Dear Sir or Madam

You are requested to attend a MEETING of the DEVELOPMENT MANAGEMENT COMMITTEE to be held in the City Chambers, City Square, Dundee on Monday, 14th August, 2017 at 6.00 pm.

Yours faithfully

DAVID R MARTIN
Chief Executive

AGENDA OF BUSINESS

1 DECLARATION OF INTEREST

Members are reminded that, in terms of The Councillors Code, it is their responsibility to make decisions about whether to declare an interest in any item on this agenda and whether to take part in any discussions or voting.

This will include all interests, whether or not entered on your Register of Interests, which would reasonably be regarded as so significant that they are likely to prejudice your discussion or decision-making.

2 DEPUTATIONS

(i) 16-00577-FULM – STADIUM, CAIRD PARK, MAINS LOAN – PROPOSED REGIONAL PERFORMANCE CENTRE FOR SPORT AND CAIRD PARK TRAINING GROUND – FOR MR FERGUS WILSON

Requests have been received for a deputation to address the Committee relative to objections to the application which is recommended for approval.

(ii) 17-00158-FULL – ANTON HOUSE, 5 FORTHILL ROAD, BROUGHTY FERRY, DUNDEE – PART DEMOLITION, CHANGE OF USE AND REDEVELOPMENT TO FORM A CONTEMPORARY RESIDENTIAL DEVELOPMENT – FOR MR ALAN BELL

A request has been received for a deputation to address the Committee relative to objections to the application which is recommended for approval.

(iii) 17-00261-FULL – 530 STRATHMARTINE ROAD, DUNDEE – PART CHANGE OF USE TO HOT FOOD TAKEAWAY – FOR MRS AMANDA MITCHELL

Requests have been received for a deputation to address the Committee in support of and relative to objections to the application which is recommended for approval.
(iv) 17-00337-FULM – LAND TO THE SOUTH OF YEAMANS SHORE AND NORTH OF SOUTH MARKETGAIT, DUNDEE – ERECTION OF A MIXED USE DEVELOPMENT ON A VACANT SITE WITHIN THE CENTRAL WATERFRONT INCLUDING STUDIO DUNDEE WORKING SPACE AND BUSINESS ACCELERATOR UNITS; URBAN OFFICES AND BUILD TO RENT APARTMENTS – MR ALAN CALDWELL

A request has been received for a deputation to address the Committee in support of the application which is recommended for approval.

3 PLANNING APPLICATIONS

(Reports enclosed).

4 REQUEST FOR DIRECT ACTION TO REMOVE UNAUTHORISED STATIC CARAVAN, HARDSTANDING AND PROFILE METAL SHEET BOUNDARY FENCE FROM LAND AT PANMUREFIELD, NORTH BALMOSSIE STREET, BROUGHTY FERRY, DUNDEE

(Report No 262-2017 by the Executive Director of City Development enclosed).

5 DELEGATED ITEMS (AN62-2017)

It is reported for the information of the Committee that from 27th May, 2017 to 24th July, 2017, 77 applications were decided under delegated powers. Eight of those applications attracted objections, seven of which were approved and one of which were refused.
Members may be aware that in making any determination under Planning Legislation, it shall be made in accordance with Structure and Local Plan Policies, unless other material planning considerations indicate otherwise. NB Background papers relating to these reports comprise letters of objection, correspondence with the applicants and/or their agents, comments from consultees and the Local Plans and other policy documents referred to.
KEY INFORMATION

Ward: Strathmartine
Address:
Stadium, Caird Park
Mains Loan
Applicant:
Mr Fergus Wilson
Dundee House
50 North Lindsay Street
Dundee DD1 1LS
Agent:
Mr Ron Mitcham
Dundee House
50 North Lindsay Street
Dundee DD1 1LS
Registered: 12 July 2017
Case Officer: S Dorward

SUMMARY OF REPORT

- Planning permission is sought for a Proposed Regional Performance Centre for Sport and Caird Park Training Ground.
- The statutory neighbour notification procedure was undertaken; 56 letters of representation have been received, including 18 letters of objection, 37 letters of support and one letter with comments neither objecting nor supporting the proposals.
- Plans have been amended in accordance with section 32A of the Town and Country Planning (Scotland) Act 1997 as amended, and the application re-advertised.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee as it constitutes a major development.
- More details can be found at http://idoxwam.dundeecity.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=O9FHJIGCMV100.

RECOMMENDATION

The application complies with the Adopted Strategic TAYplan, and the Dundee Local Development Plan. There are no material considerations that would justify refusal of the application. The application is therefore recommended for APPROVAL subject to conditions.
**1 DESCRIPTION OF PROPOSAL**

1.1 The application seeks planning permission for the provision of a Regional Performance Centre for Sport and Training Ground, as a training and competitive venue for regional clubs and squads across a wide but defined range of sports. The need for a new Regional Performance Centre for Sport in Tayside and Fife was highlighted by sportscotland. The Regional Performance Centre would be operated by Leisure and Culture Dundee which is a Scottish Charitable Incorporated Organisation. The application proposes the erection of a main hub building, indoor football pitch, athletics building, energy centre and associated synthetic football and rugby pitch and community grass pitch. The proposals necessitate the demolition of an existing pavilion building on site and the relocation of a listed war memorial. The relocation of the category B listed Mains Parish WW1 Black Watch War Memorial will be the subject of a future listed building consent application. Vehicular access to the site would be from Claverhouse Road which has a footway along the northern side.

1.2 The application has been amended to address the concerns raised in planning objections to the original submission and the withdrawal of the proposal for a Caird Park football training ground facility.

1.3 The main hub building, which was originally proposed to the north west of the site, is now proposed away from Mains Castle to the south of the site. The building would have a footprint of 3,227m², and would be constructed with a flat roof to a maximum height of 15.1 metres. The building would accommodate an 8 court multi-sport hall extending the internal height of the building, with two floors of studio, office space, and changing facilities adjacent to the...
1.4 Sports to be catered for throughout the development would include:- badminton, basketball, disability sports, football, netball, rugby, volleyball, athletics, golf and track cycling. Dundee City Council and sportscotland are partners in the project to create a Regional Performance Centre for Sport in Dundee to serve Tayside and Fife. The football training ground facilities do not form part of the revised proposals for the Regional Performance Centre for Sport.

1.5 The proposals include an energy centre for the development to house a CHP boiler, the building is proposed to the north of the main hub building. The centre would incorporate five boiler flues to a height of 13 metres. The proposed building would have a mono-pitch roof extending to a maximum height of 11.7 metres and the building would cover an area of 190m². Proposed external finishes are grey rainscreen cladding, and a standing seam aluminium roof.

1.6 A total number of 27 trees have been identified for removal for the proposed development from within the application site. A total number of 2,500 whips would be planted within the development site to enhance existing shelter belts and 8 heavy standard trees have been identified for tree planting at Mains Loan to enhance the tree avenue.

1.7 As the application site exceeds 2 hectares, the proposals constitute a major planning application as defined by Regulation 2(1) of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. Accordingly, the applicant was required to undertake statutory pre-application consultation with the local community. A Proposal of
Application Notice (PAN) was submitted in October, 2015 and a Pre-application Consultation Report has been submitted within the application supporting statement together with a design and access statement. A transport statement, ecology and tree studies, drainage strategy and landscape statement have also been submitted with the application. Plans have been amended in design terms to reflect consultation comments during the course of the application.

1.8 An Environmental Impact Assessment screening exercise was undertaken under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 as amended, following a request to the Scottish Government. Scottish Ministers have now issued a screening direction to confirm that an Environmental Impact Assessment is not necessary for the revised proposals. The development has been advertised as a development falling under a class of development specified in Schedule 3(4) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and constituting a “bad neighbour”, as the construction of a building(s) for indoor games/gymnasium which does not fall part of a school, college or university.

1.9 In accordance with the Council’s Scheme of Delegation, the application requires to be determined by the Council's Development Management Committee as the application is for a major development.

2 SITE DESCRIPTION

2.1 The application site measures 17.5 hectares and is located within Caird Park to the north of Dundee. The site is currently parkland, with existing sporting facilities comprising a velodrome and the Ronnie McIntosh Athletics Stadium. Areas within the site are currently used for informal community football pitches, there is also an area to the north in periodic use for funfairs and circuses. The site is gently sloping to the north, a well-established area of oak trees known as Oak Ward Wood lies to the north of the site. Mains Castle, a category A listed property, lies to the north west of the site boundary and is currently used as an events venue. The site is bound by the A90 Kingsway to the south and the A90 Forfar Road to the east, Oak Ward Wood and Claverhouse Road to the north and Caird Park golf courses and Mains Loan lie to the west of the site.

2.2 The area is identified as designated open space within the Adopted Dundee Local Development Plan (2014). The Dighty Wildlife Corridor, which is a Site of Importance for Nature Conservation, and the Den O’Mains Site of Importance for Nature Conservation, which
is partly within the Oak Ward Wood, lie to the north of the site, outside the application site boundary. There are no burdens or covenants pertaining to the land.

3 POLICY BACKGROUND

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

TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012-2032
Policy 1: Location Priorities
Policy 2: Shaping Better Quality Places

DUNDEE LOCAL DEVELOPMENT PLAN
Policy 5: Tourism and Leisure Developments
Policy 7: High Quality Design
Policy 29: Low and Zero Carbon Technology in New Development
Policy 34: Locally Important Nature Conservation Sites
Policy 35: Protected Species
Policy 36: Open Space
Policy 38: Trees and Urban Woodland
Policy 40: Waste Management
Policy 41: Flood Risk
Policy 42: Sustainable Drainage Systems
Policy 44: Air Quality
Policy 45: Land Contamination
Policy 47: Environmental Protection
Policy 51: Archaeology
Policy 54: Active Travel
Policy 55: Accessibility of New Developments

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS
Policy Planning Policy 2014

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 15/00702/PAN for the construction of a Regional Performance Centre for Sport and Training Ground was submitted in October 2015.

5 PUBLIC PARTICIPATION

5.1 A total of 18 letters of objection have been received to the proposals, 6 of the 18 letters have been submitted in relation to the amended proposals. Concerns originally raised have been in relation to a lack of footpath provision and a safer crossing over the Kingsway. Issues in relation to the removal of greenspace and public accessibility were also raised. Concerns have also been put forward with regard to potential impact on wildlife, and the removal of trees. Loss of trees and damage to ancient woodland were raised as an objection by the Scottish Woodland Trust to the former proposals, their objection has now been retracted. Questions were also raised at this time in relation to public participation in the planning process, and the decision making route for the proposals. Objection letters have stated that the proposals are
contrary to the development plan and queried the need for an Environmental Impact Assessment.

5.2 Issues raised following the publication of amended plans are in relation to the level of car parking, increased traffic and road safety, loss of greenspace, environmental concerns including impact on wildlife, and the loss of community use of this section of Caird Park. The requirement for the additional football pitches was queried, along with the requirement for an audit of current sporting facilities. The potential issue of flooding due to the use of Astro Turf was also raised. Concerns have been raised that the updated plans are incomplete and that public consultation guidelines have not been followed. It is the case, however, that any consultation following the amendment of plans has been additional to statutory requirements.

5.3 An electronic link to a petition has been lodged as an objection with 1,421 names, however there are no signatures or full postal addresses and therefore the online petition cannot be accepted as valid representation.

5.4 One letter of representation which was neither an objection nor a letter of support was received which sought assurance with regard to the Council's Pitch Strategy, tree replacement and the location of the hub and impact upon Mains Castle.

5.5 A letter of support was received in relation to the original plan from the head coach of the Tayside Dynamos Powerchair Football Club and chairman of the Scottish Powerchair Football Association who would welcome the facilities which would provide access for the needs of powerchair users in Tayside.

5.6 Following the publication of amended plans, an additional 36 letters of support have been received, citing reasons as the provision of improved accessible facilities, which would allow Dundee to compete at higher standards, economic benefits and profile enhancement, as well as health and inclusion benefits. Comments included that Caird Park has capacity for the development, and that the amended plans are sympathetic to local wildlife.

6 CONSULTATIONS

6.1 sportscotland – have advised that the amended plans accord with SPP, there is no objection to the proposal subject to confirmation that the proposal accords with the Pitches Strategy. It was previously advised that the works are phased to ensure that community access will be retained throughout the construction works, planning conditions were recommended in relation to pitch surfaces to ensure that replacement pitches would be of an appropriate standard.

6.2 SEPA – have maintained that they have no objections to the proposals.

6.3 Scottish Water – have no objection to the planning application.

6.4 Transport Scotland – advises that conditions are attached to any planning permission granted to ensure that facilities are provided for pedestrians and that the safety and free flow of traffic on the trunk road is not diminished.

6.5 Historic Environment Scotland – has retracted the previous objection to the proposals which was due to the impact the sports hub centre would have on the setting of the category A listed nationally important Mains Castle. The reworked scheme shows the hub building and covered pitch relocated away from the immediate setting of Mains Castle.
6.6 **The Council’s Consultant Archaeologist** – has recommended that a programme of archaeological works is conditioned as part of any planning permission granted, as the proposed development is within an area rich in archaeological sites.

6.7 **The Head of Community Safety and Protection** – has advised that conditions are appended to any planning permission granted to ensure that there is no contamination on the site, to ensure that noise levels are acceptable and to ensure that air quality standards are maintained.

6.8 **The Head of Environment** – recommended that the mitigation identified within the Ecological Appraisal and Tree Report are followed and appropriate conditions appended. The proposals to extend Oak Ward Wood are welcomed.

# DETERMINING ISSUES

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

## THE DEVELOPMENT PLAN

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

### ADOPTED TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012

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 make a major contribution to the region’s economy; Dundee’s core area is identified as a Tier 1 principal settlement.

7.3 The proposal satisfies Policy 1.

7.4 **Policy 2: Shaping Better Quality Places** - requires that climate change resilience and resource efficiency is built into the natural and built environment, that new development is integrated with the existing community and transport links, that waste management solutions are incorporated into development proposals and that new designs and layouts take cognisance of Scottish Governments Designing Places and Designing Streets, incorporating and enhancing present natural and historic assets. The proposals have demonstrated that they comply with the above; the site is well located and the proposals have addressed the required policy statements.

7.5 The proposal satisfies Policy 2.

### ADOPTED DUNDEE LOCAL DEVELOPMENT PLAN 2014

7.6 **Policy 5: Tourism and Leisure Developments** - states that tourist attractions capable of strengthening the appeal and attraction of Dundee to a wide range of visitors will be supported and that proposals should complement existing visitor facilities and be located in the City Centre unless activity-specific issues indicate that this is impractical. Proposals for major leisure uses will be directed firstly towards the City Centre and thereafter to District Centres and existing leisure parks, unless activity-specific issues indicate that this is impractical.
7.7 A number of sites were considered for the location of the Regional Performance Centre for Sport during the feasibility stage of the project. Caird Park was selected as the essential fit as it complemented the existing facilities and met all essential criteria. Activity-specific and size issues dictate in this instance that a City Centre location would be impractical. The two key reasons identified within the supporting statement submitted with the application for site selection were the existence of the same sports on site and proximity to and easy access onto the Trunk Road network.

7.8 The proposal satisfies Policy 5.

7.9 Policy 7: High Quality Design - requires all development to contribute positively to the quality of the surrounding environment, with reference to climate change adaptation. The design and siting of development should respect the character and amenity of the place and improve connectivity. Proposals should also incorporate new landscape and planting works appropriate to the development. Proposals should also:

- consider and respect site topography and any surrounding landmarks, views or skylines;
- contribute to a sense of identity by developing a coherent structure of streets, spaces, and buildings that are accessible and respect the existing building lines;
- the design should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours;
- existing buildings, streets and spaces should create safe accessible inclusive places for people which are easily navigable particularly on foot, bicycle and public transport and designed with future adaptability in mind; and
- existing buildings, structures and natural features that contribute to the local townscape should be retained and sensitively integrated into proposals.

7.10 The Supporting Statement submitted for the development sets out the reasoning for the design, siting and choice of materials proposed for the site. A landscaping scheme and new tree planting are also proposed. It is considered that site topography, views and skylines have been respected in the proposed design and the proposed location of the development. Building height, materials, scale, massing and finishes would be appropriate for the intended function and the setting of the buildings. The site is accessible and well connected, the existing core path network runs through the site. The design of each of the buildings proposed within the site has been dictated by function. The hub building has been primarily designed to deliver the performance programmes required of the participating sports and sportscotland. Externally the main building is intended to have a visual presence on site but is sensitive to its parkland setting. The massing of the overall form would be composed of a palette of brick and cladding in muted tones. The covered football pitch would be a lower structure with convex shape, set adjacent to the hub building. The athletics building is proposed as a simple rectangular form with a lightweight roof to maximise natural light, and the energy centre a more functional metal cladding finish. The pavilion building to be removed does not contribute to the local townscape, the War Memorial would remain within the application site.

7.11 The positioning of the buildings within the application site has been altered to address the concerns of Historic Environment Scotland. Historic Environment Scotland had raised an objection to the original proposals due to the effect on the setting of the category A listed Mains Castle, in terms of the hub building and its proximity to the Castle. The proposed location of the development is now to the south of the site, the hub building and covered pitch relocated from the immediate setting of Mains Castle to the less historically sensitive southern part of
the site adjacent to the Kingsway. Historic Environment Scotland have fully retracted their objection and now support the overall project.

7.12 The proposed design is considered to be appropriate for the setting. Public art would be incorporated into the design of the new development, which would allow for the creation of additional interest to parts of the development where this can be accommodated, this would be controlled by condition. Draft proposals appropriate to the parkland setting are currently being developed.

7.13 **With the addition of a planning condition, the proposal would comply with Policy 7.**

7.14 **Policy 29: Low and Zero Carbon Technology in New Development** - requires that, for specified developments, carbon emissions will be reduced by defined percentages through the installation and operation of zero-carbon generating technologies.

7.15 An appropriate condition is proposed that would ensure that a Statement is submitted in accordance with the terms of Policy 29.

7.16 **With the addition of a planning condition, the proposal would comply with Policy 29.**

7.17 **Policy 34: Locally Important Nature Conservation Sites** - states that development which could have a significant effect on the conservation interests associated with Local Nature Reserves, Sites of Importance for Nature Conservation or Wildlife Corridors will only be permitted where an ecological or similar assessment has been carried out which details the likely impacts of the proposal on the conservation interests of the designation, any negative impacts are mitigated, and it has been demonstrated that there are no other suitable sites that could accommodate the development.

7.18 The ecological assessment submitted with the application concludes that although the Trottick Park Local Nature Reserve is relatively close to the site, it is unlikely to be affected by the proposed development due to a relatively busy road and vast amounts of managed amenity grassland separating the application site and the Local Nature Reserve. The non-designated Den O’Mains Site of Importance for Nature Conservation lies to the north of the site within Oak Ward Wood, however the woodland is to be retained and will not be affected by the development. No other designated sites, including the Dighty Wildlife Corridor, would be affected by the development. The main habitat on the site is species poor amenity grassland of very limited botanical interest and the majority of the grassland areas are bound by species-poor hedgerows, also of low botanical interest.

7.19 **The proposal satisfies Policy 34.**

7.20 **Policy 35: Protected Species** - does not support development proposals which are likely to have a significant effect on a European protected species unless there is no satisfactory alternative, the development is required for preserving public health or safety, or other reasons of overriding public interest. 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 similarly 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.

7.21 A preliminary ecological appraisal was undertaken for the site in 2015, to determine if further assessment would be required. There are no designations for wildlife protection within the site, one statutory designated site, the Trottick Mill Ponds Local Nature Reserve, lies within 1km of the site, and two non-designated Sites of Importance for Nature Conservation lie within 1km at Den O’ Mains and the Dighty Wildlife Corridor. The ecological appraisal summarises
that the main habitat within the application site is amenity grassland playing fields, which are extensively surrounded by semi-natural broad-leaved woodland. There are habitats likely to support roosting, commuting and foraging bats and nesting birds. The pavilion building was identified as being capable of supporting low numbers of roosting bats and there is suitable bird nesting habitat within the site, old nests were identified within trees on site. No evidence of any other protected species was found. No non-native invasive species were observed in the survey and it was concluded that no further surveys were required.

