

Change of Use to Mixed Use Space for Training, Education, Conferences, Business and Media Events and Functions and Associated Alterations

KEY INFORMATION

Ward Maryfield

Address

10 Water's Edge
Camperdown Street

Applicant

Chroma Developments Ltd
11 Water's Edge
Dundee

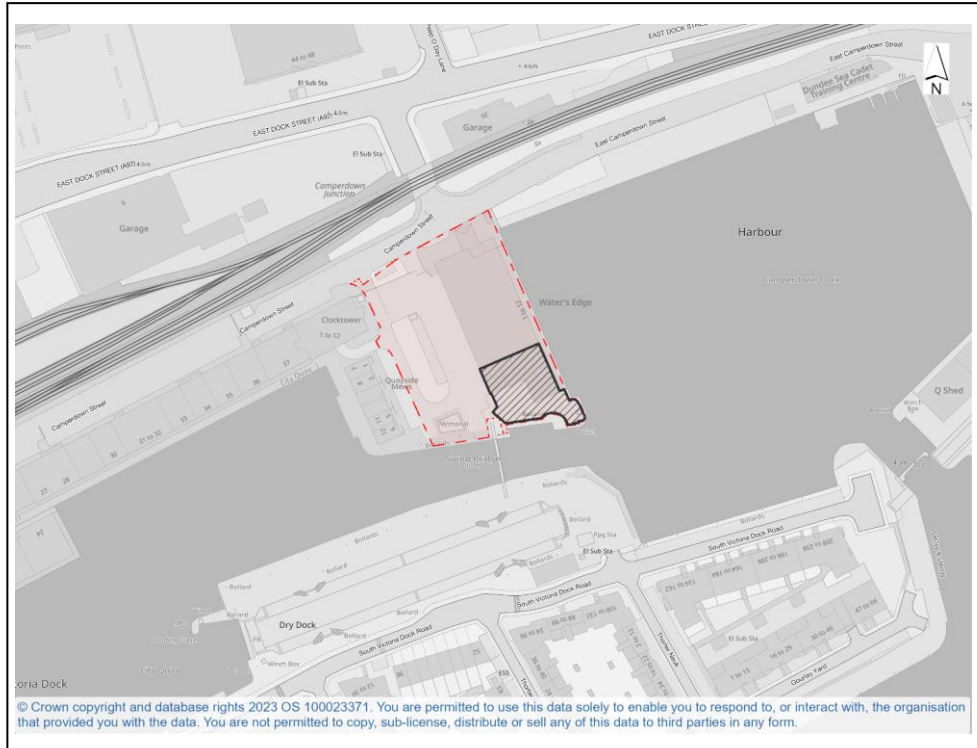
Agent

Ryden LLP

Registered 17 March 2023

Report by Head of Planning & Economic Development

Contact: Sharon Dorward



SUMMARY OF REPORT

- Planning permission is sought for a change of use and extension to enable part of the building to be used as a mixed-use space for training, education, conference, business and media events and functions.
- The application relates to part of Shed 25, a category B listed transit shed located between Camperdown Dock and Victoria Dock. This part has planning permission for use as a bar/restaurant. Planning permission was also granted for a multi-use conference and function area, including a glazed reception extension and courtyard area, for a period of two years only.
- The application is not fully in accordance with the Development Plan. However, there are material considerations of sufficient weight to justify approval of the application, for a two-year period to allow monitoring of the proposed uses in the interests of minimising the impact on residential amenity.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. One letter of support was received to the proposal.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee at the request of an elected member.
- More details can be found at: <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=RRAUTNGCIBN00>.

RECOMMENDATION

The proposal is not fully in accordance with the Development Plan. There are material considerations of sufficient weight to justify approval of planning permission. It is therefore recommended that planning permission be **APPROVED** subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for a change of use to enable the southern part of the Water's Edge building to be used as a mixed-use space for training, education, conference, business and media events and functions. The proposal includes works to create an extension to form a glazed foyer/reception area, with alterations to the external glazing, and external works to create a courtyard at the south elevation of the building.
- 1.2 The original planning permission for the redevelopment of Shed 25 included a café/restaurant in this part of the building with a gross floorspace of 575m² metres including mezzanine, and outdoor seating space over an area of 400m². Although the wider planning permission was implemented, the café/restaurant element was never brought into use.
- 1.3 The proposed sui generis hybrid of uses would include exhibition space, teaching and learning facilities, media production, business events, marketing, and conferences, as well as evening functions. Up to 200 patrons could be accommodated but a maximum group size of 150 are anticipated for evening events. The application highlights the creation of a virtual production facility to be created within the function space by Abertay University as a state-of-the-art innovation facility for screen and performance.
- 1.4 The events space would be accessed exclusively from a courtyard to the south of the building. The physical alterations would include a single storey glass and steel mono-pitch extension, as a foyer and breakout area. The external areas would be bound by a gated period style fence incorporating a barrier along its western edge.
- 1.5 The applicant proposes that the use of the external area would be restricted to operating between 11.00am and 10.00pm, Monday to Sunday. The operation of the internal space would be limited to midnight unless a specific extension was granted. The planning statement indicates that guests would be managed to leave the events area using the footpath along the western façade of the building. A chain fence would be installed between the one metre high bollards adjacent to the western facade of the building. This is intended to contain and focus movement along the western edge of the building to the pick-up point at the north for evening guests.

