

City Chambers
DUNDEE
DD1 3BY

9th May, 2025

Dear Colleague

You are requested to attend a MEETING of the **PLANNING COMMITTEE** to be held remotely on Monday, 19th May, 2025 at 5.00 pm.

Members of the Press or Public wishing to join the meeting should contact Committee Services on telephone (01382) 434205 by Friday, 16th May, 2025.

Yours faithfully

GREGORY COLGAN

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

- (a) 24/00458/FULL – ERECTION OF 31 DWELLINGS WITH ASSOCIATED ROADS AND DRAINAGE - LAND TO THE WEST OF 318 AND SOUTH OF CLEPINGTON ROAD, DUNDEE – FOR CAMPION HOMES FOR ABERTAY HOUSING ASSOCIATION

Requests have been made for a deputation to address the Committee relative to objections to and in support of the abovementioned application which is recommended for approval.

- (b) 24/00728/FULL – INSTALLATION OF FOOTBRIDGE, FORMATION OF HARD SURFACING, LANDSCAPING AND ASSOCIATED WORKS - FOOTPATH FROM MAGDALEN GREEN OVER RAILWAY TO RIVERSIDE PARK DUNDEE – FOR DUNDEE CITY COUNCIL

Requests have been made for a deputation to address the Committee relative to objections to and in support of the abovementioned application which is recommended for approval.

- (c) 24/00727/CON – APPLICATION FOR CONSERVATION AREA CONSENT TO DEMOLISH EXISTING RAILWAY FOOTBRIDGE AT MAGDALEN GREEN – FOOTPATH FROM MAGDALEN GREEN OVER RAILWAY TO RIVERSIDE PARK DUNDEE – FOR DUNDEE CITY COUNCIL

Requests have been made for a deputation to address the Committee relative to objections to and in support of the abovementioned application which is recommended for approval.

3 PLANNING APPLICATIONS

(Copy attached).

Planning Applications

Reports by Head of Planning & Economic Development to the Planning Committee

Item No	Case No/Ward	Location	Page
1	24/00458/FULL W04-Coldside	Land to West of 318 and South of Clepington Road, Dundee,	1
2	24/00728/FULL W03-West End	Footpath From Magdalen Green Over Railway To Riverside Park, Dundee	39
3	24/00727/CON W03-West End	Footpath From Magdalen Green Over Railway To Riverside Park, Dundee	71

Members may be aware that in making any determination under Planning Legislation, it shall be made in accordance with The Development Plan, unless 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 Development Plan and other policy documents referred to.

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Erection of 31 Dwellings and Associated Roads and Drainage