7.22 As the habitats on site were considered to provide suitable habitat for foraging and commuting bats and it was advised that as many trees as possible should be retained. During emergence surveys, undertaken in August and September 2015, no bats were seen emerging from the pavilion building. The activity survey, which was undertaken at the same time to determine how bats use the site, recorded two species of bat within the site, which are common throughout Scotland and within urban environments, the bats were predominantly using the hedge adjacent to the existing running track and edges of woodland in the wider area for foraging. It was advised that the site could be enhanced for bats by erecting bat boxes in suitable mature trees around the site, a planning condition is proposed.

7.23 The site contains trees and bushes that are likely to be used by low numbers of common birds for nesting and two large nests were noted during the 2015 survey. The ecological appraisal therefore recommended that any site clearance is undertaken to avoid any impact on nesting birds as required under the provisions of the Wildlife and Countryside Act 1981. It was further suggested that bird boxes could be erected on trees to enhance the site for birds, appropriate planning conditions are proposed.

7.24 Surveys for red squirrels carried out over the last few years have indicated that there were very few in Caird Park and these individuals were found mostly in the woodland associated with the golf courses. It is likely that these squirrels were transient and it is therefore unlikely that they were resident in the park. As there is suitable habitat for this species on site, and their presence is known within the area, it is recommended that any mature trees which are identified for felling are checked immediately prior to felling for the presence of drays in case red squirrels have moved into the site. This is recommended as part of a planning condition.

7.25 The Preliminary Ecological Appraisal was updated in April 2017, in order to meet with current guidance and best practice. The basic Phase 1 Habitat Survey methods were again followed and the area was surveyed for badger, otter, red squirrel, and nesting birds. All trees proposed to be removed on the site have been re-surveyed for bats, evidence of nests and birds preparing to build nests.

7.26 The broad habitats and botanical value remain unaltered since the survey undertaken in 2015. No grey or red squirrel drays or other evidence was recorded in 2015 or 2017 however foraging opportunities remain within the site. One elm tree was considered suitable as a bat roost. Two bird nests were observed at the time of the survey, however, no nesting bird activity was identified in the trees to be removed at the time of the survey.

7.27 Recommendations following the 2017 survey include that the elm tree be re-surveyed prior to removal to inspect the void for any roosting bats. Any vegetation site clearance should have cognisance to the bird breeding season, but if clearance is carried out during the season, the site should be checked 48 hours prior to any vegetation clearance by an ecologist and any nests in use left undisturbed until the young have fledged. A check for squirrel drays should also be undertaken 48 hours prior to the felling of any trees.

7.28 It can therefore be concluded that the proposed development would not have a significant effect on a European protected species.
7.29 With the addition of planning conditions, the proposal would comply with Policy 35.

7.30 **Policy 36: Open Space** - indicates that proposals which would result in a change of use of open space must be able to demonstrate that the proposals are consistent with a strategy approved by the Council, compensatory open space will be provided or the proposals would affect only a lesser part of a site and are ancillary to it, or would result in improved recreational or amenity value on the remainder of the site. Proposals affecting playing fields and sports pitches are required to provide compensatory or improved playing fields unless the proposals are consistent with the Sport and Physical Activity Strategy.

7.31 The proposed area for the development is in the eastern section of Caird Park, the remainder of the park including the golf courses would remain untouched. The area for the proposed development includes the existing provision for athletics and cycling and would therefore be an appropriate location and development within this area of the park. The additional provision for various sports would improve recreational activity within the area and increase the amenity value of the space. The informal use of the space as pitches would be formalised with appropriate facilities for users and it would be considered that the proposal would have increased recreational and amenity value within the park.

7.32 The Dundee Physical Activity Strategy is currently under review, it was agreed in principle at the Policy and Resources Committee on the 31st October, 2016, and is fully supportive of the Regional Performance Centre and Training Ground. The development of the Regional Performance Centre for Sport and Training Ground was also considered as part of the Dundee Pitch Strategy which was approved at Neighbourhood Services Committee on 31st October, 2016.

7.33 As a result of the development, the site would go from having 4.5 grass pitches to 2 full size Synthetic Grass Pitches and a 7-a-side grass pitch. This equates to the same or greater playing capacity, in accordance with SPP and Dundee City Council's Pitch Strategy. No difficulties are envisaged given the generous supply of grass pitches throughout the city. Additional community facilities would also provide for the use of community clubs, such as the provision for rugby, that do not currently exist at the application site. The proposals are therefore deemed satisfactory in terms of the provisions of Policy 36.

7.34 The proposal satisfies Policy 36.

7.35 **Policy 38: Trees and Urban Woodland** - seeks to ensure that new development contributes to the expansion of tree planting and woodland development where appropriate and must ensure the survival of existing healthy mature trees through sensitive site layout both during and after construction. Development proposals must be accompanied by a tree planting and landscaping scheme with supporting statement and map based material showing the existing and proposed planting arrangements.

7.36 A total of 27 trees are proposed for removal to allow the construction of the proposed development to proceed.

7.37 An updated Landscape Statement and Landscape Strategy Plan have been submitted with the application. A total number of 1,078 new trees have been planted as an extension to Oak Ward Wood outside the application site boundary to the north. Enrichment planting of 2500 whips within the development site would enhance the existing shelter belts. An additional 8 heavy standard trees have been identified for tree planting at Mains Loan to help enhance the tree avenue along Mains Loan and ensure continuity of the landscape character.

7.38 A letter in relation to the original plans received from the Woodland Trust determined that although Oak Ward Wood does not appear on the inventory, it falls under SNH's ancient
woodland classification. The loss of trees and damage to ancient woodland was raised as an objection to the original proposals. The Head of Environment has advised that as the wood does not support any ancient woodland indicator species, apart from the trees themselves, and does not have a typical woodland structure composed of native species which would be expected in an ancient woodland, that Oak Ward Wood is not an ancient woodland. The fact that it has had tree cover since 1860 does not mean it is an ancient woodland, but just that the site supports a number of old trees. Oak Ward Wood is not on the Scottish Natural Heritage ancient wood map as it does not meet the minimum 2 hectare size criteria, Oak Ward Wood is 0.54 hectares. The Council does however recognise the need to retain and protect old and ancient trees and will continue to do so. The proposals to extend Oak Ward Wood with native species are welcomed. The applicant has re-consulted with the Woodland Trust following the amended proposals and the Scottish Woodland Trust have stated that the revised plans are a significant improvement and do not object to the development in its revised form.

7.39 Tree felling techniques and tree protection measures required during construction of the development are proposed as per British Standards, appropriate planning conditions are recommended to ensure that satisfactory felling techniques and tree protection measures are implemented and that a replanting scheme is implemented and maintained.

7.40 It is acknowledged that the delivery of the Regional Performance Centre and Training Ground would necessitate the removal of trees and bring about changes to the landscape. To mitigate for this impact, elements within the site and the wider landscape have been considered for additional enhancement and tree planting proposals have been identified. Tree removal has been carefully considered to minimise tree felling to accommodate placing of the buildings and pitches on the Caird Park site.

7.41 With the addition of planning conditions, the proposal would comply with Policy 38.

7.42 Policy 40: Waste Management Requirements - for Development requires development proposals to demonstrate that they have adequately addressed the Council’s waste strategy. It is noted that no details of waste management for the development have been submitted, however the proposals would be able to meet the requirements of this policy and an appropriate planning condition is proposed.

7.43 With the addition of a planning condition, the proposal would comply with Policy 40.

7.44 Policy 41: Flood Risk Management - indicates that areas with a 1 in 1000 to 1 in 200 year annual probability of flooding will be suitable for most developments. A Flood Risk and Drainage Strategy was submitted with the application, which observes that the 1:200 year flood risk areas of the Gelly and Dighty Burn are located to the north of the site. The development site is located outside this area, and Dundee City Council have no records of flooding within the development site; the proposals would therefore be considered in accordance with Policy 41.

7.45 The proposal satisfies Policy 41.

7.46 Policy 42: Sustainable Drainage Systems - states that surface water from new development must be treated by a Sustainable Urban Drainage System (SUDS), which should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300mm below floor level. Proposals are encouraged to adopt an ecological approach. A Drainage Strategy has been submitted for the proposal which indicates that the site runoff will be discharged into the Gelly Burn with appropriate levels of attenuation, which is considered to be satisfactory subject to conditions in relation to SUDS design, check certification,
construction water run-off management, SUDS maintenance and providing evidence of Scottish Water approval for connection,

7.47 With the addition of planning conditions, the proposal would comply with Policy 42.

7.48 **Policy 44: Air Quality** - states that 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.

7.49 **The Head of Community Safety and Protection** - has advised that with regard to the proposed energy centre and associated flues, an air quality assessment will be required to ensure that local air quality is maintained. It is advised that the air quality assessment is based on the maximum installed capacity to ensure that all chimneys are the height they need to be. Nearby trees can also influence dispersion and would be considered along with building heights. An appropriate planning condition is recommended to require the assessment with reference to the National Air Quality Strategy and any mitigation measures necessary.

7.50 With the addition of a planning condition, the proposal would satisfy the terms of Policy 44.

7.51 **Policy 45: Land Contamination** - requires that the development of potentially contaminated land will be considered where a site investigation has been submitted and establishes the nature and extent of the contamination, and where remediation is proposed that it would adequately address contamination risks and be suitable for the planned use.

7.52 The Head of Community Safety and Protection has recommended planning conditions to ensure that there would be no contamination at the site, to seek proposals for re-using soils, ground conditions and any mitigation required, with the addition of which the proposals would comply with the policy.

7.53 With the addition of planning conditions, the proposal would comply with Policy 45.

7.54 **Policy 47: Environmental Protection** - asks that all new development that would generate noise, vibration 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.

7.55 In this case, it is recommended by the Head of Community Safety and Protection that a condition is appended to any planning permission granted to mitigate against any potential noise issues, a condition restricting noise from plant and machinery associated with the proposed development is proposed, together with a condition to limit the use of any proposed public address tannoy systems, to minimise the impact on the amenity of neighbouring properties.

7.56 With the addition of planning conditions, the proposal would comply with Policy 47.

7.57 **Policy 51: Archaeology** - prescribes that 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 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 the character and extent of the archaeological remains, likely impact of the proposal on features of archaeological interest,
and the ways in which the development proposal can be designed in order to mitigate any impact on archaeological remains.

7.58 An archaeologist has been engaged in the project and has reviewed the application and supporting documentation. The development is within an area rich in archaeological sites, predominantly from the medieval period. The development generally lies on the eastern side of the route way running north from Dundee to Forfar. To the west is Mains Castle (formerly Fintry Castle) which dates from the 15th century while to the North West, across the burn, is the contemporary Mains Church. These important medieval structures highlight the importance of this route way, which in the mid-18th century also had the linear settlement of Hill o’ Mains running along it (on the west side of the development area). While there is no clear evidence that this recorded activity extended into the proposed development site, it is reasonable to presume that there is a strong likelihood that it did, and that the area has the potential for archaeologically significant material from the medieval and post-medieval periods. This potential is balanced by the existing development of this ground that may have compromised any such features should they be present. Should significant archaeological features be present, the development proposals would have the potential to generate an adverse impact, however there is no objection to the proposals, given the current land use at the site.

7.59 It is recommended that any planning permission should be conditioned for a programme of archaeological works, to enable the archaeological potential to be appropriately tested and a mitigation strategy agreed then implemented if required. The implementation of a staged programme of archaeological work is recommended. The scope of these works is likely to focus initially on an intrusive evaluation to determine the presence or absence of archaeological sites. The scale and character of subsequent responses would be determined by the quality and quantity of materials identified - these responses are likely to focus on either preservation or recording through archaeological excavation and analysis.

7.60 With the addition of planning conditions, the proposal would comply with Policy 51.

7.61 **Policy 54: Active Travel** - states that new development should be designed in order to minimise the need to travel by private car, improve access to services and promote healthy lifestyles by encouraging active travel. All developments should make provision for walking and cycle access and ensure that any existing core path is immediately accessible. All developments which border an existing or proposed core path must ensure that it is immediately and easily accessible from that development by the provision of appropriate facilities. Provision for walking and cycling should be afforded priority over motorised transport and walking and cycling routes should be fully useable prior to the first occupation of a new development.

7.62 Roads in the immediate vicinity of the site have good footway provision and benefit from street lighting. There is also a network of footpaths through Caird Park and Finlathen Park, and the Green Circular is in close proximity to the site, which further enhances walking opportunities; the Green Circular also offers a traffic-free route for cyclists in proximity to the site. There are several bus stops located close to the site on the A90 and Claverhouse Road. Enhancements are proposed in terms of pedestrian crossings and footpath links.

7.63 The principal east-west pedestrian route through the site would be via the shared core path to the edge of Oak Ward Wood, which lies outside the facility’s northern boundary fence. The perimeter of the site would be secured outside opening hours. Pedestrian routes from the west are limited, there is a core path through the golf course from Mains Loan to Old Glamis Road. Routes to the south require a crossing of the Kingsway, which is to be implemented as further discussed below. From the east and north, access is well served by existing pedestrian facilities. Routes to the application site in Caird Park have already been improved and there
are plans for future improvements to path networks within the park, as a result of public consultation.

7.64 The proposal satisfies Policy 54.

7.65 **Policy 55: Accessibility of New Developments** - seeks that all development proposals which generate travel should be designed and well served by all modes of transport and development proposals are required to incorporate facilities for walking, cycling and public transport networks. Proposals should also comply with Dundee City Council's road standards.

7.66 A Transport Assessment has been submitted with the application documents, which concludes that the site offers good sustainable access through existing footways, cycling and public transport connections. Many of the paths in the area would be generally upgraded to become shared use pedestrian and cyclist routes, the site has good links to the local and national road network; no mitigation measures are required on the road network as a result of the proposals. The existing site access is being upgraded to cater for greater demand and pedestrian crossing facilities will provide a link from the footpath on Claverhouse Road to the proposed footway on Mains Loan. The conclusions of the Transport Assessment are agreed subject to the addition of planning conditions to require pedestrian crossings to be completed, footpath links to be agreed and completed, the implementation of a travel plan and compliance with Dundee City Council's road design standards. Transport Scotland advice that conditions are appended to any planning permission granted, also to require the installation of pedestrian crossings at the Kingsway/Mains Loan junction and Kingsway/Graham Street junction, agreement of lighting within the site and submission of further details regarding works adjacent to the trunk road.

7.67 With the addition of planning conditions, the proposal would comply with Policy 55.

7.68 It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

**STATUTORY DUTY**

7.69 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.

7.70 For the reasons set out above the proposed works comply with national planning guidance with regard to development affecting the setting of a listed building. The amended application proposes development at a considerable distance from Mains Castle and the statutory duty set out in Section 59 of the Act would be discharged through the approval of planning permission.

**OTHER MATERIAL CONSIDERATIONS**

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

A - **Scottish Planning Policy (2014)**

7.72 Scottish Planning Policy (SPP) states that a positive approach to enabling high quality development should be taken while making efficient use of land to deliver long term benefits for the public while protecting and enhancing natural and cultural resources. The SPP considers that planning should direct the right development to the right place by locating development where investment in growth would have most benefit to the amenity of local
people and the vitality of the local economy. Change to the historic environment should be sensibly managed to minimise adverse impacts on the fabric and setting of the asset, and protected sites and species should be conserved and enhanced, seeking benefits for biodiversity from new development where possible.

7.73 The requirements of Scottish Planning Policy are also satisfied.

B - VIEWS OF OBJECTORS

7.74 Letters of objection have been received from a total of 18 individuals, including a letter from the Woodland Trust in relation to the original plans. Concerns have been raised in relation to lack of footpath provision and a safer crossing over the Kingsway. Issues in relation to the removal of greenspace and public accessibility were also raised. Concerns have also been put forward with regard to potential impact on wildlife, and the removal of trees. The Woodland Trust raised the loss of trees and damage to ancient woodland as an objection to the original proposals, their objection has been removed following the amended proposals. Questions were also raised in relation to public participation in the planning process, and decision making route for the proposals. Objection letters have stated that the proposals are contrary to the development plan and have queried the need for an Environmental Impact Assessment. The majority of these issues have been discussed earlier within this report, planning conditions are suggested to provide mitigation and improve the environment. The planning application has been assessed in accordance with statutory procedures and the Council’s scheme of delegation.

7.75 The concerns of the objectors are not supported.

7.76 It is concluded from the foregoing that the material considerations support the approval of planning permission.

8 CONCLUSION

8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations 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 consent be GRANTED subject to conditions:

1 **Condition** - the new 100m x 60m and 120m x 70m pitch (Pitches 1 and 2 per Drawing P16571/1002) will be surfaced with a synthetic pitch that will be designed and constructed by a recognised (eg Sports and Play Construction Association registered) specialist pitch contractor(s). Details of contractor(s) and pitch specification shall be submitted for the written approval of the planning authority prior to the commencement of development.

**Reason** - to ensure that the development is suitable for the proposed use.

2 **Condition** - the new grass pitch marked Pitch 3; and the new grass pitch in the centre of the Athletics Track (per Drawing P16571/1002) will be designed and constructed by a recognised (e.g. Sports and Play Construction Association registered) specialist pitch contractor(s), details of contractor(s) and pitch specification shall be submitted for the written approval of the planning authority prior to the commencement of development.
**Reason** - to ensure that the development is suitable for the proposed use.

3 **Condition** - prior to the commencement of any works on site, the developer shall establish a fixed datum point and shall submit to this Planning Authority a plan indicating the exact location and value of this datum point. The finished height of the hub building relative to the fixed datum shall also be indicated on this plan. This agreed datum point shall be used for future reference as the development proceeds.

**Reason** - to enable this Planning Authority to establish that the development is commencing from the correct level based on an agreed fixed datum point; and in order to ensure that the height of the development conforms to the approved plan.

4 **Condition** - prior to the commencement of any works on site, details of the specification and colour of the proposed external finishes shall be submitted for approval in writing by this Planning Authority.

**Reason** - in the interests of visual amenity; to ensure that the external finishing materials are appropriate to the character of the area.

5 **Condition** - prior to the commencement of any works on site, samples of external finishing materials shall be submitted for the written approval of this Planning Authority.

**Reason** - in the interests of visual amenity; to ensure that the external finishing materials are appropriate to the character of the area.

6 **Condition** - prior to the commencement of any works on site 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 amenity and environmental quality of the development.

7 **Condition** - prior to the commencement of any works on site, a Sustainability Statement demonstrating the extent to which the development will meet the requirements of Policy 29 of the Adopted Dundee Local Development Plan (2014) shall be submitted for the approval of the Council and the works shall be completed in accordance with the approved Statement.

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

8 **Condition** - prior to the commencement of any works on site, details for the installation of bird boxes on trees within the development shall be submitted for the prior approval of Dundee City Council as planning authority.

**Reason** - to enhance the ecological potential of the site for birds.

9 **Condition** - prior to the commencement of any works on site, details for the installation of bat boxes throughout the development shall be submitted for the prior approval of Dundee City Council as planning authority.

**Reason** - to enhance the ecological potential of the site for birds.
10 **Condition** - tree felling shall be undertaken as agreed within the tree report and drawings which form part of this planning permission and shall be undertaken as per BS3998: 2012. Prior to felling, the trees shall be checked for any European protected species or nesting birds and if discovered the work shall cease and the developer will liaise with Dundee City Council as Planning Authority and appropriate organisations. Prior to any excavations, the tree protection recommendations identified within the Tree Survey dated 29/10/2015 and forming part of this planning permission shall be fully implemented and all tree works shall be carried out as per BS5837: 2012.

**Reason** - to ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenity and ecological preservation of the area.

11 **Condition** - within 6 months of the first use of the development, trees and shrubs shall be planted on the site in accordance with a scheme which has been submitted to and approved by the City Council; this scheme shall include a proportion of native trees and shrub species. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five 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** - in the interests of visual amenity and to ensure a satisfactory standard of local environmental quality.

