support the redevelopment of a prominent site. The applicant proposes to reflect the route of the sea wall within the site, to reflect the historic line of the former sea wall and there is scope to re-use stone from the wall within the public art provision. Full details of the public art provision will be controlled by condition as considered under Policy 2.

- 7.86 Following consultation, Historic Environment Scotland acknowledges the proposed development and removal of the sea wall will impact upon the setting of listed buildings on Nethergate when viewed from Greenmarket and West Marketgait. However, the impact on the setting of listed buildings to the north of the site would not be significant due to the change in the wider landscape since the 1790's and condition of the remaining sections of sea wall. Historic Environment Scotland note the principle of a development of the scale proposed within this city centre is established and raise no objection to the application.
- 7.87 The proposed development is considered to be of an acceptable scale and would reflect the general height of buildings within the surrounding area. The proposals would have no significant impact on the setting of listed buildings within the surround area, and would contribute to the character of West Marketgait through the development of a long standing vacant site.
- 7.88 **The proposal is in accordance with Policy 49.**
- 7.89 **Policy 51: Development in Conservation Areas** - states 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 that contribute to the character and appearance of the Conservation Area.
- 7.90 Land within the north of the site is located within the University Conservation Area. The conservation area provides opportunities to introduce good quality modern design, which brings together old and new to create an attractive urban landscape. The proposed development is of a high-quality design and would be appropriate to this prominent site which has been vacant for many years. The proposal reflects the scale and massing of modern and historic buildings in the surrounding area and is to the enhancement of the character of University Conservation Area.
- 7.91 The proposed development would have no detrimental impact upon the historic character of University Conservation Area.
- 7.92 **The proposal is in accordance with Policy 51.**
- 7.93 **Policy 52: Scheduled Monuments and Archaeological Sites b) Archaeological Sites** - states where any proposal could affect a site of known archaeological importance or potential, the applicant will be required to provide an assessment of the archaeological value of the site and the likely impact of the proposal on the archaeological resource. Such an assessment will require a field evaluation to be carried out to the reasonable satisfaction of the Council, to determine:
- 1 the character and extent of the archaeological remains;
 - 2 the likely impact of the proposal on the features of archaeological interest; and

- 3 the ways in which the development proposal can be amended or designed in order to mitigate its impact on the archaeological remains.

Where the development is considered to be acceptable and it is not possible to preserve the archaeological resource in situ, the developer will be required to make arrangements for an archaeological investigation. Planning conditions will be used and agreements sought to secure these arrangements.

- 7.94 The application site contains remnant parts of the sea wall towards the centre of the site, and the north of the site formed part of the backland of medieval properties and later domestic properties which fronted onto Nethergate. Given the site's palaeo-coastal location, there is also the potential for Mesolithic archaeological deposits to exist on site. There is therefore good reason to believe that archaeological deposits will exist on site.
- 7.95 To identify and record any archaeological deposits within the present application site, a written scheme of investigation requires to be prepared and implemented prior to any works on site. The applicant has prepared a Written Scheme of Investigation, and an archaeological condition is recommended to ensure that the applicant undertakes a suitable programme of archaeological investigation on site prior to the commencement of any development.
- 7.96 **The proposal is in accordance with Policy 52, subject to a condition.**
- 7.97 **Policy 54: Safe and Sustainable Transport** - all development proposals that generate travel should be designed to be well served by all modes of transport. In particular the sustainable modes of walking, cycling and public transport should be afforded priority and provide for easy access to local amenities, education facilities and other services.
- 7.98 Development proposals will be required to:
- 1 minimise the need to travel by private car;
 - 2 provide facilities on-site (and/or off-site through developer contributions or by direct delivery) for walking, cycling and public transport networks, including road/junction improvements and cycle parking. Developments without high quality, safe and convenient links to adjacent walking and cycling networks will not be supported;
 - 3 incorporate measures to permit access to public transport networks within a walking distance of no more than 400 metres from all parts of the development;
 - 4 have no detrimental effect on the capacity or safe functioning of the existing road or rail networks;
 - 5 ensure that safe and adequate provision is made for road freight and waste access, loading and unloading;
 - 6 comply with the National Roads Development Guide and any local variations within Dundee City Council's roads design standards; and
 - 7 be supported by a travel plan to mitigate transport impacts and improve the accessibility of developments where the Council considers that the development will generate significant travel.