KEY INFORMATION

Ward Coldside

Address

Land to the West of 318 and South of Clepington Road

Applicant

Campion Homes for Abertay Housing Association

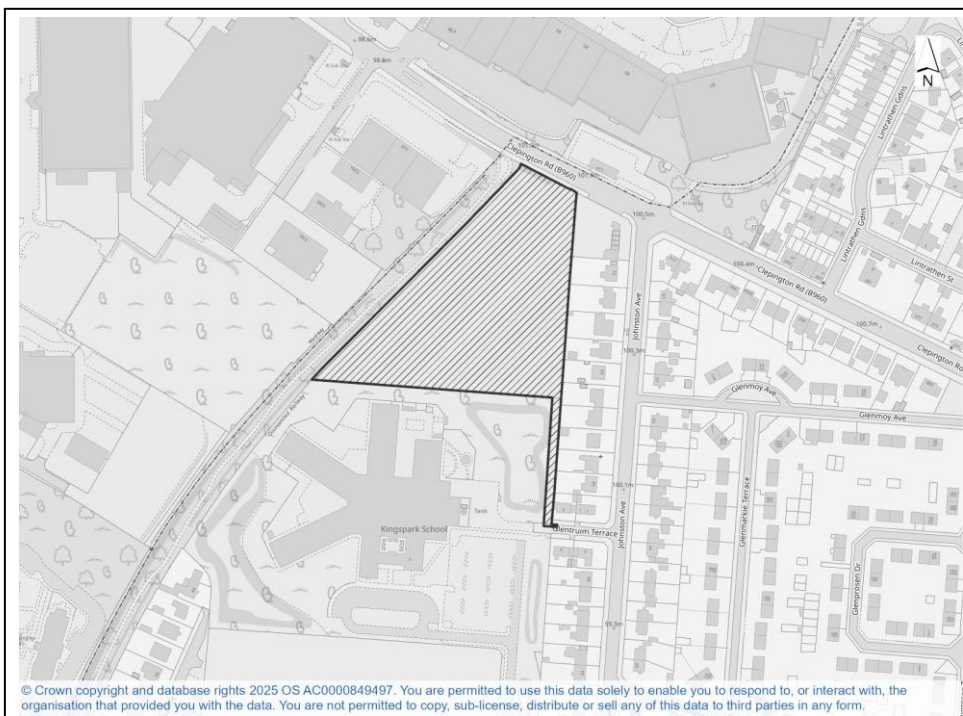
Agent

Wellwood Leslie Architects

Validated: 16 July 2024

Report by Head of Planning & Economic Development

Contact: Laura Stewart



SUMMARY OF REPORT

- Planning permission is sought for the erection of 31 affordable houses. This includes 26 semi-detached houses, 1 bungalow and 4 cottage style flats.
- The proposal also includes a new junction from Clepington Road, and a SUDs detention basin within the site.
- The site is allocated Open Space as defined within the Dundee LDP Proposals Map. The application is not fully in accordance with the Development Plan. However, there are material considerations of sufficient weight which justify approval of planning permission.
- The statutory neighbour notification process was undertaken, and the application advertised in the local press. 57 letters of objection and two letters of support have been received.
- The letters of objection raise concerns with impacts on the surrounding area in terms of amenity, increased traffic, drainage and the loss of open space. The objections also raise the potential impacts on pupils at Kingspark School.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as six or more valid written objections have been received, and the recommendation is for approval.
- More details can be found at [24/00458/FULL | Erection of 31 dwellings and associated roads](#)

RECOMMENDATION

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

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of 31 dwellings with associated access roads and SUDs detention basin.
- 1.2 The applicant has submitted the following in support of the application:
- Design and Access Statement;
 - Ecology Survey and Ecological Assessment;
 - Transport Assessment/Statement;
 - Flood Risk Assessment;
 - Drainage Scheme;
 - Contaminated Land Assessment;
 - Tree Survey and Arboricultural Report;
 - Landscape Maintenance and Management Plans;
 - Noise Impact Assessment; and
 - Road Safety Audit.
 - Planning Supporting Statement





Figure 2 – Proposed Cottage Flats Elevation/Floor Plans





Figure 4 – Proposed Cottage Elevation/Floor Plan

2 SITE DESCRIPTION

- 2.1 The site is located to the south side of Clepington Road. The site is flat with a triangular shape which is partially brownfield/hardstanding at the northern extent. The redline extends to the south of the site, and runs along the eastern boundary of the Kingspark School campus where a connection is shown at Glentruim Terrace. This area relates solely to the proposed outfall/drainage connection into the exiting network. The remainder of the site grassed with a large mound of spoil toward the western side of the site. An informal footpath/desire line has been formed around the site. Clepington Road forms the north boundary. A car sales business and the rear gardens associated with the residential use to Johnston Avenue bound the site to the east. The south of the site shares a boundary with Kingspark School. The west of the site is bound by trees and the Miley Nature Reserve/core path. There are commercial uses beyond this including a tyre fitter, wholesaler, tile shop, kitchen showrooms and carpet warehouse.
- 2.2 The surrounding area has a mix of uses with housing to the west, commercial uses to the east, Kingsway West Retail Park to the north and Kingspark and St John's schools to the south.
- 2.3 The site extends to approximately 1.54ha, 0.3ha of this comprises a brownfield area of the site which was previously developed.



Figure 5 – Looking Across the Site to Clepington Road/Kingsway West Retail Park



Figure 6 – Looking Across the Site to Kingspark School/Johnson Avenue



Figure 7 – Looking Toward Proposed Access from Clepington Road



Figure 8 – Looking Toward Site/Johnson Avenue from Clepington Road

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4

Policy 1: Tackling the climate and nature crises
Policy 2: Climate mitigation and adaptation
Policy 3: Biodiversity
Policy 6: Forestry, woodland and trees
Policy 9: Brownfield, vacant and derelict land and empty buildings
Policy 12: Zero waste
Policy 13: Sustainable transport
Policy 14: Design, quality and place
Policy 15: Local Living and 20-minute neighbourhoods
Policy 16: Quality homes
Policy 19: Heating and cooling
Policy 20: Blue and green infrastructure
Policy 22: Flood risk and water management
Policy 23: Health and safety