Previous Planning Applications

- 1.6 This application is a resubmission of planning application 21/00919/FULL, which sought a similar change of use and alterations to form the entrance and courtyard. That application was approved as a temporary planning permission in February 2022, with conditions which included a restriction of the planning permission for two years and a requirement for the operator to collate details of the number and type of events and to submit these to the Council. These conditions were necessary due to concerns that the proposed use could have an adverse impact on the amenity of nearby residential properties. The conditions were to enable the impacts of the use to be monitored prior to any future application being submitted for a permanent planning permission.
- 1.7 It was considered that this approach would have allowed sufficient time for the applicant to demonstrate whether the use could operate without noise impact or complaint relating to patron noise and from vehicle movements when dropping off and collecting patrons attending functions. This planning permission was granted for a two-year period until 31 December 2024. It has not been implemented, therefore no monitoring has taken place.
- 1.8 Planning application 22/00476/FULL under Section 42 proposed to remove condition 9 – (temporary use for 2 years) and vary condition 10 (event monitoring) of that planning

permission (21/000919/FULL), in effect to allow a permanent permission. This application was refused because it was considered that the proposal would have an adverse impact on the amenity of nearby residential properties, and it failed to satisfy the requirements of the adopted Dundee Local Development Plan 2019.

- 1.9 The site boundary for planning application 21/00919/FULL contained the entire development unit of Water's Edge. The current application site boundary is smaller and includes only the restaurant floor area and external seating space at the southern end of the Water's Edge building. Access to the car park would only be allowed for disabled users and for this reason the car park has not been included within the application site boundary.