Walking and cycling routes should be fully useable prior to the first occupation of a new development.

7.99 A Transport Statement and supporting statement have been submitted. The findings of the Transport Statement have been reviewed by Dundee City Council Roads Officers and are accepted.

7.100 In respect of the above Criteria 1 - 7:

- 1 The proposal would incorporate and be connected to the existing footpath network on West Marketgait and surrounding streets. Bus stops are located within 250m of the site on Nethergate and West Marketgait and secure cycle storage is proposed within the site to serve office and residential developments. The proposal would be located within the city centre in an accessible location. The site is within close proximity to sustainable transport infrastructure and connections to surrounding footpaths which help to reduce the reliance on the private car.
- 2 The proposed development will include connections to existing footpaths which provide safe and convenient connections to the wider footpath network within the city centre. Direct pedestrian access is provided onto Greenmarket and West Marketgait and cycle storage areas are to be provided within the ground floor of the office building. Residents of the proposed flatted development would have access to a bicycle storage area at ground floor level. Streets in the vicinity of the development are suitable for use by pedestrians, being lit and being pedestrianised or having footways contiguous to the carriageway. There are signed cycle routes to the south east and south west of the site, including routes between Greenmarket and Magdalen Green, National Cycle Route 77 which runs along Riverside Drive/Central Waterfront and National Cycle Route 1 which runs from the Tay Road Bridge towards Broughty Ferry. The surrounding footpath and cycle path network includes crossing points which connect the site to Dundee Green Circular at Riverside Drive.
- 3 The site is well served by public transport, with bus stops on West Marketgait and Nethergate within 250 metres of the application site. These stops are served by frequent local services towards Ninewells Hospital, Myrekirk, Whitfield, Craigowl and Barnhill and longer distance services to Perth, Arbroath, St Andrews and Dundee. Dundee railway station is 300 metres to the south east of the site.
- 4 A Transport Assessment has been submitted as part of the application and following review by DCC Roads Engineers the findings of the Assessment have been accepted. Up to 225 trips would be made to the proposed mixed-use development during the morning peak period (0800-0900), and 267 trips during the afternoon peak period (1700-1800). Due to the site's accessible city centre location, the Transport Assessment identifies a total of 107 trips during the AM peak and 126 during the PM peak being made by sustainable transport options including public transport, cycling and on foot. The Transport Assessment includes details of the impacts of the proposals on surrounding roads and traffic controlled junctions. It is concluded the proposed development would have no adverse impact on the flow of traffic at surrounding junctions and no mitigation measures are required to accommodate the proposed development.

The provision of no on-site parking for the commercial and residential developments is consistent with city centre developments in the surrounding area and would not impact upon the parking needs of the local area or existing public parking provision. There are a number of multi storey public car parks in the surrounding area including at Greenmarket and Overgate which are within walking distance of the site. The proposed service access for delivery and refuse vehicles provides safe off street access for service vehicles. The form and layout of the development ensures the proposal would have no detrimental effect on the capacity or safe functioning of the existing road or rail networks.