12 **Condition** - prior to the commencement of any works on site, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design and Independent Check Certification, 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 occupation of the buildings hereby approved.

**Reason** - in the interests of flood protection.

13 **Condition** - prior to the commencement of any works on site, details of measures proposed to manage surface water run-off from the site during construction 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 any part of the development hereby approved.

**Reason** - in the interests of flood protection.

14 **Condition** - prior to the commencement of any works on site, 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 prevention and visual amenity.

15 **Condition** - prior to the commencement of any works on site, 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 interest of flood protection.

16 **Condition** - prior to the commencement of any works on site, an assessment of the impact of emissions to air from or associated with the development, including the energy
centre, construction and demolition, carried out by a method agreed by the planning authority shall be submitted to and approved in writing by the planning authority. The assessment report shall make reference to the standards and objectives of the National Air Quality Strategy. Where the development is assessed as having an adverse impact on local air quality, mitigation measures shall be specified in the report. The approved mitigation measures shall be completed before the use of the development commences in relation to the energy centre, and prior to any work beginning on site in relation to construction and demolition.

**Reason** - to ensure that local air quality is maintained.

17 **Condition** - details of any proposed public address (tannoy) system, shall be submitted to and approved in writing by the local planning authority before the system is installed, with these details including the locations of tannoy’s, maximum operational sound levels, permitted uses, and times of operation and any approved details shall be in place prior to the first use of the system and remain in perpetuity thereafter.

**Reason** - to safeguard the amenities of the area and the occupiers of neighbouring properties.

18 **Condition** - the total noise from all mechanical and electrical services plant shall not exceed NR45 during daytime hours and NR35 during night time hours when measured 1 metre external to the facade of nearby residential properties. For avoidance of doubt, day time hours shall be 0700 to 2300 hours, and night time hours shall be 2300 to 0700 hours.

**Reason** - to safeguard the amenities of the occupiers of neighbouring properties.

19 **Condition** - prior to the use of the development hereby permitted, the proposed installation of a signalised pedestrian crossing at the A90 Kingsway / Mains Loan junction, generally illustrated in Dundee City Council’s drawing titled "Kingsway at Mains Loan - Dual Pedestrian Crossing" dated July, 2016, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland, Trunk Road and Bus Operations (TRBO).

**Reason** - to ensure that the design layout complies with the current standards, that facilities are provided for the pedestrians that are generated by the development, and that the safety and free flow of traffic on the trunk road is not diminished.

20 **Condition** - prior to the use of the development hereby permitted, the proposed installation of a signalised pedestrian crossing at the A90 Kingsway/Graham Street junction, generally as illustrated in Dundee City Council’s drawing entitled "Kingsway at Graham Street - Dual Pedestrian Crossing", dated July, 2016, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland TRBO.

**Reason** - to ensure that the design layout complies with the current standards, that facilities are provided for the pedestrians that are generated by the development, and that the safety and free flow of traffic on the trunk road is not diminished.

21 **Condition** - prior to the commencement of any works on site, details of the lighting within the site shall be submitted for the approval of the planning authority, after consultation with Transport Scotland, as the Trunk Roads Authority.
**Reason** - to ensure that there will be no distraction or dazzle to drivers on the truck road and that the safety of the traffic on the truck road will not be diminished.

22 **Condition** - prior to the commencement of any works on site, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland TRBO.

**Reason** - to ensure that there will be no distraction to drivers on the truck road, and that the safety of the traffic on the truck road will not be diminished.

23 **Condition** - prior to the commencement of any works on site, details of the barrier proposals along the trunk road boundary shall be submitted to, and approved by, the planning authority, after consultation with Transport Scotland.

**Reason** - to minimise the risk of pedestrians and animals gaining uncontrolled access to the truck road with the consequential risks of accidents.

24 **Condition** - there shall be no drainage connections to the trunk road drainage system.

**Reason** - to ensure that the efficiency of the existing trunk road drainage network is not affected.

25 **Condition** - prior to the use of the development hereby permitted, the proposed installation of a toucan crossing on Claverhouse Road, shall be implemented to the satisfaction of the Planning Authority, after consultation with the planning authority.

**Reason** - in the interests of vehicle and pedestrian safety.

26 **Condition** - prior to the commencement of any works on site, details of footpath links within Caird Park shall be submitted and agreed with Dundee City Council as planning authority.

**Reason** - in the interests of pedestrian safety.

27 **Condition** - prior to the commencement of any works on site, details of proposed road marking alterations at the Kingsway/Forfar Road junction shall be submitted to Dundee City Council as planning authority in consultation with Transport Scotland, thereafter the works shall be completed in accordance with the agreed details.

**Reason** - in the interests of vehicle and pedestrian safety.

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

**Reason** - in the interests of promoting sustainable transport.

29 **Condition** - prior to the commencement of any works on site, details of a footway on the west side of Mains Loan linking the site with Claverhouse Road shall be submitted to Dundee City Council as planning authority, thereafter the works shall be completed in accordance with the agreed details.

**Reason** - in the interests of vehicle and pedestrian safety.
30 Condition - electric car charging points shall be provided at a location and number to be agreed with Dundee City Council as Planning Authority prior to opening of the development.

Reason - in the interests of sustainable travel measures.

31 Condition - The hard surface within the curtilage shall be made of porous materials or provision shall be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

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

32 Condition - the applicant shall provide a disposal route for road surface water to the satisfaction of Dundee City Council which discharges to a system publicly maintained/maintainable by the relevant authority.

Reason - to ensure an appropriate and publicly maintainable system is provided.

33 Condition - no development shall take place within the development area until the applicant has secured the implementation of a staged programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the applicant, agreed by the local Archaeology Service and approved by the Planning Authority.

Reason - in order to safeguard the archaeological heritage of the site and to ensure that the developer provides for an adequate opportunity to investigate, record and rescue archaeological remains on the site, which lies within an area of archaeological importance.

34 Condition - prior to the commencement of any works on site, a landscaping plan, including proposals for the use and re-use of soils shall be submitted for the prior approval of Dundee City Council as Planning Authority.

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

35 Condition - prior to the commencement of any works on site, a proposal for assessing ground conditions during investigation should be submitted for the prior approval of the planning authority. This should include details of recommended actions should unexpected ground conditions become apparent during works. If necessary, further assessment, and proposals for remediation should be submitted to and approved in writing by the planning authority prior to works commencing. The strategy 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.

Reason - in the interests of providing a site suitable for future development.
36 **Condition** - prior to first use, the landscaping plan, and if necessary, the remediation strategy shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives 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.

37 **Condition** - prior to the commencement of any works on site, a timetable of construction works will be submitted for prior approval of the Planning Authority. This timetable shall include a demonstration that facilities will remain publicly available

**Reason** - to ensure that community access to the site is retained throughout construction works.

38 **Condition** - prior to the commencement of any works on site, the developer shall submit a scheme for the prior approval of Dundee City Council as Planning Authority to demonstrate that the Council's waste strategy is adequately addressed.

**Reason** - in the interests of amenity and environmental protection.
SUMMARY OF REPORT

- Anton House is a 19th century stone villa situated on an elevated site within mature landscaped grounds and stone boundary wall.
- The property has changed use and been extended over the years to the side (west) and rear (north). The property’s last use was the Anton Ogilvie Centre, an adult resource service, operated by Capability Scotland. The property is currently vacant.
- The proposal is for the part demolition, change of use and redevelopment of Anton House to form a contemporary residential development consisting of 19 two bedroom flats and 3 three bedroom houses. Associated car parking, landscaping and a new vehicular access are also proposed.
- The proposal site is within the Forthill Conservation Area.
- The application is being referred to the Development Management Committee due to the number of objections received.

RECOMMENDATION

The application satisfies the requirements of the Adopted Dundee Local Development Plan 2014. There are no material considerations that would justify the refusal of this application. The application is therefore recommended for APPROVAL subject to conditions.
1 DESCRIPTION OF PROPOSAL

1.1 The proposal is for the part demolition, change of use and redevelopment of Anton House to form a contemporary residential development consisting of 19 two bedroom flats and 3 three bedroom houses.

1.2 The proposal involves enlarging the roof of Anton House to create an additional upper storey and the creation of a four storey contemporary extension to the side (west) and rear (north) of the original house to form 19 two bedroom flats.

1.3 In addition to the redevelopment of Anton House, 3 contemporary designed three bedroom houses are proposed in the garden grounds to the rear (north) with associated in curtilage parking and garden ground.

1.4 The proposal includes the creation of a total of 35 associated car parking spaces, a new vehicular access and landscaping.

Figure 1 – Proposed Site Plan
1.5 There is a related planning application reference 17/00159/CON for the demolition of the later extensions to Anton House on the side (west) and rear (north) and a garage located in the grounds to the east.

2 SITE DESCRIPTION

2.1 Anton House is a 19th century stone villa situated on an elevated site within mature landscaped grounds and stone boundary wall.

2.2 Formerly a private dwelling house, the property has changed its use and been extended over the years to the side (west) and rear (north). The property’s last use was the Anton Ogilvie Centre, an adult resource service, operated by Capability Scotland. The property is currently vacant.

2.3 Anton House is situated within a prominent site to the north of the junction of Cedar Road and Forthill Road. The site falls north to south, with a difference in level of approximately 10 metres across the site.

2.4 The existing main vehicular access is located to the south of Anton House at the junction of Cedar Road and Forthill Road. To the west of this access is a private dwelling house, Lodge House, which does not form part of the proposed development.

2.5 The surrounding area is mainly residential. To the immediate north of the site is residential, to the west is Cedar Road, to the east is Forthill Road and to the south is residential.

2.6 The proposal site is located within the Forthill Conservation Area.

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN
Policy 7: High Quality Design
Policy 9: Design of New Housing
Policy 11: Formation of New Residential Accommodation
Policy 12: Development of Garden ground for New Housing
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 93/18297/D – an application to enlarge a window opening was approved on 5 August 1993.

4.2 98/23487/D – an application to extend the existing car park was approved on 19 December 1998.

4.3 15/00919/FULL - WITHDRAWN. Demolition of existing building and erection of a new build 29 residential apartment building, complete with associated car parking, landscaping and new access road.

4.4 15/00920/CON - WITHDRAWN. Complete Demolition in a Conservation Area.

4.5 16/00788/FULL - WITHDRAWN. Redevelopment of Anton House to form 29 residential apartments, including partial demolition of part of Anton House, development of new build extensions and standalone annex building, with associated car parking, access road and landscaping.

4.6 16/00869/CON - WITHDRAWN. Substantial Demolition in a Conservation Area.

4.7 17/00159/CON – substantial demolition in a Conservation Area – Pending Consideration.

5 PUBLIC PARTICIPATION

5.1 The application was the subject of statutory neighbour notification and eleven letters were received. This included one letter of support, three letters of representation and seven letters of objection.

5.2 The letters of objection raised issues in relation to design, drainage, loss of light, overlooking, privacy, noise, impact on the conservation area, tree management and parking.

5.3 The letters of representation related to issues with drainage and design.

6 CONSULTATIONS

6.1 Scottish Water – Scottish Water has no objection to the proposed development.

6.2 Community Safety and Protection – the Head of Community Safety and Protection has requested that in respect of contamination a condition is attached to any consent granted to
ensure that before any unit is occupied the recommendations of the submitted Site Investigation Report, Version 2, dated June 2016, are fully implemented.

6.3 Neighbourhood Services – the Head of Environment has requested that prior to the commencement of development, an up to date scheme of landscaping is submitted to the Council for written approval and for this to include full details and justification for any trees to be removed; full details of trees to be retained and protected during the redevelopment of the site and full details of any new planting and landscaping proposed.

6.4 Broughty Ferry Community Council – a letter of support was received for the proposed development.

7 DETERMINING ISSUES

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

THE DEVELOPMENT PLAN

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

7.2 Policy 7: High Quality Design - this policy requires all development to contribute positively to the quality of the surrounding built and natural environment and to respect the character and amenity of the place. The policy adopts a design criteria approach which requires development proposals to consider and respect site topography and any supporting important landmarks, views or skylines; contribute to a sense of identity; complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours; existing buildings structures and natural features that contribute to the local townscape should be retained and sensitively integrated into the proposals.

7.3 Anton House is located within a prominent site in the Forthill Conservation Area. The original historic building has been adapted for non-residential uses over the years and the proposal includes the removal of later extensions to the original building to the side (west) and rear (north) which are of poor architectural quality and condition and a rolled steel structural frame mounted garage set onto a reinforced concrete floor slab which is located to the east of Anton House. There is a related application, reference 17/00159/CON, for the demolition of the later extensions to Anton House.

7.4 The proposal involves enlarging the roof of the two storey Anton House to create an additional upper storey. This has been sensitively designed to respect the existing roof pitch and would be a positive addition to the historic building. Internal and external features of architectural and historic interest are to be retained and sensitively restored as part of the development including bay windows, feature stain glass window on the east elevation, slate roof, stone features and entrance portico.

7.5 The proposed four storey contemporary extension to the side (west) and rear (north) of the original house is set back to respect the front (south) elevation of the historic house. Overall the proposed contemporary extension is of a height, scale and massing that respects and complements the original historic property. The location of the extension to the side (west) and rear (north) allows it to remain largely unseen from the immediate surrounding roads and streets due to the landscaped setting and characteristic stone boundary wall. Quality modern

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materials are proposed for the contemporary extension which will complement the historic building, add visual interest and contribute positively to the site and the surrounding conservation area.

7.6 The 3 three bedroom houses proposed in the garden ground to the rear (north) of Anton House are two storey in height and of a contemporary flat roof design. The proposed houses are positioned and designed to respect the building line of the existing residential properties to the north of the site and avoid any potential overshadowing or overlooking issues. Boundary planting has been proposed around the site to maintain the overall sense of mature landscaping and to provide additional privacy screening where required between the proposal site and the existing neighbouring properties to the north.

7.7 The proposed site plan shows the sensitive integration of natural features into the development. The Head of Environment has been consulted and has requested that prior to the commencement of development, an up to date scheme of landscaping is prepared by the applicant and submitted to the Council for approval.

7.8 In the interests of visual amenity, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request a full and detailed scheme of landscaping.

7.9 This high quality contemporary development has been designed to complement the sensitive restoration of the vacant historic building. The proposed development will bring a vacant historic building back into residential use and provide a mix of high quality modern residential units to complement and enhance the surrounding area. Overall, the proposed development will add visual interest through a sympathetic blend of old and new architectural styles and quality contemporary materials to create an attractive addition to an evolving urban landscape.
7.10 In the interests of visual amenity, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request full details of the materials and finishes of the proposed residential development.

7.11 The proposal satisfies Policy 7.

7.12 Policy 9: 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 build on and enhance the distinct character and identity of the different parts of the City.

7.13 All new housing development will require to conform to the guidance on the Design of New Housing set out in Appendix 3.

7.14 Small scale housing development for less than 5 units and the formation of new residential accommodation through the conversion of existing residential accommodation or change of use 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 parking.

7.15 The proposed residential units are required to conform to the suburban standards set out in Appendix 3 for house type, car parking, cycle provision, amenity/garden ground and privacy.

7.16 Appendix 3: Suburban Standards - Appendix 3 states that flats may be acceptable through the conversion of buildings of merit where conversion to houses is not suitable or achievable. Flats should have generous internal space standards and two or more bedrooms or a minimum gross internal floor area of 100m². The applicant has submitted supporting information to show that the proposed change of use and extension of Anton House to flats is sympathetic to the character of the historic house and landscaped grounds and will complement the mix and type of dwellings in the surrounding residential area. The proposed conversion will form 19 two bedroom flats with a range of floor spaces to meet the suburban standards. The proposed 3 bedroom houses are in line with suburban standards.

7.17 Appendix 3 requires a minimum of 150% car parking to be provided with at least one space dedicated to each flat and for private houses with three bedrooms at least two spaces are required. A total of 35 car parking spaces are proposed for the development with 19 allocated to the proposed flats and two in curtilage spaces are allocated for each of the proposed houses in line with suburban standards. The additional 10 spaces will be allocated for visitors and 2 electric car charging points are proposed in the car parking area to the east side of Anton House.

7.18 Cycle provision is to be provided for the flats in two secure outbuildings located to the north and east of the apartment building. This is in line with the suburban standards for flats set out in Appendix 3.

7.19 In the interests of visual amenity, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request full details of the materials and finishes of the proposed bike stores.

7.20 In respect of amenity/garden ground, the proposed houses meet the minimum standard of 120m² of garden ground required for each house. Anton House is set within mature landscaped grounds and it is proposed that the flats share this quality living environment in line with suburban standards. In addition some flats have been designed with a small area of usable external balcony space. Appendix 3 requires a separate drying area to be provided for flats however the supporting design statement outlines that each flat will be fitted with a washer/dryer in lieu of this.
7.21 In respect of privacy, in line with suburban standards, a minimum of 18m has been maintained between overlooking windows of the existing Anton House and the houses to the rear. Windows have been carefully positioned to be looking away from adjacent building windows. The design of the upper floor balconies has also been carefully considered to maintain this separation distance between properties and suitable screening employed to prevent overlooking of adjacent flats. Boundary planting has been proposed around the site to maintain the overall sense of mature landscaping and to provide additional privacy screening where required between the proposal site and the existing neighbouring properties to the north.

7.22 In line with Appendix 3, waste management provision will be provided in accordance with Dundee City Council’s waste strategy.

7.23 The proposed formation of residential accommodation through the change of use and sensitive conversion and extension of Anton House is of a high quality which respects the character and identity of the surrounding area.

7.24 The proposal satisfies Policy 9 and Appendix 3.

7.25 **Policy 11: Formation of New Residential Accommodation** - the creation of new residential accommodation through the development of existing roof/basement space or the subdivision of existing residential accommodation or change of use will be supported where:

1. the requirements for the design of new small scale housing (Policy 9 and Appendix 3) are met;

2. all new dwellings created will have a quality surrounding environment with main living areas being located on a principal elevation;

3. it will not have a detrimental effect on the environmental quality enjoyed by existing residents by virtue of the loss of amenity/garden ground, the loss of both off/on street parking provision and increased traffic movements; and

4. the change of use is consistent with all other policies of the Plan.

In respect of Policy 11, the proposal is assessed against the 4 criteria as follows:

7.26 As outlined above the policy meets the requirements of Policy 9 and Appendix 3.

7.27 The proposed conversion and extension is sympathetic to the existing layout and position of the historic building. Overall the fusion of old and new development is of a high quality with most of the flats to benefit from a dual aspect. Only one flat is restricted to a north facing single aspect design. The proposed development offers a range of floor spaces with some flats designed with a small area of usable external balcony space. All flats will have access to substantial mature landscaped grounds.

7.28 The proposed development will not result in any substantial loss of amenity garden ground. The main grounds to the south of the building are substantial and to be retained in communal use for residents of the new development with access maintained for the surrounding community. Sufficient car parking is proposed within the grounds of Anton House to meet the requirements of Policy 9 and Appendix 3. Discussion during the application process highlighted an issue with the potential safety of the existing main vehicular access with the expected increase in vehicular movement from the proposed development due to its location on a busy junction to the south of Anton House. Accordingly, a new vehicular access is proposed to the east of Anton House from Forthill Road. The design of this new vehicular
access has been sensitively considered with regards to both road and pedestrian safety and the new opening required in the existing historic stone boundary wall.

7.29 In the interests of visual amenity and restoring the appearance of the stone boundary wall, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request that prior to the commencement of development details of finishing materials and a method statement for the new vehicular access to be created is submitted to the Council for written approval.

7.30 The proposed development will not have a detrimental effect on the environmental quality enjoyed by existing residents.

7.31 The change of use is consistent with all other policies of the Plan.

7.32 The proposal satisfies Policy 11.

7.33 Policy 12: Development of garden ground for New Housing - the development of garden ground for new houses will be supported where the proposal meets the following criteria:

1. the proposed new house/s meet/s the requirements for the design of new small scale housing (Policy 9 and Appendix 3);
2. no new building is proposed in front of the principal elevation of the existing house;
3. both the curtilage of the existing house and the proposed house maintain the prevailing density of the surrounding area;
4. that the useable private garden ground of the existing house is maintained to a level in keeping with the scale of the house and that of similar houses in the surrounding area;
5. that sufficient off street car parking is maintained/provided with the existing house in accordance with its size;
6. the development will not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking; and
7. the development is consistent with all other policies of the Plan.