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking
Policy 2: Public Art Contribution
Policy 9: Housing Land Release
Policy 10: Design of New Housing
Policy 28: Protecting and Enhancing the Dundee Green Network
Policy 30: Green Infrastructure Maintenance
Policy 33: Local Nature Conservation Designations
Policy 34: Protected Species
Policy 35: Trees and Urban Woodland
Policy 36: Flood Risk Management
Policy 37: Sustainable Drainage Systems
Policy 39: Environmental Protection
Policy 41: Land Contamination
Policy 44: Waste Management Requirements for Development
Policy 48: Low and Zero Carbon Technology in New Development
Policy 54: Safe and Sustainable Transport
Policy 56: Parking

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

4 SITE HISTORY

- 4.1 24/00006/EIASCOR – an EIA Screening Opinion was sought as the proposal constitutes an urban development project where the site is over 0.5ha – An EIA is not required - 16.04.2025

5 PUBLIC PARTICIPATION

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

5.2 57 objections have been received raising the following valid material grounds:

- loss of open space/school playing fields;
- no compensatory greenspace proposed as required by LDP Policy 28;
- health impacts associated with the loss of open space;
- should develop other brownfield sites/buildings first;
- changes suggested to the design and layout;
- further detail should be submitted on climate change adaptation, reductions in embodied carbon;
- more biodiversity, green space and planting should be incorporated into the design;
- impact to wildlife and protected species;
- impact to the Miley;
- overlooking from two storey houses onto west side of Johnston Avenue; two storey houses not in keeping with the area or school;
- overlooking, construction noise impacts and traffic impacts to users of the neighbouring school
- impact on security and wellbeing of pupils at neighbouring school;
- air pollution from additional traffic;
- noise pollution;
- increased traffic, existing congestion issues locally, road safety, potential increase in accidents, 500 estimated additional movements significant;
- the bus service quoted is every hour and does not stop on Clepington Road within 200 metres of the site;
- conflicts between existing residential uses, retail park, two schools and neighbouring commercial uses;
- lack of Transport Assessment to assess impacts and conflicts in local area;
- lack of detail on who will adopt SUDs and future maintenance of this;
- impact to services/utilities including phone lines;
- impacts to schools from additional population in the area;

- impact to pupils' environment at the neighbouring school;
- failure to demonstrate compliance with 20-minute neighbourhoods and local living; and
- impacts to shared boundaries.

5.3 Concerns were also raised in relation to the following matters. However, these are not valid material planning considerations.

- property value; and
- land should be kept for school expansion.

5.4 Two letters of support raising the following valid material planning considerations:

- need for more housing.

5.5 The valid grounds of representation are taken into account in the material considerations section of this report.

6 CONSULTATIONS

- 6.1 **Head of Environment** – has no objection subject to conditions. Comments were received regarding trees, landscaping, access, and ecology.
- 6.2 **Head of Design and Property Services** – has no objection, subject to conditions.
- 6.3 **Head of Sustainable Transport and Roads** – has no objection subject to conditions. Comments were received regarding the proposed junction, internal road layouts and parking requirements.
- 6.4 **Scottish Water** – has no objection. There is sufficient capacity within Clatto Water Treatment Works and Hatton Wastewater Treatment Works.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission 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.

Principle of Development

- 7.2 **LDP Policy 28: Protecting and Enhancing the Dundee Green Network** - the site is located on land which is designated as Open Space as defined within the Dundee LDP proposals map. Policy 28 seeks to safeguard such sites from development. It is stated that development proposals that would result in a change of the use of a site identified on the Proposals Map as green infrastructure, including open space to anything other than a green infrastructure use

should establish that the site no longer has a potential value as green infrastructure unless the Council is satisfied that:

- 1 the proposals are consistent with a masterplan, strategy or programme approved by the Council; or
- 2 compensatory green infrastructure of equal benefit and accessibility will be provided in or adjacent to the community most directly affected; or
- 3 proposals affect only a lesser part of the site and are ancillary to it or result in improved recreational or amenity value on the remainder of the site.

7.3 With regard to Criterion 1 – the proposals are not consistent with any masterplan, strategy or programme. The proposal would therefore fail to accord with this criterion.

7.4 With regard to Criterion 2 – no compensatory green infrastructure of equal benefit and accessibility is provided in or adjacent to the community most directly affected.

7.5 With regard to Criterion 3 – the whole site would be affected by the proposal and the development of the site for housing would not result in improved recreational/amenity value.