- 5 Within the centre of the site, to the rear of the proposed office building, space is provided for the loading and unloading of service vehicles, road freight and waste management vehicles. The proposed provision is safe and accessible.
 - 6 The proposal meets DCC standards and conditions are recommended to ensure that details are submitted to and agreed by the Council as Planning and as Roads Authority.
 - 7 The Transport Statement contains a summary of local public transport provision in support of the proposals, which demonstrate the proposal would be accessible, support the use of sustainable transport options and have no adverse impact on the surrounding road network. In support of the use of sustainable transport options, it is recommended the provision of a detailed Travel Plan to staff and residents of the proposed development is controlled by condition.
- 7.101 It is considered that appropriate sustainable travel methods are included within the development. Bus stops and Dundee Railway Station are within walking distance of the site and existing footpaths provide access to surrounding city centre shops and services.
- 7.102 **The proposal is in accordance with Policy 54, subject to conditions.**
- 7.103 **Policy 56: Parking** – states private non-residential parking will not be permitted within the City Centre Area. Parking provision must be limited to that which can be demonstrated as necessary for the servicing/operation of buildings and for customer drop off/pick up arrangements. For developments within the city centre residential parking is permissible where this is in compliance with the standards indicated in Appendix 4. All new residential developments should include cycle parking facilities in accordance with Dundee City Council's adopted guidance on roads standards and the Appendix 4 design standards. Publicly accessible cycle parking should be provided at new commercial buildings or alternatively may be the subject of developer contributions for the provision of shared facilities in a nearby public location.
- 7.104 The proposed office development includes the provision of a 20 space car park. The provision of private parking associated with the office is required as the occupier requires to provide some voice and essential service 24 hours a day. The parking is therefore necessary for the operation of the proposed development. The applicant has provided details of the proposed barrier system and electric vehicle charging provision.
- 7.105 The proposal does not include provision for resident or visitor parking. As considered under Policy 54, due to the site's city centre location the provision of no on-site parking for residents is acceptable and there is existing parking provision within the surrounding area to facilitate the proposed development.
- 7.106 The proposal would include secure cycle storage spaces for both the office building and residential building. The proposed office development with a floor area of 7,095m² would require to provide 18 cycle spaces to meet Dundee Streets Ahead Guidance. The proposed residential building will require to provide 16 cycle spaces to meet the requirements of the Dundee Local Development Plan.
- 7.107 The office building will provide a cycle storage space of 229m² and residential flats would have a smaller 21m² space. The submitted plans illustrate a minimum of 106 cycle spaces are to be provided within the office cycle storage area, and 16 spaces are to be provided within the residential flats cycle storage area. Between the two storage spaces, there will be capacity for over 100 bicycles, exceeding the requirements of Dundee Streets Ahead Guidance and providing 100% cycle parking within the residential building.

7.108 The applicant has provided details of the type and form of cycle storage to be provided. The proposed storage would comprise two tier bike storage racks within the office building, and semi-vertical cycle racks within the cycle storage area at the residential development. The type and form of cycle storage proposed is acceptable and would provide staff and residents with safe and secure cycle storage provision.

7.109 **The proposal is in accordance with Policy 56.**

7.110 **It is concluded that the proposal is in accordance with the Development Plan.**

STATUTORY DUTY

7.111 **Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.**

7.112 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities, in considering applications that affect listed buildings, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which they possess.

7.113 Section 64 of the Act requires that the Council have special regard to any buildings or other land in a conservation area and special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the area.

7.114 These matters have been considered in the assessment of the proposed development under policies 49 and 51 of the Dundee Local Development Plan 2019. It was concluded that the proposed development would have no detrimental impact on the character or setting of listed buildings within the surrounding area, including Category A listed 136-148 Nethergate immediately to the north of the site. The removal of remnant sections of sea wall would have no significant impact on the listed buildings to the north and re-development of this vacant site would contribute positively to the character of Greenmarket and West Marketgait.

7.115 The proposed buildings are of a design and form which would contribute positively to the character of the local streetscape and would have no detrimental impact on the University Conservation Area through a sensitive site layout and incorporation of materials which reflect the sites setting. The proposals would therefore result in a development which is to the enhancement of the character and setting of the local area and wider city centre.

7.116 It is considered that the application discharges the statutory duties as set out above.

MATERIAL CONSIDERATIONS

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

A – SCOTTISH PLANNING POLICY 2014

7.118 The SPP stipulates that the sequential approach should be used when selecting locations for all retail and commercial uses unless the development plan identifies an exception. The SPP also emphasises that the sequential approach requires flexibility and realism from planning authorities, developers, owners and occupiers to ensure that different types of retail and commercial uses are developed in the most appropriate location. Where development proposals in edge of town centre, commercial centre or out of centre locations are not

consistent with the development plan, it is for applicants to demonstrate that more central options have been thoroughly assessed and that the impact on existing centres is acceptable.

- 7.119 The Scottish Government's Town Centre First Principle encourages the Councils to invest in City Centres and help communities thrive. It states that "centres are a key element of the economic, social and environmental fabric of Scotland's towns; often at the core of community and economic life, offering spaces in which to live, meet and interact, do business, and access facilities and services."
- 7.120 The principle requests that: "Government, local authorities, the wider public sector, businesses and communities put the health of town centres at the heart of proportionate and best value decision making, seeking to deliver the best local outcomes regarding investment and de-investment decisions, alignment of policies, targeting of available resources to priority town centre sites, and encouraging vibrancy, equality and diversity."
- 7.121 The proposed office development and commercial units which would operate within use Classes 1, 2 or 3 would be located within the city centre. The proposals would encourage members of the public to visit the city centre and contribute to the vitality and viability of the city centre and surrounding area. The siting of the proposed footfall generating uses within the city centre accords with Scottish Planning Policy 2014 and the Town Centres First Principle.
- 7.122 The proposal complies with Scottish Planning Policy 2014.