In respect of Policy 12, the proposal is assessed against the seven criteria as follows:

7.34 The proposed 3 houses to the rear (north) of Anton House meet the requirements for the design of new small scale housing (Policy 9 and Appendix 3).

7.35 The proposed development has been sensitively designed to respect the existing historical building and no new building is proposed in front of the principal elevation.

7.36 The surrounding area is a mix of densities and house types. The proposed development respects the historical setting of Anton House and the neighbouring properties to the north.

7.37 The proposed development of 3 houses has been sensitively located in an area of garden ground to the rear (north) of Anton House to minimise any impact on the character and setting of the 19th century stone villa. The associated garden grounds meet the suburban standards set out in Policy 9 and Appendix 3 and are of a similar scale to other houses in the area. The main private garden ground of the existing house has been incorporated into the design of the proposed development for use as communal garden ground/amenity space. It has been
designed to be maintained to a level in keeping with the scale of the house and that of similar houses in the surrounding area.

7.38 The proposed level of parking provision within the boundary of the site meets the requirements of policy 9 and Appendix 3.

7.39 The proposed development has been sensitively designed and will not have a detrimental effect on neighbouring properties in terms of physical impact, overshadowing or overlooking. In line with Policy 9 Appendix 3 suburban standards, a minimum of 18m has been maintained between overlooking windows of the proposed development and the houses to the rear. Windows have been carefully positioned to be looking away from adjacent building windows. The design of the upper floor balconies has also been carefully considered to maintain this separation distance between properties and suitable screening employed to prevent overlooking of adjacent apartments. Boundary planting has been proposed around the site to maintain the overall sense of mature landscaping and to provide additional privacy screening where required between the proposed site and the existing neighbouring properties to the north.

7.40 The development is consistent with all other policies of the Plan.

7.41 The proposal satisfies Policy 12.

7.42 Policy 29: Low and Zero Carbon Technology in New Development - proposals for all new buildings will be required to demonstrate that at least 10% of the carbon emissions reduction standard set by Scottish Building Standards (2007) will be met through the installation and operation of zero-carbon generating technologies. This percentage will increase to 15% from the beginning of 2016 and will be reviewed in 2018.

7.43 A statement will be required to be submitted demonstrating compliance with this requirement.

7.44 This policy is relevant for the proposed 3 three bedroom houses. In the interests of reducing carbon emissions associated with the proposed 3 houses, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request a sustainability statement.

7.45 The proposal satisfies Policy 29 subject to a condition being attached.
7.46 **Policy 38: Trees and Urban Woodland** - the Council will support the establishment and enhancement of woodland, tree belts and corridors. New development should contribute to the expansion of tree planting and woodland development where appropriate and must ensure the survival of existing healthy mature trees through sensitive site layout both during and after construction. Where appropriate, development proposals must be accompanied by a tree planting and landscaping scheme which includes a supporting justification and sufficient map based material to document existing planting within the application site as well as new planting and maintenance arrangements.

7.47 The site is set within mature landscaped grounds. A detailed report on the existing trees has been submitted and a number of trees are proposed to be removed. The proposed site plan shows the integration of mature landscaping within the proposed development. Further justification is required for the proposed trees to be removed together with a tree protection plan and a detailed replanting or landscape plan.

7.48 The Head of Environment has been consulted and has requested that prior to the commencement of development, an up to date scheme of landscaping is prepared by the applicant and submitted to the Council for written approval. This should include full details and justification for any trees to be removed; full details of trees to be retained and protected during redevelopment of the site and full details of any new planting and landscaping proposed.

7.49 In the interests of visual amenity, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request a full and detailed scheme of landscaping.

7.50 **The proposal satisfies Policy 38 subject to a condition being attached.**
7.51 **Policy 42: Sustainable Drainage Systems** - surface water from new development must be treated by a Sustainable Urban Drainage System (SUDS) except for single houses or where discharge is to coastal waters. SUDS should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300 mm below floor level. 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 habitat creation or enhancement through measures such as the formulation of wetlands or ponds.

7.52 A Flood Risk Assessment and Drainage Strategy Report has been submitted with the application. Reference to the SEPA flood map indicates that the site and surrounding areas are not at risk of pluvial flooding or fluvial flooding. However, close to the existing southern entrance to Anton House a number of flooding incidents have been recorded on Cedar Road which have been attributed to 'out of sewer flooding' relating to gradient changes to the existing combined sewer in Cedar Road. This is out with the proposal site.

7.53 The proposed development incorporates the creation of a deep surface water soakaway within the curtilage of the proposal site. The proposed soakaway has been designed for a 1 in 200 year event plus climate change and urban expansion allowances, and the calculations show that while the soakaway fills halfway during this event, it has sufficient capacity to contain the design flow until it percolates away, without over-topping and contributing to flooding elsewhere. The proposed use of a soakaway to collect all surface water from the proposed development will not impact the existing combined sewer network and based on professional advice, should free up capacity within the network.

7.54 The proposal satisfies Policy 42.

7.55 **Policy 45: Land Contamination**

a Development of potentially contaminated brownfield 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.

b An alternative use to that identified in the Local Development Plan will be considered where the above criteria are satisfied and:

1. an economic appraisal establishes that the site cannot be economically developed for the allocated use due to the level or type of contamination; and

2. the proposed use meets the requirements of other relevant policies of the Local Development Plan.

7.56 A Site Investigation Report has been submitted by the applicant. The Head of Community Safety and Protection has been consulted and has recommended that before any unit is occupied the recommendations of the submitted Site Investigation Report are fully implemented and that the Council is immediately notified in writing if any ground contamination is found during redevelopment works.
In the interests of ensuring the site is suitable for residential development, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request that before any unit is occupied the recommendations of the submitted Site Investigation Report (Version 2 dated June 2016) are fully implemented and that the Council is immediately notified in writing if any ground contamination is found during redevelopment works and thereafter a scheme to deal with contamination is submitted to and agreed in writing by the Council.

The proposal satisfies Policy 45.

Policy 50: Development in Conservation Areas - within conservation areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features that contribute to the character and appearance of the conservation area.

The proposal site is located within the Forthill Conservation Area. The Conservation Area is located on a south facing slope and developed much of its unique character during the Victorian era. The Forthill Conservation Area is characterised by high boundaries consisting of high stone walls or lower walls supporting tall hedges. Screened behind the characteristic walls are relatively substantial Victorian villas set in generous garden ground. A further representative feature of the Conservation Area is the high level of urban greenery.

Anton House represents a number of key features of the Conservation Area. The design of the proposed development respects these features and through a fusion of old and new will bring this prominent site in the conservation area back into residential use and enhance the character and appearance of this evolving urban landscape.

The proposal satisfies Policy 50.

It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

STATUTORY DUTY

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

For the reasons set out above the proposed development complies with national planning guidance with regard to development affecting a Conservation Area or the setting of a listed building.

The statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 would be discharged through the approval of planning permission.

OTHER MATERIAL CONSIDERATIONS

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

A - VIEWS OF OBJECTORS

The seven letters of objection raised issues in relation to design, drainage, loss of light, overlooking, privacy, noise, impact on the conservation area, tree management and parking.
In respect of the issues raised by the objectors:

7.69 The proposed development has been sensitively designed to respect the existing historical building and the surrounding area. The modern style and design of the extension and new build houses adds interest and variety and will be a positive addition to complement the restoration of the vacant historic building.

7.70 The proposed creation of a soakaway within the curtilage of Anton House to collect all surface water from the proposed development will not impact the existing combined sewer network and based on professional advice, should free up capacity in the network.

7.71 The existing residential properties to the north are some 35 metres from the rear (north) elevation of the historic house. The natural topography of the area runs steeply north to south and is a key feature of the conservation area. The proposed development has been sensitively designed to respect the natural topography of the site, the setting of the historic property and the surrounding residential properties. Through supporting documents and plans the applicant has demonstrated that the proposed development will not have a detrimental effect on neighbouring properties in terms of physical impact, overshadowing or overlooking.

7.72 Boundary planting has been proposed around the site to maintain the overall sense of mature landscaping and to provide additional privacy screening where required between the proposal site and the existing neighbouring properties to the north.

7.73 Sufficient car parking is proposed within the site boundary to meet suburban standards. A total of 35 car parking spaces are proposed for the development with 19 allocated to the proposed flats and two in curtilage spaces are allocated for each of the proposed houses in line with suburban standards. The additional 10 spaces will be allocated for visitors with 2 electric car charging points proposed in the car parking area to the east side of Anton House.

7.74 During the application process an issue was raised with regard to the potential safety of the existing main vehicular access due to its location on a busy junction to the south of Anton House and the expected increase in vehicular movement from the proposed development. Accordingly, a new vehicular access is proposed to the east of Anton House from Forthill Road.

7.75 The design of the proposed development respects the character and setting of the conservation area. The proposal will bring a prominent vacant site in the conservation area back into residential use through a sympathetic blend of old and new architectural styles and materials and in so doing will add interest and enhance this attractive evolving urban landscape.

7.76 The concerns of the objectors have been considered and addressed in the report above and are not of sufficient weight to justify refusal of the application.

B - LETTER OF SUPPORT

7.77 Broughty Ferry Community Council support the proposal in order to preserve and enhance the Anton House site that falls within the Forthill Conservation Area.

C – BREACHES IN BOUNDARY WALLS – POLICY AND GUIDANCE

7.78 Discussion during the application process highlighted an issue with the potential safety of the existing main vehicular access due to its location on a busy junction to the south of Anton House. Accordingly, a new vehicular access is proposed to the east of Anton House from Forthill Road. The design of this new vehicular access has been sensitively considered with
regards to both road and pedestrian safety and the new opening required in the existing historic stone boundary wall.

7.79 The proposed new opening will not adversely affect the amenity or character of the conservation area and is in line with the Council’s Policy and Guidance on Breaches in Boundary Walls.

7.80 In the interests of visual amenity and restoring the appearance of the stone boundary wall, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request that prior to the commencement of development details of finishing materials and a method statement for the new vehicular access to be created is submitted to the Council for written approval.

7.81 There are no material considerations that would justify the refusal of planning permission.

8 CONCLUSION

8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is therefore recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

9.1 It is recommended that consent be GRANTED subject to the following conditions:

1 Condition - prior to the commencement of work on site, details 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.

2 Condition - prior to the commencement of work on site, details of the methods and materials to be used to create a new vehicular access in the existing historic stone wall shall be submitted to the Council for written approval. Thereafter, the works to create a new opening shall be carried out in accordance with the details approved by this condition.

Reason - in the interests of visual amenity.

3 Condition - prior to the commencement of work on site, details of the proposed design and finishing materials for the proposed bike stores shall be submitted to the Council for written approval. Thereafter, the erection of the bike stores shall be carried out in strict accordance with the details approved by this condition.

Reason - in the interests of visual amenity.

4 Condition - prior to the commencement of development, a scheme of landscaping shall be submitted to and approved by the Council, and it shall include indications of all existing trees and hedgerows on this land, and details of any to be retained, together with measures for their protection in the course of development in accordance with BS5837:2012. Full details of new planting and landscaping and an associated
maintenance schedule shall also be submitted to and approved by the planning authority prior to the commencement of development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.

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

5 **Condition** - prior to the commencement of work on site, details of the proposed landscaping scheme including boundary enclosures and maintenance responsibilities for the attenuation basin shall be submitted to the Council for written approval. Thereafter, the attenuation basin will be landscaped, enclosed and maintained in accordance with the details approved by this condition.

**Reason** - in the interests of providing a safe and pleasant environment.

6 **Condition** - full details of a maintenance plan for the existing (and proposed) trees shall be submitted to the Council for approval before any development commences on site and if approved the development shall be carried out only in full accordance with such details.

**Reason** - to ensure that the character of the application site and the surrounding area is maintained.

7 **Condition** - prior to the commencement of any works on site, a detailed surface water drainage/SUDs design including drawings, calculations, full modelling, simulation results, design risk assessment and signed Dundee City Council Design and Check Certification 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 any housing unit hereby approved.

**Reason** - in the interests of flood prevention.

8 **Condition** - prior to the commencement of any works on site, details of measures proposed to manage surface water run-off from the site during construction 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 any part of the development hereby approved.

**Reason** - in the interests of flood prevention.

9 **Condition** - prior to the commencement of any works on site, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDs features shall be submitted to Dundee City Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out perpetuity.

**Reason** - in the interests of flood prevention and visual amenity.

10 **Condition** - prior to the commencement of any works on site, 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 prevention.
11 **Condition** - the hard surface within the curtilage of the proposed houses/ development shall be made of porous materials or provision shall be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the application site.

**Reason** in the interests of flood prevention.

12 **Condition** - details of the proposed vehicle access including proposed road markings must be agreed prior to any works on site and the access must be formed and constructed to Dundee City Council standards and specifications.

**Reason** - in the interests of vehicle and pedestrian safety.

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

**Reason** - in the interests of vehicle and pedestrian safety.

14 **Condition** - any existing accesses that are no longer required as part of the proposed development must be made good as footway to Dundee City Council specifications. Details of these alterations must be agreed prior to any works on site.

**Reason** - in the interests of vehicle and pedestrian safety.

15 **Condition** - electric car charging points shall be provided at a location and number to be approved prior to opening of the development.

**Reason** - in the interests of sustainable transport measures.

16 **Condition** - before any unit is occupied the recommendations of the submitted Site Investigation Report, Version 2 dated June 2016, shall be fully implemented. The Council shall be immediately notified in writing if any ground contamination is found during redevelopment works, and thereafter a scheme to deal with the contamination shall be submitted to, and agreed in writing by the Council. The scheme shall include a full timetable for the remediation measures proposed. Verification shall be provided by the applicant or his agent, on completion, that no remediation was required, or that remediation has been undertaken in accordance with, and to the standard specified in the agreed remediation scheme.

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

17 **Condition** - a Sustainability Statement demonstrating the extent to which the 3no new build houses of the development will meet the requirements of Policy 29 of the Dundee Local Development Plan shall be submitted for the approval of the planning authority and the works shall be completed in accordance with the approved Statement.

**Reason** - in the interests of reducing carbon emissions associated with the proposed development.
SUMMARY OF REPORT

- Anton House is a 19th Century stone villa with later extensions to the side (west) and to the rear (north). The proposal includes the demolition of these later extensions to the historic building together with a garage structure in the grounds to the east.

- The proposed demolition works are to enable the change of use and redevelopment of Anton House into residential accommodation.

- Formerly a private dwelling house, the property has changed use and been extended over the years. The property’s last use was the Anton Ogilvie Centre, an adult resource service, operated by Capability Scotland. The property is currently vacant.

- The property is located in the Forthill Conservation Area.

- The application is being referred to the Development Management Committee due to the number of objections received for the associated planning application reference 17/00158/FULL.


RECOMMENDATION

The statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act would be satisfied by the approval of this application. There are no material considerations that would justify refusal of the application for conservation area consent. The application is therefore recommended for APPROVAL.
1 DESCRIPTION OF PROPOSAL

1.1 Anton House is a 19th Century stone villa with later extensions to the side (west) and to the rear (north). The proposal is for the demolition of these later extensions to the historic building. Also proposed for demolition is a rolled steel structural frame garage mounted onto a reinforced concrete floor slab located in the grounds to the east of Anton House.

1.2 The side (west) extension is single storey and formed of two distinct wings to the west and north which are set back from the main (south) elevation of Anton House. The side extension is constructed of a mix of steel, timber, corrugated sheeting and masonry. The west wing is supported on a steel frame at floor level with posts taken down to external ground level. The rear (north) extension is a two storey building with a pitched slate roof and is constructed of masonry with a roughcast finish.

1.3 The extensions are in poor condition and not of any architectural merit. The proposed demolition works are to enable the redevelopment and change of use of Anton House into residential accommodation.

1.4 There is a related planning application reference 17/00158/FULL for the proposed change of use and redevelopment of Anton House to form 19 residential flats and 3 houses with associated car parking, new vehicular access and landscaping.

2 SITE DESCRIPTION

2.1 Anton House is a 19th century stone villa situated on an elevated site within mature landscaped grounds and stone boundary wall.

2.2 Formerly a private dwelling house, the property has changed use and been extended over the years to the side (west) and rear (north). The property’s last use was the Anton Ogilvie Centre, an adult resource service, operated by Capability Scotland. The property is currently vacant.

2.3 Anton House is situated within a prominent site to the north of the junction of Cedar Road and Forthill Road. The site falls north to south, with a difference in level of approximately 10 metres across the site.

2.4 The existing main vehicular access is located to the south of Anton House at the junction of Cedar Road and Forthill Road. The surrounding area is mainly residential. To the immediate
north of the site is residential, to the west is Cedar Road, to the east is Forthill Road and to the south is residential.

2.5 The proposal site is located within the Forthill Conservation Area.

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN
Policy 49: Demolition of Listed Buildings and Buildings in Conservation Areas

SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS
Scottish Planning Policy (2014)
Historic Environment Scotland Policy Statement (2016)

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 93/18297/D – an application to enlarge a window opening was approved on 5 August 1993.

4.2 98/23487/D – an application to extend the existing car park was approved on 19 December 1998.

4.3 15/00919/FULL - WITHDRAWN. Demolition of existing building and erection of a new build 29 residential apartment building, complete with associated car parking, landscaping and new access road.

4.4 15/00920/CON - WITHDRAWN. Complete Demolition in a Conservation Area.

4.5 16/00788/FULL - WITHDRAWN. Redevelopment of Anton House to form 29 residential apartments, including partial demolition of part of Anton House, development of new build extensions and standalone annex building, with associated car parking, access road and landscaping.

4.6 16/00869/CON - WITHDRAWN. Substantial Demolition in a Conservation Area.

4.7 17/00158/FULL – part demolition and redevelopment of Anton House to form 19 residential apartments and proposed new build construction of 3 houses with associated car parking, access road and landscaping – Pending Consideration.

5 PUBLIC PARTICIPATION

5.1 One letter of objection was received specific to this application and the associated planning application reference 17/00158/FULL. This objection related to issues of amenity and drainage with regard to the proposed redevelopment of the site for residential use and did not specifically raise issues with the demolition proposal.
6 CONSULTATIONS

6.1 Historic Environment Scotland – Historic Environment Scotland has been consulted and has no comment to make on the proposals.

6.2 Broughty Ferry Community Council – a letter of support was received from Broughty Ferry Community Council.

7 DETERMINING ISSUES

7.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that a building in a conservation area shall not be demolished without the consent of the appropriate authority (in this case the planning authority).

7.2 In accordance with the provisions of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, special regard must be given to the effects of the proposed development on the character and appearance of the conservation area. This statutory duty should always be borne in mind when considering demolition applications.

7.3 Anton House is a 19th Century stone villa with later extensions to the side (west) and to the rear (north). The proposal includes the demolition of these later extensions to the historic building together with a garage structure in the grounds to the east.

7.4 The side (west) extension is single storey and formed of two distinct wings to the west and north which are set back from the main (south) elevation of Anton House. The side extension is constructed of a mix of steel, timber, corrugated sheeting and masonry. The west wing is supported on a steel frame at floor level with posts taken down to external ground level. The rear (north) extension is a two storey building with a pitched slate roof and is constructed of masonry with a roughcast finish. The extensions are in poor condition and not of any architectural merit.

7.5 The garage located in the grounds to the east of Anton House is a modern industrial type structure with a cold rolled steel structural frame mounted onto a reinforced concrete floor slab. The garage is proposed for removal to make way for an adoptable standard hammerhead for refuse lorry turning, car parking and a proposed waste and cycle store associated with the proposed residential development (17/00158/FULL).

7.6 A supporting structural survey report has been submitted with the application outlining the poor condition of the extensions. Anton House is vacant and the buildings have fallen into disrepair and have been subject to vandalism.