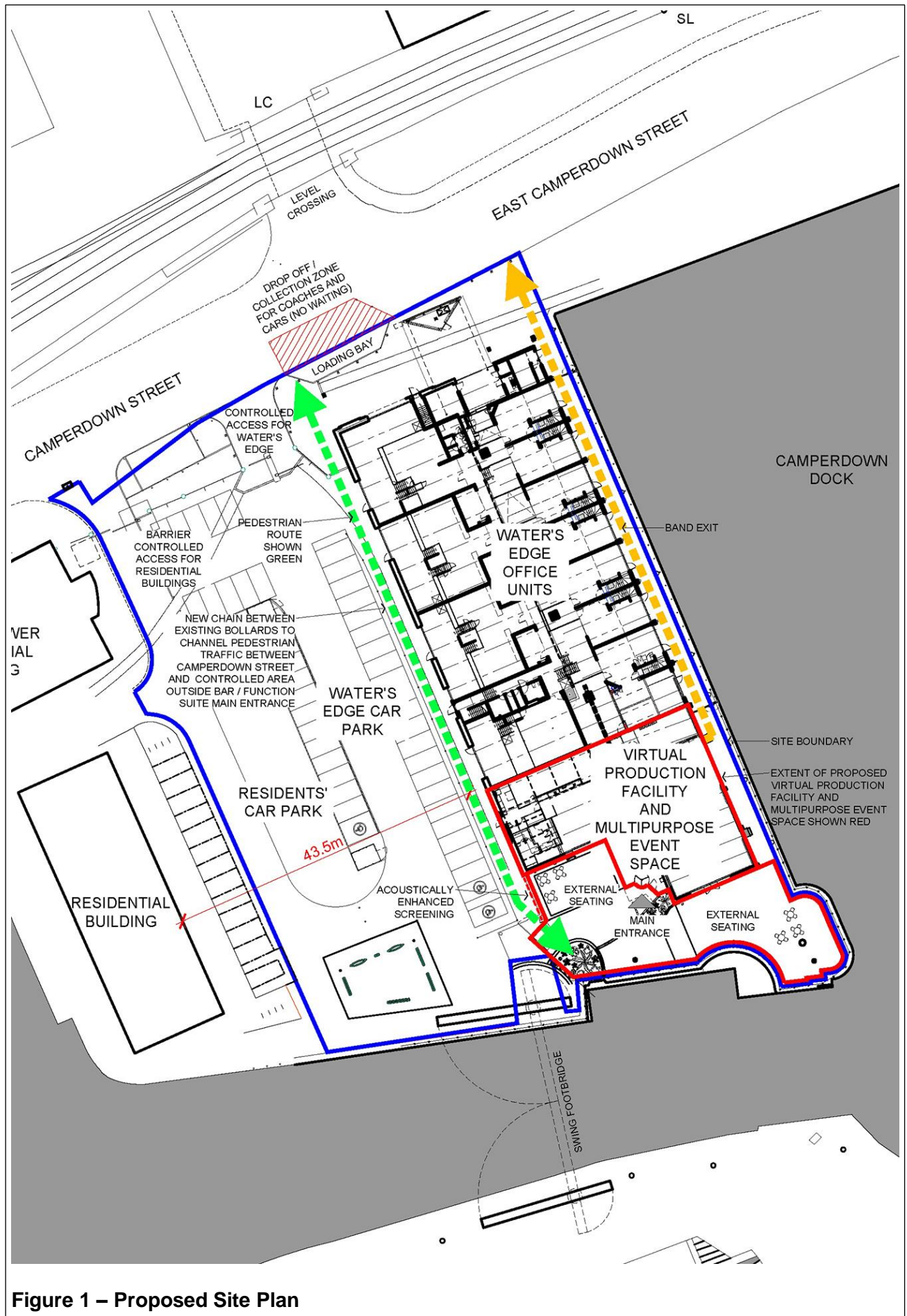


Figure 1 – Proposed Site Plan

2 SITE DESCRIPTION

- 2.1 The application site measures 1,090m² and relates to the restaurant area pertaining to the former Shed 25, a category B listed transit/storage shed located between Camperdown Dock and Victoria Dock. The docks are category A listed. They and the application site lie outside the City Centre boundary as defined in the Dundee Local Development Plan 2019. The building is a single storey brick and timber clad transit shed with stone quoins and skewes, constructed in 1864/1865 and extended between 1880 to 1890. The shed has two gables and a slate pitched roof.
- 2.2 Planning permission was granted in 2016 and the shed has been renovated to create a sui generis mixed-use office development and licensed leisure development, incorporating elements of Class 2 and Class 4 office uses with a Class 3 restaurant use. The café/restaurant use in the southern part of the building has never been implemented. It would have comprised a total floorspace of 575m²; of which an area of 60m² is a mezzanine floor. Outdoor seating space was proposed to the south of the site, providing approximately 400m² of external space.
- 2.3 Planning permission (21/00919/FULL) was granted in February 2022 for a change of use to allow a multi-use conference and function area in this southern part of the building, including an extension to form a glazed lobby/reception area to the south elevation, and external works to create a courtyard. This was granted subject to a planning condition stating that the permission was for a temporary two-year period until 31 December 2024. It has not been implemented.
- 2.4 The surrounding former harbour area and docks are now a combination of residential, retail, commercial and leisure uses. The category B listed transit sheds located to the west of the application site have been converted into commercial units and the category A listed clock tower building converted to apartments. There are residential uses located within the buildings to the west of the Water's Edge building, separated by the existing car park.



Figure 3 – Existing South Elevation



Figure 4 – West Elevation, Proposed Access Route and Residential Buildings to West of Site

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4

Policy 7: Historic assets and places

Policy 9: Brownfield, vacant and derelict land and empty buildings

Policy 12: Zero waste

Policy 13: Sustainable transport

Policy 14: Design, quality and place

Policy 23: Health and safety

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking

Policy 27: Public Houses, Restaurants and Hot Food Takeaways

Policy 39: Environmental Protection

Policy 41: Land Contamination

Policy 44: Waste Management Requirements for Development

Policy 49: Listed Buildings

Policy 54: Safe and Sustainable Transport

PLANNING ADVICE NOTICES AND CIRCULARS

Historic Environment Policy for Scotland (2019)

Planning Advice Note 1/2011 Planning and Noise

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 Planning application 16/00258/FULL was approved in April 2016 for a change of use and alterations to the former transit shed to create a mixed-use office and licensed leisure development.
- 4.2 Listed building consent application 16/00259/LBC was approved in April 2016 for the renovation of the property associated with the mixed-use development.
- 4.3 Planning application 20/00079/FULL for the change of use from the proposed café /restaurant use to a multiuse conference and function area was withdrawn in May 2021 pending the preparation of a revised noise impact assessment.
- 4.4 Listed building consent application 20/00080/LBC for the physical alterations was approved in February 2022 but has not been implemented.
- 4.5 Planning application 20/00437/FULL allowed a temporary change of use from the proposed restaurant to workshop and storage space, until the end of 2022, approved in November 2021.
- 4.6 Planning application 21/00919/FULL for change of use from proposed bar/restaurant to multi-use conference and function area, including an extension to form a glazed lobby/reception area, and including alterations to external glazing, and external works to create a courtyard was approved in February 2022, subject to conditions including that the permission was for a temporary two-year period and to monitor events.

- 4.7 Planning application 22/00476/FULL was submitted under Section 42 for the removal of Condition 9 (temporary use) and variation of Condition 10 (event monitoring) to allow the conference and function suite to operate on a permanent basis. This was refused in November 2022.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 One letter of support has been received. It welcomes the change of use of this part of the building for training, education and conference facilities. It is anticipated that the development would provide valuable services to the business community and assist in the redevelopment of the City Quay.
- 5.3 The matters raised in the representations are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 **Head of Community Safety and Protection** – has commented in respect of potential noise impacts. Due to the proximity of the development to residential properties there is potential for noise from some of the proposed uses to have a negative impact on residential amenity.

Planning conditions can be used to control the use and hours of operation of the proposed restaurant use (internal and external), and this together with an acoustic screen around the external area would reduce noise from that use to a level that would not harm residential amenity.

Of particular concern is the level of noise associated with the use of the building for events with a capacity of up to 200 persons. Unlike restaurant uses where customers generally arrive and leave in small groups across the evening period, patrons generally leave events in large numbers at the end of the event. Patron noise is difficult to control as mitigation cannot be put in place to control behavioural noise. There are also limitations to the environmental health legislation and licensing legislation to deal with this issue.

The Noise Impact Assessment (NIA) has not fully considered the noise impact of patrons leaving events or the noise impact of vehicles collecting patrons. Due to the unpredictability of patron noise, assumptions have been made in the NIA and the NIA has not adequately assessed the impact of patron noise on the existing residents. There are no means to mitigate against such noise.

It is likely that noise from patrons leaving the proposed events space in the evening / night time period would have a negative impact on residential amenity. If planning permission is granted it is suggested that this allows the proposed uses to only operate over a two year period to allow for monitoring of the noise impacts of the use of the events space.