B – REPRESENTATIONS

- 7.123 Two letters were received objecting to the proposal. The objections raised the following valid material grounds:
- the design of the proposed building, which would sit within a very prominent city centre site, is not considered to be of high quality. There are concerns with the form of the proposed buildings and the proposed finish materials; and
 - the proposal requires to provide adequate space for an exit route to the side/rear of existing buildings on Nethergate.

The grounds of objection are considered and assessed as follows:

- 7.124 **Objection** – the design of the proposed building, which would sit within a very prominent city centre site, is not considered to be of high quality. There are concerns with the form of the proposed buildings and the proposed finish materials.
- 7.125 **Response** – the proposed building is up to 21.5 metres in height, and would be in a prominent position on West Marketgait/Greenmarket. The building is within an area of the city centre which is characterised by multi storey buildings surrounded by public footpaths and roads. The proposed development would contribute to, and retain this character through the addition of a multi storey building finished in high quality materials within a prominent vacant city centre site.
- 7.126 The design of the proposed development is considered within the assessment of Policy 1. The applicant has provided a range of application drawings, including elevations and site graphics which illustrate that the building will be of a high-quality design which sensitively integrates into the site. To ensure high quality finish materials are used as proposed by the applicant, the provision of full details of each finish material for prior approval will be controlled by condition. The proposed development is considered to be of a high-quality design which reflects the scale and form of buildings in the surrounding area.

- 7.127 **Objection** – the proposal requires to provide adequate space for an exit route to the side/rear of existing buildings on Nethergate.
- 7.128 **Response** – an access route onto Nethergate is to be provided to the rear of the proposed residential flats, along the side of 132-134 Nethergate. Access to the side and rear of 132-134 Nethergate could therefore be retained. Access to the rear of 136-148 Nethergate will also be provided. However, separate to planning permission the access rights of occupiers/residents are a legal matter which will need to be agreed between the relevant parties.
- 7.129 One representation in support of the application was received from Dundee Civic Trust.
- 7.130 Dundee Civic Trust welcomes the prospect of development within this prominent city centre site and that the proposals would secure office employment and the retention of jobs in the city, together with a measure of residential development.
- 7.131 **Comment** - the Trust considers that the buildings are of an appropriate scale and massing, however it is considered there could be some alterations to the elevational treatment. While the West Marketgait frontage has varied building lines, the Trust considers that the design needs to be improved. A BT logo or piece of public art integrated into the design may be appropriate.
- 7.132 **Response** - the design of the proposed development is considered within the assessment of Policy 1. The form, massing and appearance of the building is considered to be of a high quality, and the proposed finish materials are acceptable in principle. The applicant is to provide public art as part of the development, and initial consideration of the type and form of artwork have been progressed. The provision of full details of the artwork and its implementation will require to be agreed with the Council, it is recommended this matter be controlled by condition. With regard to the details of any signage and company logos, such elements will require to be subject of a separate application for advertisement consent.
- 7.133 **Comment** – the Nethergate corner on Marketgait, with its angled frontage design and overhang, is an interesting and key element of the design, which should be made more of a feature. The roof plan and elevations do not show the positioning of the plant and equipment, the Trust consider plant will require to be integrated into the design of the buildings and not protrude from the top of the roof.
- 7.134 **Response** – the design of the corner area at Nethergate/West Marketgait is of a high quality, and widened area of footpath will support pedestrian access to the ground floor commercial units and surrounding area. The form and appearance of the building is considered suitable for this narrow corner site, and the appearance of the individual units will be determined by the occupiers.
- 7.135 **Comment** - the Trust has raised the opportunity to create a green wall and green roof space with the applicant, which would provide valuable amenity. The Trust agrees that retail/cafe/restaurant uses are appropriate below the flats, but we suggest that the two units under the offices on West Marketgait are best integrated as part of the office development.
- 7.136 **Response** – the applicant has provided proposed landscaping plans with the application, which demonstrate areas of planting are to be provided within the site. The location of the proposed planting is acceptable in principle, with details of the plant species to be agreed. The provision of landscaping plans and associated maintenance schedule is to be controlled by condition. Whilst a green wall/roof is not proposed, the roof space of the proposed flats provides an area for solar panels to be provided which would reduce the emissions of the proposed development. The office building includes outdoor balcony spaces for staff to

access and bird/bat boxes are to be provided within the application site. The provision of commercial units as part of the development is supported, and meets the requirements of the local development plan.