7.6 LDP Policy 28 also refers to the loss of outdoor sports facilities. Since the site was last in use as open space, it appears that it was utilised as a construction compound/contractor vehicle access, at which point spoil has been left to the western side of the site. St Johns High School has its own outdoor sports pitch and Kingspark School has external open amenity areas within the campus. The Environment Service has confirmed that the site is not maintained by the Council as open space and that the site does not appear on the Dundee Pitch Strategy.

7.7 The proposal will not involve the loss of an outdoor sports facility as it is not recognised as such by the Council, nor is it capable of being used as such in its current form. The Planning Supporting Statement and Design Statement submitted in support of the application further address the non-compliance with LDP Policy 28. The applicant submits that the site is not fully greenfield, part of the site having formally been developed as a “school meals kitchen” as defined on historic mapping from the late 1960s/early 1970s. The remainder of the site is acknowledged by the applicant as being classed as “greenfield”. The applicant highlights that various uses over the years have eroded the amenity offered by the site including that there has been spoil dumped on parts of the site, and it has been fenced in precluding official access to the area as green/open space.

7.8 The applicant also submits that the delivery of housing is consistent with a specific masterplan, strategy or programme due to the need for affordable housing within the city. However, this is not the case.

7.9 **The proposal is not in accordance with LDP Policy 28.**

7.10 **NPF4 Policy 9: Brownfield, vacant and derelict land and empty buildings (part a)** - states that development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.

7.11 NPF4 Policy 9a is of relevance as the site is partially brownfield, this constitutes an area measuring approximately 0.3ha. There would be a presumption in favour of developing the area of the site which is adjacent to Clepington Road.

- 7.12 As the site is allocated as Open Space within the Dundee LDP, Part b of Policy 9 states that proposals on greenfield sites will not be supported unless the site has been allocated for development, or the proposal is explicitly supported by policies in the LDP.
- 7.13 The site is not allocated for development within the Dundee LDP and the proposal is not explicitly supported by the LDP policies where there is a presumption against developing sites which are allocated as open space.
- 7.14 **The proposal is not in accordance with NPF4 Policy 9b.**
- 7.15 **NPF4 Policy 15: Local living and 20-minute neighbourhoods (part a)** - states that development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:
- sustainable modes of transport including local public transport and safe, high-quality walking, wheeling and cycling networks;
 - employment;
 - shopping;
 - health and social care facilities;
 - childcare, schools and lifelong learning opportunities;
 - playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
 - publicly accessible toilets; and
 - affordable and accessible housing options, ability to age in place and housing diversity.
- 7.16 The site is located within an existing established mixed-use area. To the east and northeast of the site the area is largely residential. To the north Kingsway West Retail Park is located within walking distance which provides shopping, recreation and employment opportunities. To the south there are two schools within proximity to the site. Further commercial uses are located to the west. The site is served by public transport. There is an hourly service during daytime hours only via the 202-bus service on Clepington Road with the nearest bus stops located to the east of Johnston Avenue, approximately 270 metres from the furthest away point of the site. The 202 service runs between Kirkton – Downfield – Law and City Centre. The No.2 bus which serves the retail park – The Stack – Dryburgh and City Centre also runs on weekdays between 08:30 and 15:30 (dependant on school and public holidays). The closest stop serving this route is within Kingsway West Retail Park and is approximately 560 metres walking distance from the furthest point of the site. More frequent bus services can be found on Kings Cross Road opposite B&Q (No.1 runs every 15 minutes to the city centre) and the No.10 provides a direct route to Ninewells. Stops on Kings Cross Road are located approximately 530 metres from the proposed site access on Clepington Road.
- 7.17 The proposed link into 'The Miley' Nature Reserve provides a secluded link to Harefield Road and St John's School. This route is not lit. There is also pedestrian access to the wider area via Clepington Road/Johnson Avenue/Kings Cross Road, all in vicinity to the site.

7.18 The development of the site for housing would be in keeping with the settlement pattern of the area. There are multiple employment, shopping, health and social care, schools (and associated play facilities) in proximity of the site. The proposal itself provides affordable housing with a mix of house types.

7.19 **The proposal is in accordance with NPF4 Policy 15a.**

7.20 **NPF4 Policy 16b: Quality homes** - states that development proposals that include 50 or more homes, and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit.

The statement will explain the contribution of the proposed development to:

- i meeting local housing requirements, including affordable homes;
- ii providing or enhancing local infrastructure, facilities and services; and
- iii improving the residential amenity of the surrounding area.