7.7 The proposed demolition works will enable the change of use and redevelopment of Anton House into residential accommodation. An associated planning application reference 17/00158/FULL has been received for a contemporary extension to Anton House to create 19 flats and 3 contemporary houses in garden ground to the rear (north).

7.8 Anton House has been unsympathetically extended and altered over the years. The existing extensions are of poor architectural design and finish which has a detrimental impact on the 19th Century stone villa and the character and appearance of the conservation area. A supporting statement has been submitted by the applicant which states that extensions are in poor condition and in need of significant investment to bring them up to modern building standards. It also confirms that the north and west extensions are inappropriate for the
proposed development and are not suitable for residential use. It is therefore not viable or practical to reuse and redevelop the buildings.

7.9 The applicant proposes to change the use of Anton House and create a contemporary residential development within the mature landscaped grounds and stone boundary walls. Internal and external features of architectural and historic interest are to be retained and sensitively restored as part of the development including bay windows, feature stain glass window on the east elevation, slate roof, stone features and entrance portico.

7.10 This high quality contemporary development complements the sensitive restoration of the vacant historic building. The proposed development will bring a vacant building back into residential use and provide a mix of modern residential units to complement and enhance the surrounding area. Overall, the proposed development will add visual interest through a sympathetic blend of old and new architectural styles and quality contemporary materials to create an attractive addition to an evolving urban landscape.

![Figure 3 – Proposed Flats and Houses - Elevations](image)

7.11 Historic Environment Scotland has been consulted and has no comment to make on the proposals.

7.12 The statutory duty set out in Section 64 of the Act would be satisfied by the approval of this application given the extensions detrimental impact on the character and appearance of the conservation area.

**OTHER MATERIAL CONSIDERATIONS**

**A – PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN**

7.13 The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.
7.14 **Policy 49 (Demolition of Listed Buildings and Buildings in Conservation Areas)** - states that applications for the demolition of an unlisted building that is worthy of retention in a conservation area must be fully supported by reports on the condition and marketing history of the building along with a feasibility study which explores the viability of retaining the building in active use. Applications for demolition shall be required to be in accordance with Historic Environment Scotland's 'Scottish Historic Environment Policy'. Where the demolition of a building is acceptable, applications should be supported by acceptable proposals for the redevelopment of the cleared site.

7.15 Anton House has been unsympathetically extended and altered over the years. The existing extensions are of poor architectural design and finish which has a detrimental impact on the 19th Century stone villa and the character and appearance of the conservation area. A supporting statement has been submitted by the applicant which states that extensions are in poor condition and in need of significant investment to bring them up to modern building standards. It also confirms that the north and west extensions are inappropriate for the proposed development and are not suitable for residential use. It is therefore not viable or practical to reuse and redevelop the buildings.

7.16 The garage located in the grounds to the east of Anton House is a modern industrial type structure with a cold rolled steel structural frame mounted onto a reinforced concrete floor slab. The garage is proposed for removal to make way for an adoptable standard hammerhead for refuse lorry turning, car parking and a proposed waste and cycle store associated with the proposed residential development (17/00158/FULL).

7.17 The applicant proposes to change the use of Anton House and create a contemporary residential development within the mature landscaped grounds and stone boundary walls. The proposed development will bring a vacant building back into residential use and provide a mix of high quality modern residential units to complement and enhance the surrounding area. The redevelopment of the cleared site is deemed to be acceptable as it will enhance the character and appearance of the conservation area.

7.18 **The requirements of Policy 49 of the Dundee Local Development Plan 2014 are satisfied.**

**B - VIEWS OF OBJECTORS**

7.19 One letter of objection was received specific to this application and the associated planning application reference 17/00158/FULL. This objection related to issues of amenity and drainage with regard to the proposed redevelopment of the site for residential use and did not specifically raise issues with the demolition proposal. The issues raised by the objector have been fully considered as part of the assessment of planning application reference 17/00158/FULL.

7.20 The proposal satisfies the statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

7.21 The concerns of the objector are not relevant to the application and are not of any weight to justify refusal of the application.

**C - LETTER OF SUPPORT**

7.22 Broughty Ferry Community Council support the proposal in order to preserve and enhance the Anton House site that falls within the Forthill Conservation Area.
D – NATIONAL AND LOCAL POLICY GUIDANCE

7.23 Scottish Planning Policy (2014) advises that where the demolition of an unlisted building is proposed through conservation area consent, consideration should be given to the contribution that the building makes to the character and appearance of the conservation area. Where a building makes a positive contribution the presumption should be to retain it.

7.24 Historic Environment Scotland's Policy Statement (2016) advises that the demolition of even a single building and the construction of a new building in its place could result in harm to the character or appearance of a conservation area, or part of it. Decisions should take into account the importance of the building to the character or appearance of any part of the conservation area, and of proposals for the future of the cleared site. A positive attempt should always be made to achieve retention of the building, restoration or sympathetic conversion, however, in some cases demolition may be thought appropriate, for example if its structural condition rules out its retention at reasonable cost. In instances where demolition is to be followed by re-development of the site, consent to demolish should in general be given only where there are acceptable proposals.

7.25 In this case, for the reasons set out above, the proposed works comply with national planning guidance with regard to demolition within a conservation area and the proposals are acceptable.

7.26 It is concluded from the foregoing that the material considerations support the approval of the application for conservation area consent.

8 CONCLUSION

8.1 The statutory duty set out in Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act would be satisfied by the approval of this application. There are no material considerations that would justify refusal of the application for conservation area consent. Therefore, it is therefore recommended that conservation area consent be granted.

9 RECOMMENDATION

9.1 It is recommended that Conservation Area Consent be GRANTED.
SUMMARY OF REPORT

- Planning permission is sought for a part change of use to a hot food takeaway within an existing public house.
- The statutory neighbour notification procedure has been undertaken and 6 letters of objection have been received.
- The application complies with the development plan, there are no material considerations that would justify the refusal of planning permission.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee because 6 valid written objections have been received.
- More details can be found at http://idoxwam.dundeecity.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=OEHHEGCLPP00.

RECOMMENDATION

The application complies with Policies 28, 47 and 55 of the adopted Dundee Local Development Plan, 2014. There are no material considerations that would warrant refusal of planning permission. The application is therefore recommended for APPROVAL subject to conditions.
1 DESCRIPTION OF PROPOSAL

1.1 The application seeks planning permission for a part change of use to include a hot food takeaway as part of an existing public house. The hot food takeaway is proposed with an internal floor area of 42m², with seating for 15 persons. Opening hours are specified as 10.00am to 7.00pm Monday to Saturday. The application is retrospective and the takeaway is fully operational.

2 SITE DESCRIPTION

2.1 The application site measures 2,650m² and relates to the existing public house and restaurant, known as the Downfield, at 530 Strathmartine Road, to the north of the Kingsway. More specifically, the application refers to "DOCS deli", a takeaway area within the premises. The site is not located within a District Centre as per the adopted Dundee Local Development Plan, 2014. Surrounding adjacent land uses are residential and commercial, with sheltered housing located to the immediate north of the application site.
3 POLICY BACKGROUND

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

**DUNDEE LOCAL DEVELOPMENT PLAN**
Policy 28: Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre
Policy 47: Environmental Protection
Policy 55: Accessibility of New Developments

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 04/00703/COU approved a change of use of part of the car park for the Downfield Hotel to a beer garden in October 2004, this permission was not implemented.

4.2 Retrospective planning permission was then granted in October 2010 for the erection of a small area of decking measuring 39m², and fencing to the north of the hotel, conditioned to be operational for patrons between 11.00 am (12.30 on Sundays) and 8.00pm (9.00pm July and August).

4.3 Planning application 10/00565/FULL approved a small extension to the southern elevation of the property in October 2010.

4.4 A change of use of part of the car park to a beer garden was then refused under planning application 10/00565/FULL in November 2010.

4.5 Planning application 15/00780/FULL for a change of use to include a hot food takeaway with a separate kitchen and unrestricted opening hours was refused in February 2016. This application was refused because it was contrary to policy due to the proposed hours of operation.

5 PUBLIC PARTICIPATION

5.1 Six letters of objection were received. Objection comments include letters from five individuals and one from the residents of the neighbouring care home. Issues raised relate to parking and access, road safety, residential amenity in terms of noise and litter, proximity to local school and school children entering the pub, and proliferation of other takeaways within the area.

6 CONSULTATIONS

6.1 **The Head of Community Safety and Protection** – has no comments to make in terms of noise or odour.
DETERMINING ISSUES

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

THE DEVELOPMENT PLAN

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

DUNDEE LOCAL DEVELOPMENT PLAN

7.2 Policy 28: Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre - supports public houses, restaurants and hot food takeaways, including beer gardens and extensions to existing operations, outside District Centres only where the proposal is more than 30 meters from existing or proposed housing and where the premises has a gross floor area of up to 150 square metres. If the floor area would be over 150 square metres, then a 45 metre separation would be required. These distances are measured from the curtilage of the proposal to the facade of the existing houses.

7.3 The floor space of the area currently under consideration for a change of use measures 42m², and there is a separation distance from adjacent residential properties of less than 30 metres, and as little as 5 metres from neighbouring residential properties in places. In this situation, a hot food takeaway may be permitted under the terms of Policy 28 subject to the hours of operation being limited to 7.00am and 7.00pm, and the hot food requiring heating by means only of a microwave oven or other method which would not cause a nuisance to surrounding residential property by virtue of smell.

7.4 In this case, the proposed hours of operation would be from 10.00am to 7.00pm, which would be acceptable for a distance of less than 30 metres from adjacent residential properties. The agent has also stated that the applicant intends to remove the existing kitchen and cooking facilities from within the takeaway area for conversion to a servery. It is proposed that the takeaway facility would use the existing kitchen and extraction facilities within the public house/restaurant. The use of the existing kitchen facilities would not exacerbate the current situation to the extent that there would be any additional impact on amenity. With the addition of planning conditions to restrict the hours of operation and ensure that cooking would only be undertaken using existing facilities, the proposals would comply with the terms of Policy 28.

7.5 With the addition of planning conditions, the proposal would comply with Policy 28.

7.6 Policy 47: Environmental Protection - requires all new development that would generate noise, vibration or light pollution demonstrates 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.

7.7 As the development proposes to use the existing cooking and ventilation system operated by the hotel restaurant, and the hours of operation would be within the existing hours of the pub/restaurant, there would be no increased effects in terms of noise or odour to the surrounding area. Planning conditions are proposed to restrict any additional cooking and to restrict the hours of operation proposed.
7.8 With the addition of planning conditions, the proposal would comply with Policy 47.

7.9 **Policy 55: Accessibility of New Developments** - seeks to ensure that all development proposals which generate travel should be designed to be well served by all modes of transport, and requires proposals to link to walking, cycling and public transport networks, have no detrimental impact on the capacity of existing road networks and comply with Dundee City Council’s road design standards.

7.10 In this instance, the hot food takeaway would be accessible by all means of transport. The proposal is within an established commercial area where there is a lay-by adjacent to the site for deliveries and/or customer car parking. There is an existing car park to the rear of the premises. The level of traffic generated by this type of development is relatively low and it is anticipated that there would be no detrimental impact in terms of road safety.

7.11 **The proposal satisfies Policy 55.**

7.12 It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

**OTHER MATERIAL CONSIDERATIONS**

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

**VIEWS OF OBJECTORS**

7.14 Six letters of objection were received, including comments from five individuals and on letter from the residents of the neighbouring care home. Issues raised relate to parking and access, road safety, residential amenity in terms of noise and litter, proximity to local school and school children entering the pub, and proliferation of other takeaways within the area.

7.15 In relation to parking and road safety issues, the existing car park to the rear of the premises and adjacent lay-by are considered to be adequate given the low level of additional traffic likely to be generated. The site is also accessible by other means of transport.

7.16 With regard to residential amenity concerns, the Head of Community Safety and Protection has raised no issues with regard to noise or odour.

7.17 Issues raised in relation to business competition and children entering the public house are not material planning considerations.

7.18 **The concerns of the objectors are not of sufficient weight to justify refusal of the application.**

**8 CONCLUSION**

8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. It is therefore recommended that planning permission be granted subject to conditions.
9 RECOMMENDATION

9.1 It is recommended that consent be GRANTED subject to the following conditions:

1. **Condition** - no cooking shall be carried out on the takeaway premises unless otherwise agreed in writing with Dundee City Council as Planning Authority.
   
   **Reason** - in the interests of residential amenity; to ensure that odour from the premises does not affect adjacent residents.

2. **Condition** - the premises shall be open to the public between 10.00am and 7.00pm Monday to Saturday only.
   
   **Reason** - in the interests of residential amenity; to prevent noise disturbance to adjacent residents.

3. **Condition** - the takeaway facility hereby approved shall have a gross floor area not exceeding 42m² and shall remain entirely ancillary to the pub/restaurant facility.
   
   **Reason** - in the interests of safeguarding residential amenity.
SUMMARY OF REPORT

- Planning permission is sought for the change of use of a residential lock up garage to a personal training gym at Emmock Woods Drive.

- The proposed gym is contrary to Policy 16 (Small Scale Commercial Uses within Residential Areas) of the Dundee Local Development Plan. The proposed personal training gym would adversely impact on residential amenity and parking provision at Emmock Woods Drive and William Fitzgerald Way.

- The statutory neighbour notification procedure was undertaken; four letters of representation were received.

- The application requires to be determined by the Development Management Committee at the request of a local member. More details can be found at http://idoxwam.dundeecity.gov.uk/idoxpa-web/search.do?action=simple&searchType=Application.

RECOMMENDATION

The proposal fails to satisfy the requirements of the Development Plan. There are no material considerations that would justify approval of planning permission. Therefore, it is recommended that this application be REFUSED.
1 DESCRIPTION OF PROPOSAL

1.1 This application proposes the change of use of a lock up garage to a personal training gym (Class 11).

1.2 Gym equipment would be located within the lock up garage to facilitate personal training sessions. There are no alterations proposed as part of this application, the gym would be accessed via the existing vehicle entrance on the south elevation.

1.3 The personal training gym has been operating since the submission of this planning application. Each personal training session is one hour long with customers able to book appointments between 9.00am and 9.00pm Monday to Sunday. At present, up to 4 training sessions are undertaken each day with up to 3 clients attending each session.

1.4 The application is accompanied by a transport statement.

2 SITE DESCRIPTION

2.1 The application site is located on the north side of Emmock Woods Drive. The site measures 27.6m², comprising a lock up garage with 13m² floor area and external parking space for one vehicle. The lock up is the west most garage within a row of four garages situated between 38 and 42 Emmock Woods Drive. The garages are of concrete block construction and finished in cream render with concrete tile roof and metal garage doors. The four garages provide secure off street parking for residents of flats at 58A-58D William Fitzgerald Way.
2.2 The surrounding area contains a number of land uses. To the south, east and west are houses, flats and a nursery on Emmock Woods Drive and William Fitzgerald Way. To the north is agricultural land.

3 POLICY BACKGROUND

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

**DUNDEE LOCAL DEVELOPMENT PLAN**
Policy 16: Small Scale Commercial Uses Within Residential Areas
Policy 47: Environmental Protection

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 There is no planning history at this site.

5 PUBLIC PARTICIPATION

5.1 The statutory neighbour notification procedure has been undertaken.

5.2 Four letters of objection have been received.

5.3 Members will already have access to the letters and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

6.1 The Head of Community Safety and Protection – has recommended that should permission be granted conditions controlling noise and hours of operation are incorporated into the decision notice.

7 DETERMINING ISSUES

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

THE DEVELOPMENT PLAN

The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.
DUNDEE LOCAL DEVELOPMENT PLAN

7.2 Policy 16: Small Scale Commercial Uses Within Residential Areas - supports the development of a range of small scale commercial facilities close to and within existing and proposed housing areas. The mix of uses and the availability of a range of services and facilities locally helps to create strong, stable and sustainable communities. Policy 16 states that proposals will need to ensure that they do not have a detrimental effect on the environmental quality enjoyed by local residents by virtue of design, layout, parking, traffic movement, noise or smell.

7.3 The existing design and layout of the site would be maintained as no physical alterations are proposed. Gym equipment is stored within the garage and when not in use the lock ups retain the character and appearance of the surrounding streetscape. An off street parking space to the south of the garage would be available to clients of the proposed gym and there would be no impact on access to the remaining garages.

7.4 In terms of parking and traffic, the proposals would not generate a significant amount of traffic movements, however, the personal training gym would generate an additional parking requirement. Each of the four lock up garages on Emmock Woods Drive are associated with flats at 58A-58D William Fitzgerald Way. The proposed change of use would result in the loss of a garage associated with 58A William Fitzgerald Way. Whilst the off street parking space immediately in front of the garage would remain, it would be required by clients of the gym between 9.00am and 9.00pm. This would result in vehicles at the 2 bedroom property being required to park on public roads during daytime hours increasing parking pressures in the surrounding area. In addition, the one off street parking space which would be available to clients of the personal training gym would not provide sufficient parking with sessions being attended by up to 3 clients. Any additional vehicles would be required to park on street.

7.5 There are a small number of public parking bays on William Fitzgerald Way which provide parking for local residents and staff and visitors to Butterflies Nursery. However, these spaces are often busy during daytime hours, are not within close proximity to the application site and out with the applicant's ownership. There is therefore limited off street parking provision in the surrounding area and the proposals would reduce the level of dedicated off street parking. This would increase on street parking pressures in the surrounding area.

7.6 The proposed training gym would create a level of disturbance in excess of noise levels associated with a garage through the playing of music, use of exercise equipment and intensification of use. Noise associated with personal training sessions including coaching of clients and use of exercise equipment would create a level of disturbance which is in excess of that associated with a domestic garage to the detriment of residential amenity.

7.7 The proposal would generate a parking requirement and level of noise which would have a detrimental impact on parking provision and residential amenity.

7.8 The proposal contravenes Policy 16.

7.9 Policy 47: Environmental Protection - states all new development or an extension to an existing development that would generate noise, vibration or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area.

7.10 A personal training gym will generate noise from sources including exercise equipment, coaching and playing of music. In addition noise will be generated by clients and vehicles visiting the site. The lock up garage is 5 metres from a residential property immediately west of the application site, and 11 metres of residential property to the east.
7.11 The proposals would see music being played and exercise equipment used within the garage. The proposed opening hours are 9.00am to 9.00pm, as the gym would be able to operate with the garage door open noise would not be contained.

7.12 To reduce the impact of the proposals on residential amenity The Head of Community Safety and Protection has recommended the maximum noise levels of music and mechanical and electrical services and hours of use are restricted by condition should The Committee be minded to approve this application.

7.13 Subject to appropriate conditions, the personal training gym would not generate a significant level of disturbance.

7.14 Subject to conditions, the proposal satisfies Policy 47.

7.15 It is concluded from the foregoing that the proposal does not comply with the provisions of the Development Plan.

OTHER MATERIAL CONSIDERATIONS

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

A - SUPPORTING INFORMATION

7.17 The applicant has provided statements in relation to noise, residential amenity and parking and traffic.

7.18 The applicant notes the potential for music and equipment to generate noise, however states that noise levels are not significant and are controlled to minimise any impact on the surrounding area. The applicant states the proposals do not have a significant impact on neighbouring residential property and if appropriate would provide sound insulation.

7.19 In relation to parking, the applicant states there is sufficient parking provided at the garage and on street within the surrounding area to ensure the proposals would not have an impact on parking provision or road safety. Clients of the personal training gym are advised in advance where to park and with sessions often attended by one or two people the proposals would not create a significant demand for parking.

B - VIEWS OF OBJECTORS

7.20 Four letters of objection were received, citing the following concerns.

7.21 Noise - objector's state music and shouting can be heard from personal training sessions which were operating from the garage prior to the submission of a planning application. Noise from the proposals can be heard from garden ground and concerns are raised that noise would impact on sleep with sessions being undertaken up to 9pm.

7.22 Response - The proposals would generate a level of operational noise, however subject to conditions restricting hours of operation and noise levels the personal training gym would not have a significant impact on residential amenity.