- 7.137 **Comments** - the proposed car parking for office workers is considered unnecessarily large. Given the nearby Greenmarket car park and the availability of excellent public transport, a smaller car park would be appropriate. Electric vehicle charging points should be clearly marked on the plans and made more readily available in good numbers. Finally, the Trust is concerned about the likely major disruption to traffic during construction, particularly of the flats on the Nethergate frontage and corner with West Marketgait.
- 7.138 **Response** – the applicant has provided a Transport Assessment and site plans which detail the location of sustainable transport provision including electric vehicle charging points and cycle storage. The level of on-site vehicle and cycle parking is considered appropriate for the scale of development proposed.
- 7.139 Initially 2 electric charging points are to be provided with further charging points to be added. In support of this the car park is being constructed with the required cabling and ducting in place to facilitate further electric vehicle charging points in future. The submitted information is supported by the Head of Sustainable Transport and Roads.
- 7.140 With regard to disruption during construction, the applicant will be required to detail and provide appropriate alternative access routes along West Marketgait/Greenmarket during construction works. The provision of full details of alternative pedestrian routes for prior approval will be controlled by condition. Should any temporary road closures or traffic alterations be required, such matters will need to be agreed with Dundee City Council Sustainable Transport and Roads Team before being implemented. As part of this process road safety and impacts on traffic flow will be considered in detail.
- 7.141 **It is concluded that there are no material considerations of sufficient weight in this case to justify refusal of planning permission.**

8 CONCLUSION

- 8.1 The application for a mixed use development comprising office, commercial and residential accommodation is in accordance with the Development Plan. There are no material considerations of sufficient weight that would justify refusal 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 conditions:
- 1 **Condition** - development shall not begin until further risk assessment is completed and, if necessary; a remediation scheme to deal with any contamination at the site has been submitted to and approved in writing by the planning authority. The scheme shall contain proposals to deal with contamination to include:
 - i the nature, extent and type(s) of contamination on the site;
 - ii measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;

- iii measures to deal with contamination during construction works; and
- iv verification of the condition of the site on completion of decontamination measures.

Before any unit is occupied the remediation scheme shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation strategy have been achieved shall be submitted to and approved by the Council.

Reason – in the interests of enhancing the amenity and environmental quality of the development.

- 2 **Condition** - prior to commencement of any construction works, details of a scheme of public art to be provided within the development hereby approved shall be submitted to the Council for written approval. Thereafter, the approved scheme of public art shall be installed prior to the completion of the development hereby approved.

Reason - in the interests of enhancing the visual amenity and environmental quality of the development

- 3 **Condition** – prior to the commencement of any construction works, a detailed scheme of landscaping and associated maintenance schedule shall be submitted to and approved by the Council. Thereafter, the agreed landscaping shall be implemented prior to first occupation of the student accommodation. 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 the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

- 4 **Condition** – prior to the commencement of any construction works, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in section 26.7.1 of the CIRIA SUDS Manual (C753), and where appropriate SEPA comments shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

Reason - in the interests of sustainable drainage provision and flood protection.

- 5 **Condition** – prior to the commencement of any construction works, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDS features shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.

Reason - in the interests of flood protection and visual amenity.

- 6 **Condition** – prior to the commencement of any construction works, evidence of Scottish Water approval for the proposed drainage system for the development hereby approved shall be submitted to the Council for written approval.

Reason - in the interests of flood protection.

- 7 **Condition** – prior to commencement of any works on site, a review of the Noise Impact Assessment produced by New Acoustics entitled Development at Greenmarket, Dundee, Noise Impact Assessment for Planning - Rev-00 Project Reference:7197, dated February, 2021, shall be undertaken:
- a to assess all noise sources associated with the whole development to BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound;
 - b to re-assess the standby generator to provide evidence of achievement of night-time Noise Rating (NR) criteria as Condition 9.
 - c to assess any mechanical means of ventilation to be installed as part of this development; and
 - d to validate any mitigating measures required for compliance with both internal and external noise level criteria set within Section 7 of BS8233:2014;

Thereafter, and prior to occupation of any of the residential dwelling units hereby approved, any noise mitigation measures recommended in the Noise Impact Assessment shall be implemented in full.