Standard planning conditions are proposed to control noise from plant / equipment and building services.

In respect of contaminated land, due to the nature of the historic quayside use standard planning conditions are proposed to require a remediation scheme to be fully implemented and a verification report to be submitted.

- 6.2 **Head of Sustainable Transport and Roads** – supports the proposal with no roads conditions required.

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

- 7.2 The provisions of the National Planning Framework relevant to the determination of this application are specified in the Policy Background section above.

NATIONAL PLANNING FRAMEWORK 4

- 7.3 The National Planning Framework 4 (NPF4) recognises that the successful regeneration of Dundee Waterfront has demonstrated the potential to make sustainable use of the urban coast, with ongoing proposals including the creation of a marina at Victoria Dock. NPF4 further notes that Dundee is well on the way towards reinventing itself through regeneration of the waterfront, unlocking strategic sites for new homes and new opportunities for innovation and economic development arising.
- 7.4 **Policy 7: Historic assets and place** - seeks to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. Part c) - states that alterations to a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting.
- 7.5 The application relates to a category B listed former transit shed, located between Camperdown Dock and Victoria Dock. The building is a single storey brick and timber clad transit shed with stone quoins and skews, constructed in 1864-5 and extended in 1880-90. The shed has two gables and slate pitched roof. Planning permission was granted in 2016 and the shed has been renovated to create a sui generis mixed-use office development and licensed leisure development, incorporating elements of Class 2 and Class 4 office uses with a Class 3 restaurant use.
- 7.6 The conservation approach taken to previous redevelopment of the former transit sheds at Camperdown Docks ensured that the redevelopment was appropriate and retained historical elements of the wider site such as surrounding setts, anchor bolts and railway tracks. The new build service tower consolidated the plant and negated any impact to the historic fabric of the building. The entrance extension and alterations now proposed would complement the development already undertaken, with an appropriate design and finishing materials.
- 7.7 **The application is in accordance with Policy 7c of National Planning Framework 4.**
- 7.8 **Policy 9: Brownfield, vacant and derelict land and empty buildings** - encourages, promotes and facilitates the re-use of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development. Development is directed to the right locations, maximising the use of existing assets and minimising additional land take. The policy supports the regeneration of derelict buildings and spaces to improve wellbeing and transform our places.

- 7.9 Part c) requires that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land can be made safe and suitable for the proposed new use.
- 7.10 Part d) supports development proposals for the reuse of existing buildings, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option.
- 7.11 A remediation strategy has been submitted with the application documents, which is accepted. It is recommended that a condition is appended to any planning permission granted to ensure that remediation and verification are undertaken.
- 7.12 The principal of reusing this existing building is supported by this policy.
- 7.13 **With the addition of a planning condition, the application would be in accordance with Policy 9c and 9d of National Planning Framework 4.**
- 7.14 **Policy 12: Zero waste** - seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy, to reduce and reuse materials in construction.
- 7.15 Part c) expects development proposals which would be likely to generate waste when operational to state how this will be managed, including waste reduction and separation, and facilities for recycling.
- 7.16 The development proposes to create a recycling/refuse bin enclosure to serve the needs of the proposed events area. This enclosure would be located at the south end of the grassed area and would match the enclosure already positioned at the north end of the grassed area.
- 7.17 **The application is in accordance with Policy 12c of National Planning Framework 4.**
- 7.18 **Policy 13: Sustainable transport** - seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport.
- 7.19 Part b) states that development proposals will be supported where it can be demonstrated that the transport arrangements generated have been considered in line with sustainable transport and investment hierarchies and where appropriate they:
- i will provide direct, easy, segregated and safe links to local facilities via walking and cycling networks,
 - ii will be accessible by public transport and ideally existing services,
 - iii integrate transport modes,
 - iv provide low or zero-emission vehicle and cycle charging points, in alignment with building standards,
 - v supply, safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking,
 - vi are designed to incorporate safety measures including safe crossings,
 - vii have taken into account the transport needs of diverse groups to ensure the safety and needs of all users; and
 - viii adequately mitigate any impact on local public access routes.