7.23 Parking and traffic movement - objectors raise concerns in relation to the proposals impact on parking, with insufficient off street parking available to accommodate the existing flat and clients of the personal training gym. Increased traffic flow and parking demand would be detrimental to road safety, with planning permission for an additional 10 places at Butterflies Nursery to the south east of the site being refused by Development Management Committee
in February 2012. The increase in places was refused due to the proposals having an adverse impact on parking and traffic movement in the area.

7.24 **Response** - the proposals would result in flat 58A William Fitzgerald Way not having a designated off street parking space between 9am and 9pm, this is contrary to the requirements of Appendix 3 of the Dundee Local Development Plan which requires each flat within a suburban area to have a designated parking space. In addition, only one space would be provided for clients attending personal training sessions. The proposals would require vehicles to park on street, and increase parking pressures in the local area.

7.25 The concerns of the objectors in relation to parking and traffic movement are supported.

7.26 There are no other relevant material planning considerations of sufficient weight to justify approval of the application.

8 **CONCLUSION**

8.1 The proposals would result in an existing flat at 58A William Fitzgerald Way having no dedicated parking provision and there is insufficient off street parking provision for clients of the proposed gym. The proposals would therefore increase on street parking and have a detrimental impact on parking pressures in the surrounding area.

9 **RECOMMENDATION**

9.1 It is recommended that consent be **REFUSED** for the following reason:

1 **Reason** - the proposed development is contrary to Policy 16 - "Small Scale Commercial Uses within Residential Areas" of the Dundee Local Plan 2014 as the personal training gym would have a detrimental impact on parking provision and residential amenity. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
Installation of 15m High Monopole Mast and Ancillary Equipment

KEY INFORMATION

Ward: The Ferry
Address: Footpath at Bus Shelter
         Strathern Road
         Broughty Ferry

Applicant: Telefonica
           260 Bath Road
           Slough SL1 4DX

Agent: WFS Telecom
       John Church Suite 152
       Pavilion 4 St James Business Park, Linwood Road
       Paisley PA3 3AT

Registered: 3 May 2017
Case Officer: Caitlin Duffy

SUMMARY OF REPORT

- Planning permission is sought for the erection of a 15m high monopole mast and three ancillary cabinets.
- The statutory neighbour notification procedure was undertaken, two letters of objection have been received.
- The application has been advertised as affecting the setting of a Listed Building.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Development Management Committee because an objection has been received from Broughty Ferry Community Council.

RECOMMENDATION

The application complies with Policy 53 of the Adopted Dundee Local Development Plan 2014. There are no material considerations of sufficient weight to justify refusal of the application. By approving the application the Statutory Duty of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 would be discharged. The application is therefore recommended for APPROVAL subject to conditions.
1 DESCRIPTION OF PROPOSAL

1.1 Planning permission is sought for the erection of a monopole mast with three antennae and two dishes and for the installation of three ancillary cabinets. The overall height of the mast with antennae and dishes would be 15m high. The footprint of the mast would measure 0.3m wide by 0.3m long. The monopole would be a steel structure and headframe with a grey finish. The antennae and dish antennae would be made of composite materials and electrical components. The headframe and antennae will be enclosed by a glass reinforced plastic shroud.

1.2 Two of the ancillary cabinets would measure 1.3m wide by 0.7m long by 1.4m high. The third ancillary cabinet would measure 0.6m wide by 0.6m long by 1.4m high. The cabinets would be constructed of steel and would have a green finish. They would contain doors which would open towards the public footpath and would be set upon a new concrete base.

2 SITE DESCRIPTION

2.1 The application site is a section of the public footpath on the north side of Strathern Road, Broughty Ferry. The site is not within the West Ferry Conservation Area, however, it is approximately 5m from the conservation area boundary which is on the south side of Strathern Road.

2.2 Immediately to the north of the site lies two detached dwelling houses. The site and the houses are separated by a boundary which is formed by a stone wall, timber fencing and dense vegetation. The vegetation is a mix of hedging and trees, where some of the trees measure approximately 7m high.
2.3 Immediately to the west of the site lies a bus shelter, beyond which lies the junction between Strathern Road and Fairfield Road. 30m to the east of the site lies a junction between Dunnottar Place and Strathern Road. Dunnottar Place provides access to a small number of houses and to a car park which serves Dawson Park. The south of the site is bound by Strathern Road. To the south of the site lies a residential Category B Listed Building and to the southwest the residential Category A Listed Building Red Court, 17 Fairfield Road.

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN
Policy 53: Telecommunications
SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS

Scottish Planning Policy 2014 - recognises that the National Planning Framework 3 sets the context for supporting digital connectivity. Scottish Planning Policy highlights that consideration should be given to how proposals for infrastructure to deliver new services or infrastructure to improve existing services will contribute to fulfilling the objectives for digital connectivity set out in the Scottish Government's World Class 2020 document. For developments that will deliver entirely new connectivity consideration should be given to the benefits of this connectivity for communities and the local economy.

Planning Advice Note: PAN 62 Radio Telecommunications - provides advice on the process of site selection and design to help minimise the environmental impact of development and highlights examples of good practice.

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 There is no relevant planning history.

5 PUBLIC PARTICIPATION

5.1 One letter of objection to the proposal has been received from a neighbour citing the following concerns:

a adverse effect on the setting of a listed building, conservation area and streetscene;

b detrimental impact to the environment, residential amenity, trees and landscaping;

c the West Ferry area is a predominantly older residential area and an increase in demand for mobile telecommunications will be very low; and
d there are restrictions on constructing masts near schools but the same consideration on constructing them near Retirement Homes has not been given.

6 CONSULTATIONS

6.1 Broughty Ferry Community Council – has submitted a letter of objection stating that they find the financial reason for not developing a site at Arbroath Road (planning application reference 16/00399/FULL) credible. They state that the mast will be to the detriment of and overlook the West Ferry Conservation Area. They raise concerns over the masts visual impact within the streetscape and landscape and on the heritage of the area

6.2 Historic Environment Scotland – do not have any comments to make on the proposal.

7 DETERMINING ISSUES

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

THE DEVELOPMENT PLAN

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

DUNDEE LOCAL DEVELOPMENT PLAN

7.2 Policy 53: Telecommunications - the Council supports the expansion of the electric communication network however it considers that this needs to be done by keeping the environmental impact of communications infrastructure to a minimum. Policy 53 sets out a criteria based approach whereby development proposals for telecommunications masts or related apparatus will only be supported where it can be demonstrated that:

1 the design will not have a significant detrimental visual impact on the surrounding area, with particular care taken to ensure that free standing masts in residential areas, public parks, public open spaces and those affecting conservation areas, listed buildings and scheduled monuments are sensitively designed and sited;

2 an operational justification exists for the location proposed including alternative sites that have been considered and rejected;

3 if proposing a new free standing mast or other equipment, it should be demonstrated that the applicant has explored the possibility of erecting apparatus on existing buildings, including sharing masts or other structures. Such evidence, including any reasons for rejection, should accompany any application made to the local planning authority; and

4 an assessment of the cumulative impact of individual proposals where other telecommunications developments are present nearby or are proposed to be located nearby should describe how the cumulative effects were considered and any negative visual impact minimised.

7.3 The proposal is to erect a mast and ancillary cabinets. In terms of criteria 1, the equipment would be sited next to a bus shelter and within close proximity to existing street lighting poles.
The equipment would be set against a background of trees, hedges and a boundary wall and would be seen in relation to the surrounding street furniture and equipment which can be found on Strathern Road. Taking into account the surroundings, the proposal would not appear incongruous in its setting. The mast is proposed to be grey and the ancillary cabinet’s green, which would blend in appropriately with the surrounding built and natural features. Due to the width of the footpath and the positioning of the equipment, the proposal would not have an adverse effect on pedestrian movement along the footway of Strathern Road. The proposal does not fall within a Conservation Area. Owing to its design and positioning it would not have a detrimental impact on listed buildings which lie to the south and southwest of the site.

7.4 In terms of Criteria 2, the applicant has submitted alternative sites on surrounding residential streets and within Dunnottar Place car park which have been considered and rejected. The sites have been rejected due to the following reasons; financial difficulties connecting to electricity mains, insufficient footway widths, the land is to be used for highway improvement purposes, the sites close proximity to a school, the site would likely raise public concerns and land ownership issues.

7.5 In terms of Criteria 3, Supplementary Information has been submitted as part of the application. It has been stated that there is an existing mast site at Dawson Road, however, the existing monopole and cabinets are not able to support the new combined O2/Vodafone 4G capable equipment and it needs to be replaced. Furthermore the site is not wide enough to accommodate the proposed equipment without impacting upon passing place provision. As such the site needs to be relocated to enable the deployment of the new equipment. The existing site will be decommissioned and removed following the erection and commissioning of the proposed replacement site at Strathern Road.

7.6 In terms of Criteria 4, it has been stated that the applicant cannot obtain a connection to the electricity mains supply at an economically justifiable cost at an approved mast site on Arbroath Road (planning application reference 16/00399/FULL). Therefore, the site is obsolete and the applicant is prepared not to implement the existing planning permission. The nearby mast at Dawson Road which could not accommodate the proposed equipment is proposed to be decommissioned and removed following erection and commissioning of the proposed site at Strathern Road. There are no other existing masts, structures or buildings which could be used. There are no other masts in immediate view from the proposed site. The cumulative effects of the proposed development have been considered and any negative visual impact will be minimal.

7.7 Owing to the above considerations, the proposal meets the criteria of Policy 53.

7.8 The proposal satisfies Policy 53.

7.9 It is concluded from the foregoing that the proposal complies with the provisions of the development plan.

STATUTORY DUTY

7.10 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.

7.11 Owing to the positioning and design of the mast, its distance from the listed buildings and the boundaries which enclose the listed buildings, it is considered that the proposal would not have a detrimental impact upon their setting. The proposal would comply with national planning guidance with regard to development affecting the setting of a listed building. The
statutory duty set out in Sections 59 of the Act would be discharged through the approval of planning permission.

OTHER MATERIAL CONSIDERATIONS

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

A - NATIONAL PLANNING POLICY

7.13 NPF3 recognises that improved digital infrastructure, both fixed and mobile, is essential to support sustainable economic growth and better connect people and communities.

7.14 SPP recognises that NPF3 sets the context for supporting digital connectivity. SPP highlights that consideration should be given to how proposals for infrastructure to deliver new services or infrastructure to improve existing services will contribute to fulfilling the objectives for digital connectivity set out in the Scottish Government's World Class 2020 document. For developments that will deliver entirely new connectivity consideration should be given to the benefits of this connectivity for communities and the local economy.

7.15 The proposal is supported by the requirements of national planning policy.

B - PLANNING ADVICE NOTE - PAN 62 RADIO TELECOMMUNICATIONS

7.16 PAN 62 Radio Telecommunications provides advice on the process of site selection and design to help minimise the environmental impact of development and highlights examples of good practice. Alternative sites have been considered and the reasons for rejection have been outlined in supporting information. It is considered the applicant has avoided sensitive sites which could have a detrimental impact on historic character and the proposal would not have a detrimental environment impact.

7.17 The proposal meets the requirements of PAN 62.

C - VIEWS OF OBJECTORS

7.18 One letter of objection was received from a neighbour and one letter of objection was received from Broughty Ferry Community Council. The concerns raised in the letter of objections are:

- the proposal will affect the heritage of the area;
- visual impact within the streetscape and landscape;
- detrimental impact to the environment, residential amenity, trees and landscaping;
- adverse effect on the setting of a listed building, conservation area and streetscene;
- the mast will be to the detriment of and overlook the West Ferry Conservation Area;
- the West Ferry area is a predominantly older residential area and an increase in demand for mobile telecommunications will be very low;
- there are restrictions on constructing masts near schools but the same consideration on constructing them near Retirement Homes has not been the same; and
- the financial reason for not choosing a site at Arbroath Road (planning application reference 16/00399/FULL) is not credible.
7.19 The concerns which relate to the design and siting of the proposal have been addressed in the assessment against Policy 53 of the Dundee Local Development Plan. The proposal would not appear incongruous in its setting, where there is existing street equipment. The site is not located within the West Ferry Conservation Area but on the outer edge. It would therefore not impact its historic character or setting. The impact on the setting of the neighbouring listed buildings has been assessed against the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. It was considered that the proposal would not harmfully impact the setting of the listed buildings.

7.20 The points raised in relation to the age of the residents in the West Ferry Area is not a material planning consideration. The age of residents would not necessarily mean that telecommunications coverage is not required in this area. The supporting information submitted by the agent outlines that the Government’s objective is to ensure that everyone can enjoy the same degree of access to high quality communication opportunities.

7.21 In relation to the impact of the development on residential care homes, the nearest residential care home is on Fairfield Road, approximately 82m around the corner from the site. The proposal would not have a negative visual or amenity impact on the care home due to its form and its distance from the site.

7.22 It has been stated that the existing Arbroath Road site which has approval for a mast and equipment is no longer viable due to financial reasons. Financial implications are not material planning concerns. The applicant has stated that they would be willing not to implement the Arbroath Road consent.

7.23 The concerns of the objectors are of insufficient weight to warrant refusal of the application.

8 CONCLUSION

8.1 The proposal satisfies the requirements of the Development Plan. There are no material considerations that would justify refusal of planning permission. Therefore, it is recommended that planning permission be granted.

9 RECOMMENDATION

9.1 It is recommended that consent be GRANTED subject to the following condition:

1. **Condition** - in the event that the equipment becomes obsolete or redundant, it must be removed and the site reinstated to the satisfaction of the Planning Authority within 6 months of the redundancy

   **Reason** – to protect the amenity of the area.
The application proposes the erection of a mixed use development on a vacant site within the Central Waterfront. The proposals can be divided into three interconnected parts and include Studio Dundee working space and business accelerator unit; Urban Offices and Build to Rent apartments.

The proposals are generally in accordance with the Development Plan and will provide a high quality mixed use development to support the role of the V&A and the Central Waterfront.

The proposals fail to fully comply with Policy 9 (Design of New Housing) of the Dundee Local Development Plan 2014 as the residential units include one bedroomed flats and no residential parking has been provided. There are material considerations which weigh in favour of the approval of the development. The proposals are a unique concept to the city with a live, work and play ethos behind them which seek to create a new community.

One neutral letter of representation has been received which raises issues in relation to the rooftop screening and details for the finish of the rear of the buildings and substation on Yeaman Shore.

SEPA have objected to the proposals stating that they will remove their objection if a Flood Risk Assessment (or other information) demonstrates that the development of the site would not be at significant risk of flooding. Members should be aware that should they be minded to grant planning permission, the application shall be required to be referred to the Scottish Government as a result of the SEPA objection.

The proposals will play an important supporting role in the development of the Central Waterfront, stimulating the regeneration of the area and providing facilities which will support the economy of the city. Therefore it is recommended that planning permission is granted subject to conditions.


The application fails to fully comply with certain aspects of the Design of Housing Policy 9 in relation to flat size and parking. There are material considerations which weigh strongly in support of the application. It is therefore recommended that the application be APPROVED subject to conditions.
1 DESCRIPTION OF PROPOSAL

1.1 The application proposes the erection of a mixed use development on a vacant site within the Central Waterfront. The development takes the form of two buildings on site.

1.2 In terms of the uses, the proposals can be divided into three, interconnected parts.

1 Studio Dundee - this occupies the ground floor (and two mezzanine levels) and will provide:

a A state of the art, co-working space with key card, 24/7 access to a variety of workstations, small studio pods, meeting rooms, breakout areas, a fully equipped tech lab, support services, reception and 1GB broadband.

b A social hub with communal space, events areas, exhibition space and bar and food offering.

c A business accelerator unit provided direct support to entrepreneurs to start up or scale up to transform their businesses.

d A specialist retail space with a programme to accelerate creative businesses with retail offerings. These young companies will have supported office space on the mezzanine above the retail floor.

2 Urban Offices – these are located above the Studio Dundee and will provide:

a A range of small office suites for small and growing businesses.

3 Build to Rent Apartments – these are located on the upper floors of the development in the west part of the site and will provide:

a 116 flatted apartments in a mix of sizes with on site management and use of the Studio Dundee communal space, offering lounges, café, bar and amenity areas (including outdoor terrace); and

Figure 1 – Site Layout Plan
b a concierge as a point of contact for residents, dealing with management issues, taking deliveries etc.

1.3 As part of the above, there are 3 communal spaces which are described as below.

1.4 The Hub – is the social heart of the development. It has a food and café offering and residents concierge. It is envisaged to be a place alive with activity and is located on the ground floor level.

1.5 The Mezzanine – is a multi-purpose space. It is a communal space, a lounge space, events area and exhibition space. It is intended to be a focal point with a diary of events and activities for occupants of the building to participate and engage in. This will range from events such as yoga to business related events.

1.6 The Terrace – is a large lounge space with access to a terrace overlooking the River Tay. It is only for residential occupiers of the development and will provide space to prepare food, space to host a dinner, space to work and space to lounge.

Figure 2 – Site Photo

Figure 3 – Site Photo

1.7 The massing of the proposals is such that the buildings are 6 storeys at the eastern end (with double height at ground floor level) and 7 storeys (with double height ground floor level) for the other building forming the central and west area of the site.

1.8 A single architectural style ties together the three blocks that make up Site 2, which is orthogonal, rigorous and set into a grid arrangement. Each block is then individually defined through variations in the fenestration and materials.

1.9 The eastern block is to be finished in masonry and the larger block will include solar panels incorporated into the façade around the Studio Dundee hub which links Marketgait to Yeaman Shore. The eastern building shall include curved corners and glazing, which reflects a characteristic of the Malmaison Hotel which sits opposite.

1.10 It is proposed to create an external seating area to the rear of the site. This would also provide permeability into the Studio Dundee Hub. Refurbished shipping containers are also proposed to be located in this area, to house small start-up businesses as part of the Studio Dundee business incubator function of the site.

1.11 As the number of dwelling units proposed exceeds 50 the proposals fall within the meaning of a Major Planning Application as defined by Regulation 2(1) of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2013. Accordingly, the applicant was
required to undertake statutory Pre-Application Consultation with the local community. As part of this, the applicants held a public event.

1.12 This is evidenced in the Pre-Application Consultation Report submitted as part of this application. The applicant has also submitted the following documents:

- Design and Access Statement;
- Transport Statement; and
- Noise Impact Assessment.

1.13 The proposal reinforces the core land use and environmental strategies of the Development Plan and the viability of Dundee as a regional centre. In this respect, the procedures for applications considered to be significantly contrary to the Development plan do not apply.

2 SITE DESCRIPTION

2.1 The application site is located within the Central Waterfront of Dundee’s Waterfront development. The site is identified as “Site 2”.

2.2 Site 2 is located in the western area of the Central Waterfront. It benefits from close proximity to the Railway Station, and key city amenities located within the existing City Centre. The site has been cleared and serviced, and is currently in temporary use as a public car park.

2.3 Existing businesses to the north and north east include the headquarter offices of Thorntons Solicitors and the Malmaison Hotel. To the south, beyond South Marketgait, are office buildings with a mix of private and public sector tenants. The Railway station lies to the south east and is currently under reconstruction, when complete it will contain the railway services as well as retail and hotel accommodation.

2.4 A small corner at the north east of the site is included within the Central Conservation Area.

3 POLICY BACKGROUND

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

**TAYPLAN STRATEGIC DEVELOPMENT PLAN 2012-2032**
- Policy 4: Strategic Development Areas
- Policy 5: Housing
- Policy 7: Town Centres

**DUNDEE LOCAL DEVELOPMENT PLAN**
- Policy 7: High Quality Design
- Policy 8: Housing Land Release
- Policy 9: Design of New Housing
- Policy 20: City Centre Retail Frontages
- Policy 28: Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre
- Policy 27: Class 2 Office Developments
- Policy 29: Low and Zero Carbon Tech in New Development
- Policy 40: Waste Management Requirements for Developments
- Policy 41: Flood Risk Management
Policy 42: Sustainable Urban Drainage Systems
Policy 44: Air Quality
Policy 45: Land Contamination
Policy 47: Environmental Protection
Policy 50: Development In Conservation Areas
Policy 55: Accessibility of New Developments

NON STATUTORY STATEMENTS OF COUNCIL POLICY
Dundee Waterfront Masterplan (2001)

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 In 1998, the Dundee Partnership started preparation on a masterplan to re-integrate the Central Waterfront area with the City Centre. The Dundee Partnership approved the Masterplan in 2001.