7.21 Whilst there is no local policy or guidance which would require a Statement of Community Benefit for this proposal, the Design and Access Statement in support of the application submits that the proposed housing is 100% affordable thereby meeting local housing requirements. The applicant also submits that they will engage with the local schools and community initiatives. It is also submitted by the applicant that development of the site will improve the wider area as it will introduce structured landscaping proposals within, and to shared boundaries on a site which is currently unmaintained and of low ecological value. The SUDs basin will become an amenity feature and tree, shrub and wildflower meadow planting will improve the area. The developer also submits that they will be responsible for long term maintenance of all of the green infrastructure within and to the boundaries of the site.

7.22 **NPF4 Policy 16c** - states that development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision will be supported. This could include:

- i self-provided homes;
- ii accessible, adaptable and wheelchair accessible homes;
- iii build to rent;
- iv affordable homes;
- v a range of size of homes such as those for larger families;
- vi homes for older people, including supported accommodation, care homes and sheltered housing;
- vii homes for people undertaking further and higher education; and
- viii homes for other specialist groups such as service personnel.

7.23 Policy 16c provides a presumption in favour of delivery of affordable homes as specified under point iv above.

7.24 **The proposal is in accordance with NPF4 Policy 16c.**

7.25 **NPF4 Policy 16e** - supports proposals for new homes where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where:

- i a higher contribution is justified by evidence of need, or
- ii a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes.

The contribution is to be provided in accordance with local policy or guidance.

7.26 The proposed development is 100% social/affordable housing.

7.27 **The proposal is in accordance with NPF4 policy 16e.**

7.28 **NPF4 Policy 16f** – the site is not currently allocated for housing. Part f of policy 16 states that development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- i the proposal is supported by an agreed timescale for build-out;
- ii the proposal is otherwise consistent with the plans spatial strategy and other relevant policies including local living and 20-minute neighbourhoods;
- iii and either:
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or
 - the proposal is consistent with policy on rural homes; or
 - the proposal is for smaller scale opportunities within an existing settlement boundary; or
 - the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

7.29 With regard to policy 16f,i, no specific timescale for build out has been provided. As required by Section 58 of the Town and Country Planning Act a condition will be recommended which requires development to commence within three years of the date of any approval. Three years is a reasonable timeframe to secure a start on site and if development is not commenced the proposals can be scrutinised afresh on lapse of any permission granted. The proposal is in compliance with NPF4 Policy 16f,i, subject to condition.

7.30 As assessed under the provisions of NPF4 Policy 15: Local living and 20-minute neighbourhoods the proposals are broadly consistent with the plan spatial strategy and other relevant policies including local living and 20-minute neighbourhoods and is therefore in compliance with NPF4 policy 16f,ii. The site is identified in the Dundee Strategic Housing Investment Plan 2025-2030 as approved by the Neighbourhood Regeneration, Housing and Estate Management Committee on 28 October 2024.

7.31 **The proposal accords with NPF4 policy 16f subject to condition.**

Design of New Housing

- 7.32 **NPF4 Policy 14b: Design, quality and place** - states development proposals will be supported where they are consistent with the six qualities of successful places: Healthy, Pleasant, Connected, Distinctive, Sustainable and Adaptable.
- 7.33 **LDP Policy 1: High Quality Design and Placemaking** - states all development proposals should follow a design-led approach to sustainable, high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned and designed with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, create a sense of community and identity, enhance connectivity and incorporate creative approaches to urban design, landscaping and green infrastructure, appropriate to the local context and the scale and nature of the development. New development will be required to meet the six qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.34 **Healthy** - the development is designed in accordance with Secured by Design principles and incorporates passive surveillance. The proposals will promote accessibility and inclusion and provide an environmentally positive place thereby supporting prioritisation of safety and improving physical and mental health within the city, as required by NPF4.
- 7.35 **Pleasant** - the proposals have been designed to encourage positive interactions, aided by open plot frontages. It will connect into existing nature networks (The Miley) and encourage connection with nature. The proposal will support an attractive and natural built space as required by NPF4.
- 7.36 **Connected** - it will connect into the existing network of paths within the area including the Miley and is within walking distance of a range of services.
- 7.37 **Distinctive** - the design will be largely in keeping with contemporary affordable housing development in Dundee and will require to provide public art and SUDs basin which will provide amenity features.
- 7.38 **Sustainable** - the proposal will result in more people in the area and support an active local economy. It also proposes renewable energy from solar panels and incorporates blue green infrastructure through the provision of a SUDs pond.
- 7.39 **Adaptable** - the houses will fit a variety of needs and are of a scale and design which would allow them to facilitate home working and be altered to ensure they can be adapted to specific needs of residents.
- 7.40 **The proposal is in accordance with NPF4 Policy 14b and LDP Policy 1.**
- 7.41 **LDP Policy 9: Housing Land Release** – states that priority will be given to the development of the allocated brownfield and greenfield sites. To ensure that an effective 5 year supply of housing land is maintained over the plan period the sites allocated in Appendix 3 shall not be developed for other uses. Housing land release on brownfield sites, in addition to the allocations set out in Appendix 3, may be acceptable where it can be demonstrated that it will improve the tenure mix in an area where existing choice is limited and would make a positive contribution to the regeneration objectives of the area. Progress on the release of housing land will be monitored through the Action Programme and the annual Housing Land Audit. Where the annual Housing Land Audit identifies a shortfall in the effective 5 year land supply