- 7.20 With regard to the first three criteria, the application site is within an accessible location, close to the city centre, with access to various transport modes, including buses, trains and taxis. A segregated cycle path runs to the immediate north of Water's Edge forming part of the National Cycle Network Route 1 and the Green Circular. The application advises that customers would leave the events space from the entrance at the south of the building, and would walk along the west side of the Water's Edge building to the proposed pick-up point on Camperdown Street at the north end of the building. From here there are a range of public and private transport options within walking distance.
- 7.21 With regard to criteria iv and v, the adjacent car park serving the Water's Edge property is not included within the application site boundary. The applicant advises that the car park would not be used by users of the events space, with the exception of disabled persons, however this cannot be controlled. Planning application 16/00258/FULL for the redevelopment of Shed 25 included four cycle spaces. A planning condition is proposed to secure the provision of the required level of cycle parking for customers and staff, which would be 6 spaces for the proposed development.
- 7.22 The development does not propose any other alterations to the existing access or car park, it is intended that disabled access for the events space would allow the use of the car park, and there would be no impact on local public access routes.
- 7.23 The proposal can satisfy the requirements of Policy 13b of National Planning Framework 4.
- 7.24 Part f) states that development proposals for significant travel generating uses, or smaller scale developments where it is important to monitor travel patterns resulting from the development, will only be supported where they are accompanied by a Travel Plan, which sets out clear arrangements, monitoring and evaluation.
- 7.25 No Travel Plan has been submitted with the application. However the applicant has indicated that any vehicles would use the pick-up/drop-off point to the north of the Water's Edge building on Camperdown Street. From here, guests would walk to the southern entrance of the building and the direct access to the events space, using the walkway delineated with bollards and chains to the west of the building. No alterations are proposed to the existing parking and vehicular access, and the proposed change of use would not raise any major concerns with generated traffic. To encourage the use of sustainable modes of transport a planning condition is proposed to secure the preparation of a Travel Plan.
- 7.26 **With the addition of a planning condition, the application would be in accordance with Policy 13b and 13f of National Planning Framework 4.**
- 7.27 **Policy 14: Design, quality and place** - seeks to encourage, promote and facilitate well designed development which will result in quality places, spaces and environments.
- 7.28 Part b) states that development proposals will be supported where they are consistent with the six qualities of successful places, which are: healthy; pleasant; connected; distinctive; sustainable; and adaptable.
- 7.29 The application site is situated adjacent to the category A listed docks and relates to a category B listed building. The extension and alterations to the building would be sympathetic to the property and ultimately improve the quality of the surrounding built environment, in line with the six qualities of successful places.
- 7.30 **The application is in accordance with Policy 14b of National Planning Framework 4.**

- 7.31 **Policy 23: Health and safety** - is intended to protect people and places from environmental harm, mitigate risks from safety hazards and promote development that improves wellbeing.
- 7.32 Part e) states that development proposals that are likely to raise unacceptable noise levels will not be supported. A noise impact assessment may be required where the nature of the proposal or its location suggest that significant noise effects are likely.
- 7.33 The Scottish Government's Planning Advice Note: Planning and Noise (PAN 1/2011) is relevant to the assessment of this proposal as it promotes the principles of good acoustic design and a sensitive approach to the location of new development. It promotes the appropriate location of new potentially noisy development, to ensure that quality of life is not unreasonably affected and that new development continues to support sustainable economic growth.
- 7.34 PAN 1/2011 notes that developments that are likely to generate a significant level of noise do not generally make good neighbours with noise sensitive land uses such as housing. The PAN also notes possible mitigation measures that can be used to control the source of noise and further notes that planning authorities may, where appropriate, specify a condition to agree a scheme of monitoring.
- 7.35 The vast majority of the proposed development would not have a significant adverse impact on residential amenity because either its nature, scale or location inside the building can be controlled. However, there is a concern that large unrestricted functions, including weddings and parties, could impact on residential amenity. While internal noise levels from people and equipment can be controlled by the building fabric and restrictions on the level of amplified music, the noise levels external to the site are more difficult to quantify and also to assess.
- 7.36 Acoustically enhanced screening is proposed for the external seating area, which would also be subject to a planning condition controlling the hours of operation. The restriction in operational hours for this external area would curtail any unacceptable patron noise at an unsociable hour. The application documents suggest a 10pm closing hour, which is considered to be acceptable during the summer. However, a 9pm close is recommended from September to June. This will be controlled by condition.
- 7.37 The Water's Edge building and application site are located just over 45 metres from the nearest residential properties, however the walkway to the pick-up/drop-off point is closer as this lies outside the building and application site boundary. The walkway and the pick-up/drop-off point are circa 40 metres from residential properties. The existing car park for the wider development is closer. As with the two previous planning applications, there is a concern that the use of the building for functions and events would have an adverse impact on residential amenity due to patron noise, particularly when large numbers leave large events and functions, which could generate noise and disturbance that would impact on the residential amenity of those neighbouring properties located to the west of Water's Edge.
- 7.38 A noise impact assessment (NIA) has been submitted with the application. This considers the range of events which the space could cater for, including conferences and exhibitions, weddings and parties, and assesses potential noise levels internal and external to the site. As part of the NIA, a week-long environmental noise survey has been carried out.
- 7.39 It is proposed that patrons leave the event space from the entrance at the south of the building, and walk along the west side of the Water's Edge building to the proposed pick-up point on Camperdown Street at the north end of the building. A bollard and chain fence would guide people from the southern end to the northern end of the building. Patrons would be expected to leave by taxi, personal car, on foot, or occasionally by bus. The car park to the west of the building is not included in any calculations as vehicular access would only be allowed for

disabled users. Following events, bands and equipment would leave the premises and exit externally to the east of the site. The NIA has assessed noise from patrons leaving at the end of events, comparing anticipated patron noise levels against the existing ambient noise levels measured during the environmental noise survey. The NIA anticipates that no adverse impact is expected from patrons leaving the events space. However, the NIA has been reviewed by the Head of Community Safety and Protection who has advised that the NIA has not adequately assessed the impact of patron noise on the existing residents, and due to the unpredictability of patron noise, it is difficult to assess. There are no means to mitigate against such noise.