Reason - in the interests of protecting residential amenity.

- 8 **Condition** - prior to first occupation of the residential dwelling units, details demonstrating means for compliance with the internal noise criteria set within Section 7 of BS8233:2014, within all habitable rooms and with windows closed, shall be submitted to the Council for written approval. For avoidance of doubt, the noise level criteria are 35dB LAeq (16 hour) for bedrooms and other habitable rooms for daytime periods (07:00 to 23:00 hours), 30dB LAeq (8hour)for bedrooms during night-time periods (23:00 to 07:00 hours) and 55dB LAeq (16 hour)for external amenity areas for daytime periods (07:00 to 23:00 hours). Any works will be detailed in writing prior to the commencement of development on site for approval in writing by the Council and will be in place and operational prior to the first occupation of the hereby approved residential dwelling units.

If relying on closed windows to meet the guide values, there needs to be an appropriate alternative means of ventilation that does not compromise the façade insulation or the resulting noise level.

Reason - in the interests of protecting residential amenity.

- 9 **Condition** – the total noise from the mechanical and electrical plant/services shall not exceed Noise Rating (NR)45, during daytime, and shall not exceed NR35 during night time, as measured 1 metre external to the facade of adjacent residential property. Furthermore, it shall not exceed NR25 within any adjoining residential property.

NR45 is applicable for the period 07:00 to 23:00 hours and NR35 and NR25 are applicable for 23:00 to 07:00 hours.

Reason - in the interests of protecting residential amenity.

- 10 **Condition** – within the proposed residential accommodation, the received noise from the electrical substation shall not exceed NR20 internally, and within the adjacent existing

residential accommodation, the received noise from the electrical substation(s) shall not exceed NR30, as measured 1 metre external to the facade of adjacent residential property.

Reason - in the interests of protecting residential amenity.

- 11 **Condition** - all servicing and deliveries, including loading, unloading or lay-up shall be between 07:00 to 21:00 hours Monday to Saturday and 09:00 to 19:00 hours Sunday.

Reason - in the interests of protecting residential amenity.

- 12 **Condition** – prior to commencement of any construction work on the residential accommodation, details of the proposed alternative means of ventilation/any proposed mechanical ventilation system(s) for the residential dwelling units, including the location of the air intake(s), requires to be submitted to the Planning Authority for approval. Thereafter, the development shall be completed as the agreed details.

Reason - in the interests of protecting residential amenity.

- 13 **Condition** – prior to first occupation of each of the ground floor commercial/retail units within the development, full details of the occupying use shall be submitted to the Council for approval in writing and thereafter occupied in accordance with the agreed use. These details shall include a noise impact assessment to assess the noise sources associated with the proposed commercial/retail units, including plant and equipment for those units in accordance with Condition 7a) and to demonstrate compliance with Condition 9. Should the commercial units include Class 3 use or takeaway uses, details of the proposed extraction and ventilation system(s) shall be submitted to the Council for written approval. Thereafter, the approved extraction and ventilation system(s) shall be installed prior to the unit becoming operational and shall be maintained in accordance with the details approved by this condition. The extraction and ventilation system(s) shall operate whenever the equipment being serviced by the system is in operation.

Reason - in the interests of protecting residential amenity.

- 14 **Condition** - prior to any works on site, the further survey work as laid out in Section 4 of Greenmarket, Dundee Preliminary Ecological Appraisal report by Applied Ecology Limited shall be carried out in full, and submitted to the Council for written approval. The recommendations of the further surveys undertaken in accordance with this condition shall be implemented in full prior to the commencement of any development on the site.

Reason - in order to ensure the site is developed with due regard to any species on site.

- 15 **Condition** – prior to the commencement of any construction works, full details of bird and bat boxes within the site shall be submitted to the Council for written approval. Thereafter, the nesting boxes shall be installed on site in accordance with the agreed details prior to first occupation of the development hereby approved.

Reason - in order to ensure the site is developed with due regard to any species on site.