the Council will look to bring forward additional housing land with sites that have been allocated within the second 5 year period of the Plan to be considered first.

- 7.42 The site is not allocated for housing. Part of the site is brownfield; in that it has been previously developed. The whole site is allocated as open space. However, as considered under LDP Policy 28 above, the amenity value of the site has been eroded over the years, and there is no authorised public access to the site. The site in effect has no use at present. The proposed use of the site for affordable housing would not be at odds with the intent of Policy 9 which seeks to safeguard existing allocated sites for housing.
- 7.43 The development of the site for housing would not have a detrimental impact on the existing allocated housing sites within the LDP. As the proposal seeks permission to develop the site for affordable housing, the proposal would improve tenure mix within the area, which, as existing is largely privately owned housing. As noted above whilst the site is not allocated, the site is identified for housing within in the Dundee Strategic Housing Investment Plan. The development of the site would therefore make a positive contribution to the regeneration objectives of the area.
- 7.44 **The proposal is not contrary to LDP Policy 9.**
- 7.45 **LDP Policy 10: Design of New Housing** - requires the design and layout of new housing developments in Dundee to be of a high quality and contribute to creating places that respect and enhance the distinct character and identity of the different parts of the city. All new housing developments should meet the six qualities of successful place, as set out in Policy 1 and should provide a balanced choice and type of housing. All new housing developments will be required to conform to the guidance on the Design of New Housing set out in Appendix 4. All new housing developments will need to ensure that the design and layout respects and enhances the character of adjoining properties and the surrounding area and does not have a detrimental impact on residential amenity and parking.
- 7.46 The six qualities of successful place are assessed above. The site is accessed via an existing unused access point from Clepington Road. Junction upgrades are required to accommodate the proposed housing. One main road will serve all houses, and this will run parallel to Johnston Avenue. The eastern side of the new road will comprise 10, 2 storey semi-detached houses for between 4 and 6 people. These houses will front the new road. Rear gardens will share a boundary wall with the existing rear garden wall of houses on Johnston Avenue.
- 7.47 The western side of the new road will comprise 6 semi-detached 5 person houses, and a block of 2 cottage style flats. The new road then spurs to the west toward the Miley where a further 10 semi-detached houses are located, alongside a further block of 2 cottage flats and a 5-person bungalow. An area to the west of the proposed development adjacent to the Miley is to be landscaped and planted to provide a buffer area between the housing and the nature reserve.
- 7.48 The proposed houses will have their rear gardens onto the rear gardens of Johnson Avenue. Such an arrangement/layout is in keeping with what would be expected within an urban area and would therefore respect the character of the area. The site is located within a suburban area as defined within the Dundee LDP. The LDP Appendix 4 Design Standards for a site of 5 or more units are as follows:
- 7.49 **House Type** – in general, 75% of houses should have 3 or more bedrooms or a minimum internal floor area of 100 square metres. Flats may be acceptable through conversion of buildings where conversion to houses is not suitable/achievable or identified in a site planning brief.

7.50 **Response** – the breakdown of the proposed houses is as follows:

- 6 x 2-bedroom semi-detached houses;
- 4 x 2-bedroom cottage flats;
- 1 x 3-bedroom bungalow; and
- 20 x 3-bedroom semi-detached houses.

The number of 2-bedroom properties would exceed 25% of the mix, and the proposed flats are new build. The proposals would therefore not be fully in accordance with this criterion.