- 7.40 The NIA submitted with the current application essentially has the same content and conclusions as that submitted with planning application 21/00919/FULL. It is generally difficult to predict the noise that people will make at the end of a night when they leave a function or an event, and it cannot be measured easily. Because of this, a period of monitoring would allow a further assessment to be made in terms of noise nuisance to the neighbouring residential properties. It remains that a temporary planning permission would be necessary to allow sufficient time for the applicant to demonstrate that the events space can operate without noise impact or complaints relating to patron noise. Should planning permission be granted then a planning condition would be attached to require the use to cease two years from the commencement of use, to allow further evaluation.
- 7.41 As with the previous permission it is proposed that a planning condition is used to monitor the impact of the proposed use on the adjacent residential properties. This condition would require information on the number and types of events held to be collated by the applicant over the two-year period in order to make a valid assessment. That monitoring could then be used to assess a future planning application for permanent use. Other conditions are also proposed to limit the hours of operation, number of patrons, and servicing.
- 7.42 The planning application cannot be supported without these various conditions due to the potential for the use to have an adverse impact on the amenity of the neighbouring residential properties.
- 7.43 The applicant is willing to monitor the events, but is unwilling to accept a temporary permission as this would have an unacceptable impact on the viability of the development and investment needed. The potential for adverse impacts on the amenity of the neighbouring residential properties is a real concern and it remains the case that a demonstration is required from the applicant that no adverse noise impact would occur.
- 7.44 **With the addition of planning conditions, the application would be in accordance with Policy 23e of National Planning Framework 4.**

DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.45 **Policy 1: High Quality Design and Placemaking** - requires all development proposals to follow a design-led approach to sustainable and high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, creating a sense of community and identity, and enhancing connectivity, with creative approaches to urban design, landscaping and green infrastructure. New development is required to meet the six qualities of successful place, in accordance with Appendix 1, creating development which would be distinctive, safe and pleasant, easy to move around and beyond, welcoming, adaptable, and resource efficient.

- 7.46 The planning permission for the redevelopment of the building retained the existing building structure and historic features within the site, respecting the existing and surrounding built environment. The proposed alterations would complement the alterations already made and enhance the appearance of the property in relation to the streetscape. The proposed finishes of steel and glazing are appropriate. The design of the proposal would respect the character and amenity of the place. The scale, nature and location of the proposed development would not have a detrimental impact on the quality of the surrounding built environment, and would promote visual quality and encourage social and economic interaction and activity.
- 7.47 **The application is in accordance with Policy 1 of the adopted Dundee Local Development Plan.**
- 7.48 **Policy 27: Public Houses, Restaurants and Hot Food Takeaways** - supports proposals for hot food takeaways and restaurants, including external seating areas, outside the City Centre and District Centres where the premises has a gross floor area of up to 150m² and is more than 30 metres from existing or proposed housing. If the floor area proposed would be over 150m², a 45-metre separation would be required from the curtilage of the proposal to the facade of any existing or proposed houses. Proposals which do not meet these requirements may be permitted subject to a restriction on opening times and cooking methods.
- 7.49 Policy 27 is applicable as a restaurant use is part of the collection of proposed uses for the events space. External seating is also proposed. The gross floor area of the potential restaurant space exceeds 150m². Residential units at Quayside Mews to the west of the application site are more than 45 metres away from the application site boundary.
- 7.50 **The application is in accordance with Policy 27 of the adopted Dundee Local Development Plan.**
- 7.51 **Policy 39: Environmental Protection** - requires that all new development that would generate noise, vibration, odour, emissions to air, dust or light pollution is required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New development in close proximity to existing sources of noise, vibration or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on the viability of existing businesses or uses.
- 7.52 There would be no issues in terms of vibration, odour, emissions to air, dust or light pollution, however as discussed earlier in this report under NPF4 Policy 23, noise is a potential issue. Appropriate planning conditions are recommended to ensure that the development does not create an unacceptable noise disturbance to the surrounding area.
- 7.53 **With the addition of planning conditions, the application would be in accordance with Policy 39 of the adopted Dundee Local Development Plan.**
- 7.54 **Policy 41: Land Contamination** - states that the development of potentially contaminated or statutorily identified contaminated land will be considered where a site investigation has been submitted and establishes the nature and extent of the contamination, and where the Council is satisfied that proposed remediation would adequately address contamination risks to all receptors, and be suitable for the planned use. Proposals for an alternative use to that identified in the Local Development Plan will be considered where the above criteria are satisfied, and it is established that the site cannot be economically developed for the allocated use, and the proposed use would meet the requirements of other relevant Local Development Plan policies.
- 7.55 A remediation strategy has been submitted for the application, which is accepted. It is recommended that a verification condition is applied to any planning permission granted.