4.2 The Masterplan outlines the main components of the Central Waterfront project:
   • the extension of the City Centre down to the waterfront;
   • improved provision for walking, cycling and buses;
   • the reduction of the effect of cars and parking;
   • the creation of a pair of east/west tree lined boulevards; and
   • the provision of a new rail station and arrival square.

4.3 Work has been carried out on several of the main projects as part of the Waterfront Development, including the construction of the V & A Museum of Design and the new railway station and arrival square. The current proposals seek to develop “Site 2” as part of this wider masterplan.

5 PUBLIC PARTICIPATION

5.1 The Council has carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. This application was also advertised in the Dundee Evening Telegraph as a departure to the Development Plan.

5.2 In response, one neutral letter of representation was received. The considerations raised relate to the following issues:
   • welcomes the development of this site, the mix of uses and generally the design of the three distinct elements;
   • concerns regarding whether plant and equipment at rooftop level is exposed or adequately screened. They consider that they should be integrated into a well-designed roof structure hiding ugly plant, equipment, lift housing etc;
• appreciate the need for the substation and generator on Yeaman Shore, but regard it essential that these and the structures appended to the main building are clad in sympathetic materials to create an attractive streetscene in Yeaman Shore; and

• members will have had access to the letter and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

6.1 Dundee City Centre and Harbour Community Council has raised the following concerns
The car parking strategy for the wider waterfront development is not based on up to date information regarding car parking requirements. There has been insufficient information to demonstrate that the car parking strategy across the Waterfront as a whole is adequate.

6.2 Most of the multi storey car parks are well used and if the remaining space is allocated on a fixed base to the new waterfront developments, there will be a conflict and more people will be pushed out of the City Centre.

6.3 SEPA – has objected to the application on grounds of flood risk, stating that they will remove their objection if a Flood Risk Assessment (or other information) demonstrates that the development of the site would not be at significant risk of flooding. Members should note that if Committee is minded to approve this application, the Council must notify Scottish Ministers of its intention to grant planning permission in accordance with the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

6.4 Scottish Water – has no objection to the application

6.5 The Head of Community Safety and Protection – states that in relation to land contamination, the information submitted is satisfactory and recommends that conditions be attached to any grant of permission.
6.6 In respect of noise, The Head of Community Safety and Protection has requested that a Noise Impact Assessment be submitted to consider the impact of road traffic noise and plant and machinery on the residential units proposed. Additionally, a condition to restrict the hours of servicing and deliveries to the site is recommended.

6.7 In respect of air quality, The Head of Community Safety and Protection has stated that an Air Quality Assessment is required. This is fully discussed in relation to Policy 44 of the Report below.

7 DETERMINING ISSUES

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

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 STRATEGIC DEVELOPMENT PLAN 2012-2032

7.2 Policy 4: Strategic Development Areas - allocates Dundee Centre and Port as a Strategic Development Area with the intention that this will make a major contribution to the provision of a range of uses including business, commercial, leisure, retail, residential and port related uses.

7.3 The proposed development and mix of uses is therefore in accordance with Policy 4: Strategic Development Areas.

7.4 Policy 5: Housing - requires Dundee City Council to allocate a sufficient amount of effective housing land for an annual average build rate of 610 units. Dundee Centre and Port Strategic Development Area is allocated within the Dundee Local Development Plan 2014 for housing and will contribute to meeting the average build rates set out in Policy 5.

7.5 The proposed development is in accordance with Policy 5.

7.6 Policy 7: Town Centres - the mix and quality of town centres and their land uses have a critical role in delivering the vision and objectives of the Plan. This Policy also advises that Local Development Plans should also support a mix of uses in city and town centres that will encourage their vitality and the diversity of economic and social activity in both the day and the evening. It is considered that the mix of uses put forward for consideration fulfil this role.

7.7 The proposed development is in accordance with Policy 7.

DUNDEE LOCAL DEVELOPMENT PLAN

7.8 As the proposals can be divided into three interconnected parts, it is intended to consider each of the above uses in the context of the Dundee Local Development Plan.
Policy 8: Housing Land Release - seeks to ensure that there is a 5 year effective supply of housing land maintained over the Plan Period. The housing strategy as set out in Policy 8 has been to give priority to brownfield land release within the existing urban area and to focus the limited greenfield land release at the Western Gateway Strategic Development Area.

The principle of development on this site for housing is established through its status in the DLDP 2014 as part of H41. The H41 designation allows for housing to be constructed within the Waterfront Development Area with an indicative capacity of around 375 units across the entire area.

In this regard, the DLDP 2014 through Appendix 2 provides capacities for each of the housing sites to ensure that sufficient land is allocated. Whilst the capacities for each site are provided, it is still incumbent on any proposed development to demonstrate that the design and layout is in accordance with Policy 9 (Appendix 3). As part of this process it is accepted that the number of units that can actually be accommodated may increase or decrease from that identified for each of the allocated sites. Notwithstanding the above approach, it is noted that this particular application site relates to a relatively small portion of the wider allocated area.

The proposals are in accordance with Policy 8.

Policy 9 and Appendix 3: Design of New Housing - advises that “The design and layout of new housing developments in Dundee should be of a high quality and contribute to creating places that build on and enhance the distinct character and identity of the different parts of the city.”

“All new housing development will require to conform to the guidance on the Design of New Housing set out in Appendix 3.”

House Type - the Policy advises that all flats/houses have a minimum of 2 bedrooms or a minimum gross internal floor area of 60m².
7.16 The proposed development does not comply with the requirements as 76 out of 116 flats (65%) are below 60m². There are 44 flats at 50m² and 32 flats at 38.7m².

7.17 **Car Parking** - the Policy seeks 100% car parking provision for new build properties but notes that flexibility on the level of provision may be applied where car free schemes or alternative arrangements such as car clubs are proposed or where provision is impractical. In terms of residential parking, the application does not propose any spaces and therefore fails to comply with this requirement of the Policy.

7.18 **Cycle Provision** – cycle storage is split between internal bike storage and external bike storage. There is a 58% provision secure internal storage for residents, and 72 secure internal storage for the office. Additionally there are 130 spaces provided for “day users” of the building, who arrive to work during the day and take their bike home in the evening. The external spaces are all heavily overlooked significantly decreasing the opportunity for vandalism or theft.

7.19 **Amenity/Garden Ground** - to be provided where site specific circumstances allow, including separate drying areas. Where garden cannot be provided, balconies that are usable and attractive in terms of size and outlook should be provided.

7.20 116 residential units are provided within the development. As described in the “description of proposals” section, the development is to be provided with 3 communal spaces which shall provide amenity opportunities for both business and residential occupiers of the buildings. This includes the following:

- **The Hub** – is the social heart of the development. It has a food and café offering and residents concierge. It is envisaged to be a place alive with activity and is located on the ground floor level.

- **The Mezzanine** – is a multi-purpose space. It is a communal space, a lounge space, events area and exhibition space. It is intended to be a focal point with a diary of events and activities for occupants of the building to participate and engage in. This will range from events such as yoga to business related events.

- **The Terrace** – is a large lounge space with access to a terrace overlooking the River Tay. It is only for residential occupiers of the development and will provide space to prepare food, space to host a dinner, space to work and space to lounge.

7.21 Furthermore, it is proposed that 22 units will be provided with Juliette balconies, which, when combined with the floor to ceiling windows, will create a high standard of living accommodation. In addition to the above, one unit shall have a private terrace area which will afford excellent views and outlook.

7.22 The above provisions are considered to offer a unique way of living for the residents of the development. There are a variety of space sizes and functions which will appeal to a wide variety of occupiers.

7.23 **Privacy** - the Policy advises that an 18m privacy distance between the facing windows of habitable rooms should be afforded to flats. The proposals raise no issues in this regard.

7.24 **It is concluded that the proposals are generally of a high standard but are unable to fully comply with the requirements of Policy 9 in terms of the flats less than 60m² and no car parking has been provided for any of the residential units.**
The Central Waterfront Development aims to create a distinct and vibrant place, while acting as a complementary extension to the heart of the existing city centre. Importantly, new commercial uses within the Central Waterfront should enhance and diversify the overall commercial offer, while avoiding displacement of existing uses within the city centre. New uses should also respond to the changing nature of the city, namely the rise in tourism through the pending V&A Museum of Design.

Policy 20: City Centre Retail Frontages – this Policy advises that The Waterfront Masterplan includes a limited element of small scale shopping floorspace at ground floor level and that it should be complementary in nature to the shopping provision in the City Centre. As part of the above approach, the proposals seek to encourage footfall generating uses at key ground floor locations to ensure active frontages which will enliven the street scene.

The east most ground floor shall contain specialist retail spaces with a programme to accelerate creative businesses with retail offerings. These young companies will have supported office space on the mezzanine above the retail floor.

It is therefore the case that the ground floor retail units will be for a specialist, limited retail offer and in accordance with this Policy. In addition, they have been proposed in strategic locations on important routes to/from railway and bus stations which shall ensure they contribute towards attracting footfall and vitality to these areas.

The proposed retail uses are in accordance with Policy 20.

Policy 28: Public Houses, Restaurants and Hot Food Takeaways Outwith the City Centre - this Policy provides guidance for the establishment of such uses. Since the application site is located within the city centre, the proposed café at ground floor level as part of the Studio Dundee function raises no Policy issues.
7.31 The proposal therefore raises no issues in the context of Policy 28.

Urban Offices

7.32 Policy 27: Class 2 Office Developments - advises that proposals for new out of centre developments within Class 2 of the Use Classes Order where the services are provided principally to visiting members of the public will only be acceptable if it can be demonstrated that:

1 no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres; and

2 the site is readily accessible by modes of transport other than the car.

7.33 The proposed offices shall take the form of Class 2 or 4 and are located within the city centre.

7.34 The proposals therefore raise no Policy issues in this regard.

7.35 The site wide general issues relate to design, flood risk/drainage, environment, and transportation. These are considered as follows:

Design

7.36 Policy 7: High Quality Design – this policy states that “all development must 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 and should create and improve links within the site and into the surrounding area beyond the site. Proposals should also incorporate new landscape and planting works appropriate to the local context and the scale and nature of the development.”

Figure 7 – 3D Image South East Corner
7.37 The proposed development will be assessed with reference to the following design criteria:

1. **Consider and respect site topography and any surrounding important landmarks, views or skylines.**

7.38 With regard to views and skyline, overall heights were established throughout the Central Waterfront to create an appropriate development scale and height that respects the surrounding context. The Site 2 Development Brief promotes a building height of 6 to 7 storeys and the development proposal storey heights respect this.

7.39 Regarding landmarks, the Malmaison Hotel and the new train station sit adjacent to site 2. As the proposed development respects the height, massing and footprint requirements of the Site 2 Development Brief, the integrity of these landmark buildings is maintained.

2. **Contribute to a sense of identity by developing a coherent structure of streets, spaces, and buildings that are safely accessible, respecting existing building lines where appropriate.**

7.40 The proposal respects the existing building lines and street pattern and reflects the Waterfront Masterplan in that regard. The buildings would be fully accessible to users of the site from both the north, south and east, with the Studio Hub in the centre of the site allowing permeability through the site from north to south.

![Figure 8 – Corner View Gable](image)

3. **The design should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.**

7.41 **Height** - with reference to the skyline comments above for criterion 1, the proposed heights are deemed to be appropriate.
7.42 **Scale and Massing** - with reference to the ‘Planning and Urban Design Framework’ and the “Site 2 Development Brief” the proposed development complies with the scale and massing guidance, specifically regarding the subdivision of the site into three blocks.

7.43 **Appearance** - a single architectural style ties together the three blocks that make up Site 2, which is rigorous and set into a grid arrangement. Each block is then individually defined through variations in the fenestration and materials. This variety is welcomed in line with the design and planning guidance.

7.44 The design of the western elevation has been amended to provide an appropriate response to its prominent corner location at the gateway between the City Centre and the Waterfront. This includes increased glazing which shall make the best of the impressive views to the west and the introduction of signage on this elevation shall help to signpost the new development. Signage would require to be the subject of a separate application.

7.45 **Materials, Finishes and Colours** - in general the proposed material palette is in line with the planning guidance, including a mix of brick, concrete, glass and dark grey coloured steel and aluminium cladding and fins. Variations in the masonry colours have been used to positive effect, delineating between the three main blocks and then helping to break down the massing of each block. The inclusion of photovoltaic cladding panels to the mid-block is an interesting and welcome addition to the material palette.

4. All buildings, streets, and spaces (including green spaces) should create safe, accessible, inclusive places for people, which are easily navigable, particularly on foot, bicycle and public transport and designed with future adaptability in mind.

7.46 Access to the building by foot, bicycle and public transport is predetermined by the existing urban layout and the requirements of the Site 2 Development Brief. Various pedestrian access points are then located around the perimeter of the building via the public footpath.

7.47 The configuration of the proposed commercial containers and the plant units to Yeaman Shore is important to creating a safe and secure environment.

5. Existing buildings, structures and natural features that contribute to the local townscape should be retained and sensitively integrated into proposals.

7.48 Above ground Site 2 is a blank canvas with no existing features to be considered.

7.49 This Policy also advises that “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.”

7.50 As noted above, the applicant has indicated a willingness to provide a public art project within the overall development and this can be the subject of a planning condition in the event the application is approved.

7.51 **Taking the above factors into consideration, it is concluded that the proposals are in accordance with Policy 7 and will provide buildings of high quality that will be a complementary extension to the heart of the city centre.**

7.52 **Policy 50: Development In Conservation Areas** - this Policy advises that 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.
7.53 There are no existing features on site and it is currently in use as a temporary car park. As discussed above in relation to Policy 7, the proposed building heights and massing respect the existing streetscape with a similar scale and grain to the Dock Street neighbours, including Malmaison. The position of the proposed buildings takes account of the historic street pattern and will bridge the gap in Union Street between the new developments of the landmark V&A and the new access to Dundee Railway Station, and the historic centre of the city.

7.54 The application is therefore considered to be in accordance with Policy 50.

Flood Risk and Drainage

7.55 **Policy 41: Flood Risk Management** - seeks to control development in low to medium and medium to high risk areas and requires a flood risk assessment to be carried out where necessary.

7.56 Part of the site lies within the 1 in 200 year flood extent of SEPA’s Flood Risk Map, which SEPA has identified as being at risk from coastal and surface water flooding. SEPA has objected to the application, stating that the objection will be reviewed following the submission of a Flood Risk Assessment or other information.

7.57 Parts of the development site and adjacent roads are known to have flooded in the past. Outputs from the Tayside Integrated Catchment Study, being led by Scottish Water with partners including Dundee City Council, have identified the existing sewer system in the city centre area as the main source of this flooding.

7.58 The applicant is currently giving consideration to raising the floor levels of the building to ensure that they are above the predicted flood risk level water level from the existing sewer system during a 1:200 year plus climate change event. In addition, work on the Dundee Waterfront Flood Protection Scheme is which provides protection against coastal flood risk up to the 1:200 year plus climate change event has commenced, and it is likely to be completed before the completion of the proposed development on Site 2. The applicant is currently in discussion with SEPA with a view to getting their objection withdrawn.

7.59 The proposal would bring forward part of Dundee’s Central Waterfront which is a National Development. It is contained in the National Planning Framework and supported by The Scottish Government. The site is allocated for development, and the proposal is in accordance with the Planning Brief for Site 2. The principle of such a development on the site has therefore been well established by planning policy. To refuse the application in such circumstances would not be reasonable.

7.60 SEPA has not objected to other planning applications within Dundee’s Central Waterfront. As stated above, it is not considered reasonable to refuse the application on grounds of flood risk. To address SEPA’s concerns, it is recommended that Committee approve the application subject to a condition requiring the submission of technical information to demonstrate that the proposed development would not be at unacceptable risk from flooding.

7.61 Subject to a condition, the application complies with Policy 41.

7.62 **Policy 42: Sustainable Urban Drainage Systems** - states that surface water from new development must be treated by a Sustainable Urban Drainage System (SUDS), which should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300mm below floor level. Proposals are encouraged to adopt an ecological approach.

7.63 The applicant has indicated that the proposal would make provision for SUDS and has submitted information stating that they are looking to discharge surface water from the site
into Dundee City Council’s surface water system within the waterfront. This would be acceptable in principle, provided that the technical details of the drainage proposal were agreed by condition prior to the commencement of development.

7.64 However, no specific details of how this will be achieved on the site has been submitted but work has been undertaken by the applicant to progress these matters.

7.65 **Subject to conditions, the proposal satisfies the requirements of Policy 42.**

**Environment**

7.66 **Policy 29: Low and Zero Carbon Technology in New Development** - the policy requires that, for specified developments, carbon emissions will be reduced by defined percentages through the installation and operation of zero-carbon generating technologies. The applicant has proposed the use of solar panels to the front (south facing) elevation. In addition, there shall be photovoltaic array on the roof also. As such, the proposal would embrace low and zero carbon technologies and would comply with the requirements of the policy.

7.67 The proposal satisfies Policy 29.

7.68 **Policy 40: Waste Management** – this policy requires proposals to demonstrate that they adequately address the Council’s waste strategy to reduce, collect, sort, recycle and reuse waste. The proposals have been assessed in relation to the provision for waste disposal and recycling provision. Individual refuse stores will be provided within Block A for Studio Dundee, Block B for the residential units and Block C for the offices.

7.69 The proposal satisfies Policy 40.

7.70 **Policy 44: Air Quality** – states that there is a general presumption against proposals that could significantly increase air pollution or introduce people into elevated pollution concentration unless mitigation measures are adopted.

7.71 The Head of Community Safety and Protection has requested the submission of an Air Quality Assessment. In order to undertake this, traffic modelling is required. This cannot be done until at least September in order to collect accurate traffic data that takes account of school holiday periods. As such, no Air Quality Assessment has been submitted. However, the principle of the scale and nature of development on the site is in accordance with the Site 2 Planning Brief. It is recommended that an Air Quality Assessment be requested by condition should Members approve the application. This would consider the impact of the detail of the development air quality in the area, and the quality of the environment for residents on the site. It would also specify any mitigation measures that would require to be incorporated into the construction of the development.

7.72 The proposals would satisfy Policy 44 subject to compliance with the conditions discussed in 7.71.

7.73 **Policy 45: Land Contamination** – the policy requires that:

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.
7.74 No site investigation report has been submitted. However, the site forms part of the Central Waterfront redevelopment masterplan and its redevelopment is acceptable in principle. The detailed means of assessing the nature and extent of any contamination, and any necessary remediation measures, is currently being considered. Conditions are proposed to ensure that the necessary investigation and remediation reports are submitted, agreed and implemented.

7.75 **Subject to those conditions, it is concluded that the proposal satisfies the requirements of Policy 45.**

7.76 **Policy 47: Environmental Protection** – this Policy advises that all new development or an extension to an existing development that would generate noise, vibration or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area.

7.77 New development or an extension to an existing 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 viability of existing businesses or uses.”

7.78 The food and bar offer within the Studio Dundee social hub will be unlikely to cause issues of significant noise, vibration or light pollution due to their locations within the development, directly underneath the office areas.

7.79 The applicant submitted a Noise Impact Assessment (NIA) with the application to assess the impact of noise from road traffic, mechanical and electrical plant, substation, deliveries and commercial music on residential properties within and adjacent to the development. The Head of Community Safety and Protection has reviewed the NIA and advised that with the provision of suitable windows and ventilation systems as identified in the NIA for the proposed residential properties, and restrictions on the mechanical and electrical plant/substation/deliveries/commercial music noise, that there would be no unacceptable impact on residential amenity for noise. The Head of Community Safety and Protection has recommended that conditions be attached in relation to these.

7.80 **Subject to conditions, the proposals are in accordance with Policy 47.**

**Transportation**

7.81 **Policy 54: Active Travel** - seeks to minimise the need to travel by private car and ensure that developments make suitable provision for walking and cycling.