- 16 **Condition** – prior to commencement of any development, the developer shall implement a programme of archaeological works in accordance with a detailed written scheme of investigation which has been submitted by the developer and approved in writing by this Planning Authority.

Reason – in order to safeguard the archaeological heritage of the site and to ensure that the developer resources the investigation, recording and rescue of archaeological remains on site prior to their destruction by development.

- 17 **Condition** – Two months prior to the installation of any external finish, full details and samples of all of the proposed finishing materials of the development hereby approved shall be submitted to the Council for written approval. Thereafter, the proposed development shall be finished in strict accordance with the details approved by this condition.

Reason – in the interests of visual amenity and to ensure the character and setting of University Conservation Area is maintained.

- 18 **Condition** – prior to the commencement of development, a site waste management plan shall be submitted to and approved by the Council. The waste management plan shall contain details of how site waste will be controlled during construction and operation of the development.

Reason – in the interest of sustainable waste management.

- 19 **Condition** – a Travel Plan must be in place and agreed with the Local Authority within one year of the development opening.

Reason – in the interest of ensuring that provision is made for sustainable transport measures.

- 20 **Condition** - prior to the commencement of any construction works, details of the proposed footway alterations around the site shall be submitted to and approved by the Council. Thereafter, these footway alterations must be completed to Dundee City Council standards and specifications.

Reason - in the interests of vehicle and pedestrian safety.

- 21 **Condition** - prior to the commencement of any construction works, full details of an alternative route for Core Path 65 (Greenmarket) and Core Path 66 (West Marketgait) shall be submitted to the Council for written approval. The details shall include the location and width of the alternative route, and any associated directional signage. Thereafter, upon completion of associated construction works, the existing route shall be full re-instated to the satisfaction of the Council.

Reason – to safeguard pedestrian and cyclist access along the core path network during construction works, and to ensure the path is fully re-instated once development is completed.

- 22 **Condition** – prior to the commencement of any construction works, an amended Air Quality Assessment shall be submitted to the Council for approval. The report shall identify any mitigation measures required to protect the amenity of existing residents, any future residents of this development, and consider the impact of the proposed development on the existing Air Quality Management Area. A phasing strategy for the implementation of any mitigation measures recommended by the Air Quality Assessment shall be submitted to the Council for written approval. The phasing strategy shall include details of the timing and implementation of the required mitigation measures and thereafter the development shall be completed in accordance with this phasing strategy.

Reason - in the interest of air quality and protecting residential amenity.

- 23 **Condition** - prior to the commencement of any construction works, full details of the proposed means of providing heating and/or additional standby/emergency power to the building, including details of any flues or extracts or similar related works shall be submitted to and approved in writing by the planning authority. The full details of the back-up generator shall include generator size, fuel type and details of the emissions.

Reason - in the interest of air quality and protecting residential amenity.

- 24 **Condition** – prior to commencement of any construction works, a stack height assessment for the proposed backup generator and associated flue shall be submitted to the Council for written approval.

Reason - in the interest of air quality and protecting residential amenity.

- 25 **Condition** – prior to commencement of any construction work, an operational management plan for the back-up generator shall be submitted to the Council for written approval, detailing the operation and maintenance of the back-up generator, including operating hours and servicing routine. The back-up generator shall operate in accordance with the approved operational management plan in perpetuity. Any amendments to the operational management plan shall require to be agreed in writing with the Planning Authority.

Reason - in the interest of air quality and protecting residential amenity.

- 26 **Condition** – prior to the commencement of any works on site, a construction dust management plan shall be submitted to the Council for written approval. Thereafter, the agreed dust management plan shall be implemented during construction of the development hereby approved.

Reason - in the interest of air quality and protecting residential amenity.

- 27 **Condition** - prior to the commencement of any construction work, details of all roof top plant including the design, location and form of any plant, shall be submitted to the Council for written approval. Thereafter, any agreed plant shall be installed in accordance with the details approved by this condition.

Reason - in the interests of the appearance and environmental quality of the development, and to ensure there is no detrimental impact on the character or setting of the development or neighbouring listed buildings.

Informatives

- 1 A Minor Footway Works (MW) 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.
- 2 Any work carried out on site involving the removal of vegetation has the potential to disturb breeding birds and should be carried out with the breeding season or after a breeding bird survey has been completed.