- 7.56 **With the addition of a planning condition, the application would be in accordance with Policy 41 of the adopted Dundee Local Development Plan.**
- 7.57 **Policy 44: Waste Management Requirements for Development** - requires development proposals to 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 with separate collection of recyclable material, as outlined in the Waste (Scotland) Regulations 2012.
- 7.58 It is proposed to create a recycling/refuse bin enclosure to serve the needs of the proposed events area. This enclosure would be located at the south end of the grassed area and would match the enclosure already positioned at the north end of the grassed area.
- 7.59 **The application is in accordance with Policy 44 of the adopted Dundee Local Development Plan.**
- 7.60 **Policy 49: Listed Buildings** - states that alterations to a listed building will only be acceptable where the proposals have regard to the preservation or enhancement of the building or its setting or any features of special architectural or historic interest which it possesses. Alterations will not be permitted where the works would diminish the architectural integrity of the building or its historic interest.
- 7.61 The previous redevelopment of the former transit sheds at Camperdown Docks took a conservation approach. This ensured that the redevelopment was appropriate and retained historic elements of the wider site such as setts, anchor bolts and railway tracks. The new build service tower consolidated the plant and negated any impact to the historic fabric of the building. The entrance extension and alterations now proposed would complement the development already undertaken, with appropriate design and finishing materials.
- 7.62 **The application is in accordance with Policy 49 of the adopted Dundee Local Development Plan.**
- 7.63 **Policy 54: Safe and Sustainable Transport** - seeks that all development proposals which generate travel should be designed and well served by all modes of transport, and will be required to:
- 1 minimise the need to travel by private car;
 - 2 provide on-site facilities and links for walking and cycling;
 - 3 have access to public transport networks within 400 metres;
 - 4 have no detrimental impact on the existing road or rail network;
 - 5 ensure safe provision for freight and waste access and loading;
 - 6 comply with national and Dundee City Council's road design standards; and
 - 7 be supported by a travel plan where significant travel would be generated.
- 7.64 With regard to criteria 1-3, the proposals would provide on-site facilities and links for walking and subject to further details being sought through a planning condition, facilities for cycle parking. However, due to the nature of the use and the development's location more than 400 metres from the nearest bus stop the development proposals would not minimise the need to travel by private car.

- 7.65 With regard to criteria 4-7 no new roads or accesses are being formed and the level of traffic generated by this proposal does not create any issues in relation to the existing road or rail network, or for freight or waste loading.
- 7.66 A Travel Plan has not been submitted with the application but could be secured by planning condition. The Travel Plan would encourage the use of more sustainable modes of transport.
- 7.67 The application does not comply with criteria 1 or 3 of Policy 54.
- 7.68 **The application is not in accordance with Policy 54 of the adopted Dundee Local Development Plan.**
- 7.69 **It is concluded that the proposal is not fully in accordance with the Development Plan.**

STATUTORY DUTIES

- 7.70 Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that special regard is given to the desirability of preserving listed buildings or their setting or any features of special architectural interest which they possess when determining applications for planning permission.
- 7.71 For the reasons set out above, it is considered that the proposed works comply with national planning guidance with regard to development affecting a Listed Building.
- 7.72 The statutory duty set out in Section 59 of the Act would therefore be discharged through the approval of planning permission.

MATERIAL CONSIDERATIONS

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

A - NATIONAL POLICY AND GUIDANCE

- 7.74 Historic Environment Policy for Scotland (2019) should be taken into account when determining applications for development which may affect the historic environment. The Historic Environment Policy for Scotland sets out principles and policies for the recognition, care and sustainable management of the historic environment. It seeks to influence decision making that will be sufficiently flexible and adaptable to deal with wide-ranging and ongoing changes to society and the environment, and to achieve the best possible outcome for the historic environment, maximising its benefits.
- 7.75 It is concluded for the reasons set out above that the proposed works would comply with national guidance concerned with the historic environment, including the policies of the Historic Environment Policy Scotland.

B – PLANNING STATEMENT - LOCATION OF PROPOSED DEVELOPMENT

- 7.76 The proposed development accords with the requirements of Policy 27 of the Dundee Local Development Plan by virtue of the proximity of the application site to neighbouring residential properties. However, it should be noted that the distance from the application site boundary to the facade of the nearest residential property is 45.6 metres, and the application site boundary has been altered from the previous application 21/00919/FULL.
- 7.77 The planning statement submitted with the application documents states that licensing requirements mean that the space could be used for specific functions and private hire, and

that there would be no difference from hiring the restaurant facility. However, in planning terms, permission is required for a change of use to a sui generis collection of events space uses. The new events space uses have a different impact in terms of noise when compared to a restaurant use only (with potential ancillary events). These impacts are therefore considered as part of the planning application.

- 7.78 Despite licensing laws allowing the restaurant to be hired for private functions, and compliance with Policy 27 of the adopted Dundee Local Development Plan, the main consideration in the context of this application is the impact on residential amenity as a result of the proposed event and function use. This consideration is focused on the noise that people leaving the premises en masse at night-time would potentially make, and the impact on the occupiers of the adjacent residential properties.
- 7.79 The planning statement lists potential uses of the internal events space including training courses or conferences, evening launch events, or dinners. The NIA states that it has assessed events including conferences and exhibitions, and weddings and parties. The application does not quantify the number, type or frequency of events to be held. The description of events essentially remains unchanged, regardless of the additional information presented in relation to the proposed media facility.
- 7.80 The planning statement places emphasis on the media facility but does not explain how the facility would operate and if the usage would reduce noise impact in any way. The NIA has the same content and conclusions as that submitted with planning application 21/00919/FULL and therefore the same issues remain in respect of patron noise. The planning statement acknowledges that the previous application did not include full detail of the range and type of uses for the hybrid events area, and nor did it include other specific design measures or “restrict” the curtilage of the use. The current application gives a little more insight; however, the events are the same. While the delineation of the planning application site boundary is different, this does not restrict the curtilage of the use, the development unit remains the same and the proposal for access and egress to the events space remains the same. The previous application proposed the same barrier system for patrons leaving to the exterior of the west of the building and the same pick-up point for vehicles.
- 7.81 The planning statement does not present any information that outweighs the policy conclusions reached in the assessment section of this report.