7.51 **Car parking** – all parking should be located within the curtilage of each house. All tenures should have at least 1 space, private houses with 3 bedrooms should have at least 2 spaces and private houses with 4 or more bedrooms should have at least 3 spaces.

7.52 **Response** - all houses and flats have two car parking spaces within the curtilage of the properties in accordance with this criterion.

7.53 **Cycle Provision** – one secured covered space per house must be provided. For flats, secure indoor storage will be provided in accordance with the number of flats being provided.

7.54 **Response** – cycle storage is denoted on plans. The proposed flats do not have dedicated internal cycle storage. However, cycle storage is denoted within the curtilage. This will require to be covered, and this shall be addressed by planning condition.

7.55 **Amenity/Garden Ground** – brownfield sites will provide an average private useable garden ground of 140 square metres per house with a minimum garden size of 120 square metres. On greenfield sites average usable garden ground of 160 square metres per house is required with a minimum garden size of 120 square metres. Where flats are concerned each case is assessed on its merits considering the curtilage of the existing property. Each proposal must provide a high-quality living environment with attractive outdoor space for occupants. The space may be private communal harden or private garden for each flat. Separate drying areas should be provided.

7.56 **Response** – as all the housing is located on greenfield land the greenfield standard is applied. Eight of the proposed 27 houses do not meet the minimum useable garden ground size. Seven houses would have a shortfall of less than 6 square metres, and one would have a shortfall of 20 square metres. As a consequence of the shortfall in garden ground sizes, the average garden ground across the development is 150sqm. This is an overall 10sqm shortfall from the greenfield standards across the entire site, although it should be noted that it exceeds the minimum required for brownfield sites by 10sqm. On the basis that it is being assessed as largely a greenfield site, the proposal does not fully comply with this criteria of the Appendix 4. With regard to the flats, there are shared communal areas associated with the flats with independent drying facilities for each. These arrangements are acceptable.

7.57 **Privacy** – a minimum of 18 metres between facing windows of habitable rooms is required.

7.58 **Response** - there is a minimum of 18 metres between habitable rooms of the proposed houses. There is approximately 38 metres between the proposed houses and the existing houses on Johnston Avenue. The proposal is in accordance with this criterion.

- 7.59 **General Requirements** – provision for waste and recycling should be provided in accordance with the Council's Waste Management Strategy, parking areas should have provision for EV car charging and flats require storage areas in addition to cycle storage.
- 7.60 **Response** – bin storage is to be accommodated within the curtilage of the properties with areas of hardstanding within rear garden areas. Provision for EV charging within the houses will need to be delivered as part of a building warrant. The Head of Sustainable Transport and Roads has recommended a planning condition to secure further details on location of any EV charging point upstands within the site. Cycle storage is denoted on plan for the flats. No specific details have been provided as to the design of the bike stores; therefore, a condition is recommended to secure further details.
- 7.61 Appendix 4 provides a presumption against flats within the defined suburban area unless they relate to conversions. Where flats are acceptable, Appendix 4 sets out a standard that they should have a generous internal space standard with a minimum gross internal floor area of 80 square metres. The proposed flats would meet with that requirement. The applicant submits that based on their understanding of housing need and the Common Housing register that demand exists for flatted accommodation. The proposed flats are not conventional blocks of flats and allow for two disabled units to the ground floor within the development. Although the applicant may consider flats to be necessary and that they meet with the floor area standard, the provision of these within the site is not in accordance with Appendix 4.
- 7.62 **The proposal does not fully accord with the Appendix 4 standards for suburban areas as required by LDP Policy 10.**

Public Art

- 7.63 **LDP Policy 2: Public Art Contribution** - requires all developments in Dundee with construction costs of £1 million or over 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.
- 7.64 The proposed residential development will require to provide public art in an accessible/visible location within the site. A condition is recommended to secure details on the siting, design and provision of public art.
- 7.65 **The proposal is in accordance with LDP Policy 2 subject to condition.**

Transport

- 7.66 **NPF4 Policy 13b: Sustainable transport** - supports development proposals where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:
- i provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
 - ii will be accessible by public transport, ideally supporting the use of existing services;
 - iii integrate transport modes;
 - iv provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
 - v supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;

- vi are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii adequately mitigate any impact on local public access routes.