7.82 **Policy 55: Accessibility of New Developments** - expects that all development that generates travel should be designed to be well served by all modes of transport. In particular, walking, cycling and public transport should be afforded priority.

7.83 The applicant has submitted a Transport Statement which concludes that the site benefits from excellent walking and cycling infrastructure directly adjacent to the site. The site is also a short walk from both Dundee Railway Station and the City Centre bus terminus. This location with such excellent pedestrian, cycle and public transport access nearby, promotes a range of modes of sustainable travel.

7.84 The Transport Statement demonstrates that the potential traffic generation from the proposed development will be negligible and can easily be accommodated on both the local and trunk road network which has been designed to accommodate all the planned development within the Waterfront.
7.85 The findings of the Transport Statement are accepted. Appropriate conditions in relation to the provision of a Travel Plan, street lighting alterations, restricting any opening of doors over the public footway and the provision of details of making good the accesses to be closed off will be require to be attached to any approval to ensure that the site is accessed safely and to promote sustainable transport.

7.86 The proposals also comply with the roads design standards as set out in the Streets Ahead document.

7.87 Through the addition of conditions, the proposal satisfies the requirements of Policies 54 and Policy 55.

7.88 In concluding the Development Plan policy assessment, the application fails to comply with Policy 9 and Appendix 3 of the Dundee Local Development Plan due to the size of a number of flats and because no parking is to be provided on site.

OTHER MATERIAL CONSIDERATIONS

A - DUNDEE WATERFRONT MASTERPLAN

7.89 The Central Waterfront is the focal point of the Dundee Waterfront project. The ambitious £1 billion development involves the demolition of bridge ramps, roads and buildings, which previously separated the City Centre from the Waterfront. In their place, a new grid iron street pattern, green civic space and attractive boulevards are reconnecting the city with the waterfront. New hotels, office and residential accommodation, cafes, restaurants and retail/commercial outlets are proposed as part of the masterplan to support the expanding city. In addition improvements and enhancements are proposed to Dundee railway station to accommodate the increasing travel to the city by commuters and visitors.

7.90 The delivery of the Dundee Central Waterfront Development is supported by a set of related documentation, setting out the vision, objectives, planning requirements and technical infrastructure information. Aside from the technical specifications and infrastructure information, the following documents are of particular relevance to the current proposals:

The Central Waterfront’s Planning and Urban Framework and “Site 2 Development Brief”

7.91 These documents set out in greater detail the principles of design and planning requirements for the Central Waterfront and provides a basis from which development proposals can be assessed.

7.92 The following relates to aspects of the design and planning guidance which are not covered by Policy 7.

7.93 Green Infrastructure - integrated green infrastructure is promoted through the planning guidance, such as green walls and roofs. A large portion of the roof is proposed for photovoltaic arrays (714m²) and the south elevation includes wall mounted photovoltaic panels. These features are considered to be a positive alternative to the green infrastructure.

7.94 In conclusion, the proposals are considered to offer a high standard of development and will contribute to the delivery of the Dundee Waterfront Masterplan to the enhancement of the city.

B - SUPPORTING STATEMENTS

7.95 The applicant has submitted a Design and Access Statement, as required by statutory legislation. Whilst some minor details within those reports have been superseded by more
recent changes to the layout, the general principles behind these documents are acceptable as material considerations in support of the application.

**C - AREAS WHERE THE DEVELOPMENT DOES NOT COMPLY WITH THE DEVELOPMENT PLAN**

7.96 Car parking - In this instance no residential car parking is proposed. However, with reference to the above Site 2 Development Brief, one of the aims of the Central Waterfront development is to reduce reliance on the private car. The site location benefits from excellent public transportation accessibility; good local cycling infrastructure; and multi-storey car parks within walking distance. In addition, it is considered that 100% provision would be impractical on this site. Thus, concessions over residents parking are acceptable and in accordance with the flexibility afforded in the Policy.

7.97 Flat sizes - The proposals show the creation of 76 flats below 60m². Of this, there are 44 flats at 50m² and 32 flats at 38.7m². The applicant has provided detailed supporting information in relation to this departure to the Development Plan and this is largely related to the creation of a new community which focuses on the retention of graduates to the city. Therefore, with the Dundee Waterfront project and combined with Studio Dundee, Build-to-rent offers an ideal solution for the ambitious plans to encourage young professionals, businesses and creatives to stay in Dundee. The Studio Dundee concept has been conceived to “encourage creative collisions, to connect members, sparking new collaborations and innovations.”

7.98 The applicant considers that the members want much more than a place of work and that the opportunity to live, work, play and learn in this new, dynamic community will allow individuals and businesses to flourish.

7.99 The properties are build-to-rent properties that are specifically designed for the rentable market. Build-to-rent properties differ from conventional homes (built for sale) by having particular characteristics. For the current proposals, this includes:
• on-site maintenance team;
• a concierge who can receive occupants mail;
• large communal areas with facilities to entertain;
• longer tenancies with no extra charges.

7.100 The applicants acknowledge the deficiency in floor space in terms of Local Plan standards and advise that the units provide open plan layouts which increases the proportion of usable space in each unit and that they have been designed to maximise natural light levels.

7.101 As discussed in relation to the spaces for amenity, there are three areas providing communal spaces which shall provide amenity opportunities for both business and residential occupiers of the buildings. This includes the following;

7.102 **The Hub** – is the social heart of the development. It has a food and café offering and residents concierge. It is envisaged to be a place alive with activity and is located on the ground floor level.

7.103 **The Mezzanine** – is a multi-purpose space. It is a communal space, a lounge space, events area and exhibition space. It is intended to be a focal point with a diary of events and activities for occupants of the building to participate and engage in. This will range from events such as yoga to business related events.

7.104 **The Terrace** – is a large lounge space with access to a terrace overlooking the River Tay. It is only for residential occupiers of the development and will provide space to prepare food, space to host a dinner, space to work and space to lounge.

7.105 The concept for the development is that “It’s about living in the building, and sleeping in your flat”. The range of communal spaces, with a variety of functions and uses, allows for this and is a unique feature of the development, unlike any other existing development within the city.

7.106 Overall, it is considered that the level and type of residential accommodation proposed is acceptable in this location, it will perform a range of functions and offers an alternative way of living not already found within the city. In these specific circumstances, it is considered to have been suitably justified, contrary to the requirements of Policy 9 and Appendix 3 of the Local Development Plan.

**D - VIEWS WITHIN LETTER OF REPRESENTATION**

7.107 One neutral letter of representation neither objects to nor offers support for the application has been received. The matters raised are as follows:

• welcomes the development of this site, the mix of uses and generally the design of the three distinct elements;

• concerns regarding whether plant and equipment at rooftop level is exposed or adequately screened. They consider that they should be integrated into a well-designed roof structure hiding ugly plant, equipment, lift housing etc; and

• appreciate the need for the substation and generator on Yeaman Shore, but regard it essential that these and the structures appended to the main building are clad in sympathetic materials to create an attractive streetscene in Yeaman Shore.
7.108 In response, support for the development of the site, mix of uses and design is noted.

7.109 In terms of the rooftop plant and machinery, it is inevitable that a development of this nature will require related plant and machinery. The applicant’s plans indicate that most of the rooftop plant and machinery would be located on the highest part of the development in the southeast corner of the site. The plant is also to be set back at least two metres from the south and east elevations. Some other rooftop plant is proposed on the lower roof, but this would be screened to an extent by the proposed photovoltaic arrangement. The proposals ensure that public views of the necessary plant from street level will be minimised.

7.110 Details of the substation and generator on Yeaman Shore have been submitted by the applicant. This indicates that the reused shipping containers shall be finished in an appropriate RAL colour and that the substation will be clad in a material in keeping with the main buildings. A condition in relation to materials shall be attached to any grant of planning permission which shall ensure these details are agreed prior to commencement of development on site.

E - SCOTTISH PLANNING POLICY

7.111 The SPP is a statement of Scottish Government policy on land use planning and contains, amongst other things, concise subject planning policies, including the implications for development planning and development management.

7.112 The SPP states that by locating the right development in the right place, planning can provide opportunities for people to make sustainable choices and improve their quality of life. Well planned places promote well-being, a sense of identity and pride, and greater opportunities for social interaction.

7.113 Delivering high-quality buildings, infrastructure and spaces in the right locations helps provide choice over where to live and style of home, choice as to how to access amenities and services and choice to live more active, engaged, independent and healthy lifestyles.

7.114 It is considered that the proposed development would achieve several aims of the SPP by providing a use which would support the wider economy of the city, play an important role in attracting visitors and investment to Dundee’s new waterfront; opening up public access and stimulating the regeneration of the area.

7.115 It is concluded from the foregoing that the material considerations weigh in favour of the proposed development and are of sufficient weight to justify the granting of planning permission contrary to the provisions of the Development Plan. It is therefore recommended that planning permission be granted.

8 CONCLUSION

8.1 The Waterfront development and the V&A at Dundee provide an important centre of design for Scotland in a building of international design significance. The economic impact of the development will be considerable and have a transformational effect on the perception of Dundee both nationally and internationally.

8.2 The proposals will play an important supporting role to this, stimulating the regeneration of the area and providing facilities which will support the economy of the city.
8.3 There are therefore material considerations that would justify the approval of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

9.1 It is recommended that consent be GRANTED subject to the following conditions:

1 Condition - Prior to the commencement of any development full details of public art provision for the development shall be submitted to and approved in writing by the planning authority. For the avoidance of doubt, the public art provision shall be completed only in full accordance with such approved details prior to the first use of the unit or within such a further period of time that has been agreed in writing with the planning authority.

Reason - In order to provide for public art in interests of visual amenity and the appearance of the site.

2 Condition - Details of the proposed entrances to the building shall be agreed prior to any works on site.

Reason - In the interests of vehicle and pedestrian safety.

3 Condition - Any existing accesses that are no longer required as part of the proposed development must be made good as footway to Dundee City Council specifications. Details of these alterations must be agreed prior to any works on site.

Reason - In the interests of vehicle and pedestrian safety.

4 Condition - A Travel Plan must be in place and agreed with the Local Authority within one year of any part of the development opening.

Reason - In the interests of promoting sustainable transport.

5 Condition - Details of any required alterations to street lighting must be provided by the applicant to Dundee City Council standards and specifications prior to any works on site.

Reason - In the interests of vehicle and pedestrian safety.

6 Condition - Development shall not begin until a Contaminated Land Stage 1 Desk Study has been submitted to and approved in written by the Council; the investigation and risk assessment proposed in the submitted Stage I Desk Study are completed; and a remediation strategy to deal with contamination risks at the site has been submitted to and approved in writing by the planning authority. The strategy 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.
Reason - In order to ensure the site is fit for the purpose proposed.

7 Condition - Before any unit is occupied the remediation strategy 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 order to ensure the site is fit for the purpose proposed.

8 Condition - Before any work on the site is begun, an assessment of the impact of emissions to air from or associated with the development, including associated road transport and combustion sources, carried out by a method agreed by the planning authority shall be submitted to and approved in writing by the planning authority. The assessment report shall make reference to the standards and objectives of the National Air Quality Strategy and specify mitigation measures. The approved mitigation measures shall be completed before the use of the development commences.

Reason - To ensure that local air quality is maintained.

9 Condition - Prior to the commencement of any work on site, an assessment of the impact of dust and fine Particulate Matter to air from or associated with the construction of the development, shall prepared in accordance with IAQM Guidance, and submitted for the prior approval of Dundee City Council as Planning Authority. Thereafter, the approved dust mitigation measures shall be fully implemented throughout the construction of the development.

Reason - In the interests of safeguarding environmental quality and to protect residents and other sensitive receptors from air pollution.

10 Condition - Prior to the commencement of any works on site, a Flood Risk Assessment and Dundee City Council Compliance and Independent Check Certification shall be prepared and submitted to the Council and SEPA for written approval. Any recommendations contained within the Flood Risk Assessment must be implemented thereafter prior to occupation of the development.

Reason - In the interests of flood prevention.

11 Condition - Prior to the commencement of any works on site, 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, 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 flood prevention.

12 Condition - Prior to the commencement of any works on site, 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 prevention and visual amenity.
13 **Condition** - Prior to the commencement of any works on site, 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 prevention.

14 **Condition** - prior to the occupation of each residential unit hereby approved, a whole house ventilation system shall be operational and be retained thereafter unless otherwise agreed in writing with the Council.

**Reason** - In order to protect the amenity of residential properties within the development.

15 **Condition** - Prior to the first occupation of any of the residential properties within the development hereby approved, all residential properties within the development shall be fitted windows which achieve the minimum sound insulation performance standards as detailed in Table 11 and Table 12 within section 10 on pages 23 - 24 of the submitted Noise Impact Assessment produced by CSP Acoustics dated 20 July 2017, Ref# 1184001PRV1, for "Site 2, Dundee Waterfront".

**Reason** - In order to protect the amenity of the residential properties within the development from road traffic noise.

16 **Condition** - Total noise from all mechanical and electrical services plant shall not exceed Noise Rating (NR) 35 during daytime hours, and NR25 during night time hours, when measured internally (with windows closed for the purpose of the assessment) within any of the residential properties within the proposed development. In addition, the total noise from all mechanical and electrical services plant shall not exceed Noise Rating (NR) 45 during daytime hours, and NR35 during night time hours, when measured externally at one metre from the facade of any existing residential properties adjacent to the proposed development. For the avoidance of doubt, daytime hours shall be from 0700 to 2300 hours, and night time hours shall be from 2300 – 0700 hours.

**Reason** - In order to protect the amenity of the residential properties within and adjacent to the proposed development.

17 **Condition** - Total noise from the proposed new electrical substation shall not exceed Noise Rating (NR) 30 during daytime hours, and NR20 during night time hours, when measured internally (with windows closed for the purpose of the assessment) within any of the residential properties within the proposed development. In addition, the total noise from the proposed new electrical substation shall not exceed Noise Rating (NR) 40 during daytime hours, and NR30 during night time hours, when measured externally at one metre from the facade of any existing residential properties adjacent to the proposed development. For the avoidance of doubt, daytime hours shall be from 0700 to 2300 hours, and night time hours shall be from 2300 - 0700 hours.

**Reason** - In order to protect the amenity of the residential properties within and adjacent to the proposed development.

18 **Condition** - All deliveries to and servicing of, including loading, unloading or lay-up, the development shall only be permitted between 0700 to 2100 hours Monday to Saturday, and 09.00 to 18.00 hours on a Sunday."

**Reason** - In order to protect the amenity of the residential properties within and adjacent to the proposed development.
19 **Condition** - All amplified music/vocals from the commercial units of the developments shall be controlled as to be inaudible within residential properties within and adjacent to the proposed development”.

**Reason** - In order to protect the amenity of the residential properties within and adjacent to the proposed development.

20 **Condition** - Before any work on the site is begun, an assessment of the impact of local air quality on existing sensitive receptors and those within the proposed development, carried out by a method agreed by the planning authority shall be submitted to and approved in writing by the planning authority. The assessment shall make reference to the standards and objectives of the National Air Quality Strategy and specify mitigation measures. The approved mitigation measures shall be completed before any of the dwellings are occupied.

**Reason** - To protect existing sensitive receptors and also residents and other sensitive receptors in the development from air pollution.

21 **Condition** – Prior to the commencement of development on site, full details for the finished floor levels across the development shall be submitted to the Council for approval in writing. The development shall thereafter be carried out in complete accordance with the agreed details.

**Reason** - In the interests of flood prevention.

22 **Condition** – Prior to the commencement of development on site, full details for the finishing materials shall be submitted to the Council for approval in writing. Thereafter, the development shall be carried out in complete accordance with the agreed details.

**Reason** - In order to ensure the design finish of a high quality.

23 **Condition** – Prior to the commencement of development on site, full details for the bike storage facilities, including finish, shall be submitted to the Council for approval in writing. Thereafter, the works shall be carried out in complete accordance with the agreed details.

**Reason** - In order to ensure the bike storage facilities are of a high design standard finish.
REPORT TO: DEVELOPMENT MANAGEMENT COMMITTEE – 14 AUGUST 2017

REPORT ON: REQUEST FOR DIRECT ACTION TO REMOVE UNAUTHORISED STATIC CARAVAN, HARDSTANDING AND PROFILE METAL SHEET BOUNDARY FENCE FROM LAND AT PANMUREFIELD, NORTH BALMOSSIE STREET, BROUGHTY FERRY, DUNDEE

REPORT BY: EXECUTIVE DIRECTOR OF CITY DEVELOPMENT

REPORT NO: 262-2017

1 PURPOSE OF REPORT

1.1 This report seeks authority to take appropriate action to seek compliance with an Enforcement Notice on Land at Panmurefield, North Balmossie Street, Broughty Ferry, Dundee.

2 RECOMMENDATION

2.1 It is recommended that the Committee authorise direct action under the terms of Section 135 of the Town and Country Planning (Scotland) Act 1997 as amended to allow the Council to enter onto land at Panmurefield, North Balmossie Street, Broughty Ferry, and take the necessary steps to comply with the terms of the Enforcement Notice, following the non-compliance of its terms by the landowner.

2.2 Thereafter, it is recommended that Committee authorise the Executive Director of City Development to recover any expense reasonably incurred by the Council taking such action from the landowners.

3 FINANCIAL IMPLICATIONS

3.1 An estimate for removing an unauthorised profile metal sheet fence and hardstanding is £750. The metal sheet fencing would be stored by Council for 3 days in order to allow for them to be reclaimed by the owner.

3.2 The costs can initially be met from the City Development Revenue Budget 2017/2018. The Council will seek to recover the cost from the landowner.

4 BACKGROUND

4.1 The unauthorised use of land, caravan, hardstanding and metal sheet fence took place between September and December 2016. An Enforcement Notice requiring the removal of the caravan, hardstanding and metal sheet fence was served on the owner of the land on 7 December 2016, in accordance with Section 127 of the Town and Country Planning (Scotland) Act 1997 as amended.

4.2 The Enforcement Notice took effect on 11 January 2017 and allowed 180 days to comply with the terms of the Notice. The owner and/or occupier removed the caravan from the site on 29 July 2017, but at the time of writing, the metal sheet fence and hardstanding remain in situ. The Enforcement Notice has therefore not been fully complied with. The Notice has not been withdrawn by the Council and is still legally binding.

4.3 The Council has the following two options to pursue the matter:

a) report the matter to the Procurator Fiscal which, if pursued, may result in a conviction against the land owner. However, any conviction would be for failing to comply with the Enforcement Notice and would not guarantee the removal of the hardstanding or fence. Additionally, the Procurator Fiscal might not report on a case unless every other avenue has been explored; or
take direct action, using the Council's powers under Section 146 of the Town and Country Planning (Scotland) Act 1997 as amended to enter the land, remove the hardstanding and metal sheet fence and thereafter recover the costs from the landowner.

4.4 Option b (direct action) is recommended as the best solution available to the Council as it would have the greatest certainty of ensuring compliance with the terms of the Enforcement Notice to the satisfaction of the Council.

4.5 In carrying out direct action, the Council will act in accordance with the advice and guidance contained in The Scottish Government's Circular 10/2009 "Planning Enforcement".

4.6 An agreement has been reached with Neighbourhood Services to enter the land and remove the hardstanding and metal sheet fence. The Council would thereafter store the metal sheet fence panels for 3 days to allow the owner to reclaim them.

4.7 If they are not reclaimed within 3 days of their removal, the Council has the right to sell or dispose of them and recover any expenses reasonably incurred.

4.8 If successful in obtaining permission to take direct action, it is intended to take action within 7 days and it is estimated that the work would take one day to complete.

4.9 No special powers of entry will be required, as there is provision within Section 135 of the Act to allow any officer duly authorised in writing by the Planning Authority to enter land to execute the necessary steps. It is intended to undertake the works immediately and that the works will take a day to complete.

5 POLICY IMPLICATIONS

5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

6 CONSULTATIONS

6.1 All members of the Council Management Team have been consulted and are in agreement with the contents of this report.

7 BACKGROUND PAPERS

7.1 There are no background papers of relevance to this report.