C – JUSTIFICATION FOR DEPARTURE FROM POLICY 54 OF THE ADOPTED DUNDEE LOCAL DEVELOPMENT PLAN, 2019

- 7.82 The proposal is contrary to criteria 1 and 3 of Policy 54 because the development would not minimise the need to travel by private car, and it is located more than 400 metres from the nearest public transport network; bus stop or train station.
- 7.83 The application site is located close to the city centre and is within a relatively easy walking distance of a variety of transport modes, including the bus station, train station, local bus stops and taxi facilities, as well as the local cycle and core path networks. Dundee is a compact city with high levels of accessibility and efficient transport provision.
- 7.84 It is considered that the application is in a convenient location for potential users and that, given the proximity of the city centre where a range of transport options are available, this is a material consideration that is of sufficient weight to justify approval of the application.

D – REPRESENTATION

- 7.85 The letter of support welcomes the change of use of this part of the building for training, education and conference purposes. It is anticipated that the development would provide valuable services to the business community and assist in the redevelopment of the City Quay.
- 7.86 This comment is noted.
- 7.87 **It is concluded that there are material considerations of sufficient weight in this case to justify approval of planning permission.**

8 CONCLUSION

- 8.1 The application for the change of use to a sui generis events space is not fully in accordance with the Development Plan. There are material considerations of sufficient weight, and subject to planning conditions to allow for a period of monitoring and to control aspects of the use the development, the application would be acceptable. It is therefore recommended that planning permission be granted.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be GRANTED subject to the following conditions:
- 1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.

Reason - to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.
 - 2 **Condition** – the planning permission hereby granted is for a temporary period only and the development hereby approved shall cease to operate no later than two years from the date of commencement of the first use of the premises.

Reason - to enable monitoring of the use of the premises in the interests of residential amenity.
 - 3 **Condition** – in order to monitor the events space use hereby approved and any noise matters that may arise, full details of all functions/events booked including dates, type of function/event and the number of guests will be submitted to the Planning Authority on a quarterly basis over a two-year period.

For the avoidance of doubt, on the commencement of the first use of the premises, full details of all booked functions and events shall be submitted to the Planning Authority. Thereafter, an update on all bookings shall be submitted to the Planning Authority on a quarterly basis in each of the following two years.

Reason – to enable monitoring of the use of the premises in the interests of residential amenity.
 - 4 **Condition** – With regard to the external table/seating area:
 - a restriction of hours: September to June - open 1100 hours Monday to Saturday and 1230 hours on Sundays: closing at 2100 hours;

- b July and August - open 1100 hours Monday to Saturday and 1230 on Sundays: closing at 2200 hours;
- c at no time shall amplified music or vocals be provided/performed; and
- d the maximum number of persons in this area is restricted to 75 persons.

Reason - in the interests of residential amenity.

- 5 **Condition** – all servicing and deliveries, including loading, unloading or lay-up shall be between 0700 to 2100 hours Monday to Saturday and 0900 to 1800 hours Sunday.

The exception to the above is that bands may deliver/remove equipment outwith these delivery hours using only the route specified in Figure 1 of the Noise Impact Assessment undertaken by Sandy Brown (Ref 21346-R01-B) dated 12 October 2021.

Reason - in the interests of residential amenity.

- 6 **Condition** – the events space hereby approved may only operate from 0800 hours to 2400 hours.

Reason - in the interests of residential amenity.

- 7 **Condition** – music shall be so controlled as to be inaudible within any adjacent residential property.

Reason - in the interests of residential amenity.

- 8 **Condition** – prior to the commencement of any works on site, full details of the acoustic screening to the external area, including confirmation of finishes and design, shall be submitted to the Council for written approval. Thereafter, the acoustic screen shall be completed and implemented, as per the approved details, prior to the first operation of the events area hereby approved and retained for the lifetime of the development.

Reason – in the interests of residential and visual amenity.

- 9 **Condition** – the total noise from mechanical and electrical plant/services shall not exceed NR45 during the day and shall not exceed NR35 during night-time, as measured 1 metre external to the facade of adjacent residential property

For the avoidance of doubt night time shall be 2300 to 0700 hours.

Reason - in the interests of residential amenity.

- 10 **Condition** – prior to the commencement of work on site, details of the proposed extraction and ventilation system discharging at a high level and a maintenance schedule for the proposed ventilation and extraction system shall be submitted to the Council for written approval. Thereafter, the approved extraction and ventilation system shall be installed prior to the kitchen becoming operational and maintained in accordance with the details approved by this condition. Thereafter, the kitchen extraction and ventilation system shall operate whenever food is being cooked within the application premises.

Reason - in the interests of residential amenity.

- 11 **Condition** - before the development 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 planning authority.

Reason - in the interests of providing a site suitable for future development.

- 12 **Condition** - prior to the commencement of any works on site, details of secure and covered cycle parking for staff and cycle parking for visitors shall be submitted for approval in writing by this Planning Authority and thereafter provided in accordance with those approved details, prior to first opening of the events space.

Reason – in the interests of sustainable travel measures.

- 13 **Condition** – prior to the commencement of any works on site, a Travel Plan shall be submitted for approval in writing by this Planning Authority and thereafter implemented in accordance with those approved details, prior to the first commencement of the first use.

Reason – in the interests of sustainable travel measures.

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