- 7.67 With regard to criterion i, the site will connect to the existing network of paths within the area, including the Miley which provides a link to Harefield Road and St Johns, The Stack and Lochee beyond. It is acknowledged that this is not lit so would mainly be suitable for daytime use. The site would also connect into the path network on Clepington Road which has pedestrian crossings to Kingsway West Retail Park and provides access to Strathmartine Road/Hilltown beyond to the east. There are also crossings on Kings Cross Road toward Dunsinane Industrial Estate and beyond. The proposal would accord with this criterion.
- 7.68 With regard to criterion ii, the connections to public transport links are assessed in detail under NPF4 policy 15 above. It is considered that the site is accessible to existing public transport services. The proposal is in accordance with policy 13b,ii.
- 7.69 Criterion iii, iv, v requires integration of transport modes and provision of EV and cycle charging and cycle parking. There is parking within the site, EV charging and cycle storage are proposed, and the site is accessible via public transport. A variety of modes are therefore promoted for future residents of the development in accordance with criterion iii.
- 7.70 Criteria vi – as assessed under criterion i above the site will connect into existing path networks, the development is bound on all sides, therefore the main connection is to Clepington Road which already benefits from crossings into the wider area. The proposal is in accordance with criteria vi.
- 7.71 Criteria vii – the transport needs of all users are met at the site with accessible units proposed, dedicated parking spaces adjacent to the houses, and EV charging. The proposed footpath link into the Miley also improves access as the current access to the reserve in this area is stepped. The design of this has been developed in order to ensure that the impact on this local route is minimised as far as practicably possible.
- 7.72 Criteria viii – There will be no adverse impact on any public access route. The proposal complies with criteria viii.
- 7.73 **The proposal is in accordance with NPF4 Policy 13b.**
- 7.74 **LDP Policy 54: Safe and Sustainable Transport** - states all development proposals that generate travel should be designed to be well served by all modes of transport. In particular the sustainable modes of walking, cycling and public transport should be afforded priority and provide for easy access to local amenities, education facilities and other services. Development proposals will be required to:
- 1 minimise the need to travel by private car;
 - 2 provide facilities on-site (and/or off-site through developer contributions or by direct delivery) for walking, cycling and public transport networks, including road/ junction improvements and cycle parking. Developments without high quality, safe and convenient links to adjacent walking and cycling networks will not be supported;

- 3 incorporate measures to permit access to public transport networks within a walking distance of no more than 400 metres from all parts of the development;
- 4 have no detrimental effect on the capacity or safe functioning of the existing road or rail networks;
- 5 ensure that safe and adequate provision is made for road freight and waste access, loading and unloading;
- 6 comply with the National Roads Development Guide and any local variations within Dundee City Council's roads design standards; and
- 7 be supported by a Travel Plan to mitigate transport impacts and improve the accessibility of developments where the council considers that the development will generate significant travel.

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

- 7.75 LDP Policy 54 largely aligns with the principles set out within NPF4 Policy 13. With regard to criteria 1 and 2 the site will connect into an existing network with access to a wide range of facilities within walking distance. Cycle storage within the site is also proposed supporting active travel.
- 7.76 With regard to criterion 3, the proposal is located within 400 metres walking distance to public transport networks. The proximity to bus stops and routes is assessed in detail under NPF4 Policy 15 – Local Living and 20-minute neighbourhoods. There is a service within 400 metres walking distance of the site, and other more frequent bus services further out, although still within walking distance, consistent with Local Living and 20-minute neighbourhoods.
- 7.77 Criteria 4 and 6 – a Road Safety Audit has been carried out which has informed the junction design. This has been accepted by the Head of Sustainable Transport and Roads who has no objection on the grounds of road safety. There will be no impact on rail networks arising from this proposal. The proposal complies with criteria 4 and 6.
- 7.78 A Travel Plan was not requested. However, the application is supported by a Transport Statement, the findings of which were accepted by the Head of Sustainable Transport and Roads. Submission of a Residential Travel Plan would be secured by condition should Committee approve the application.
- 7.79 **The proposal complies with LDP Policy 54.**
- 7.80 **LDP Policy 56: Parking** - sets out parking standards. For residential developments out with the city centre all new developments require to comply with Dundee City Council's adopted guidance on road standards; with the national maximum parking standards; and the national minimum disabled parking standards. Residential developments should include infrastructure to provide electric car charging points, either through electrical connections adjacent to private driveways, or through infrastructure for the installation of charging points within communal car parking areas. All new developments should include cycle parking facilities in accordance with Dundee City Council's adopted guidance on roads standards and the Appendix 4 design standards.
- 7.81 As assessed under the Appendix 4 standards required by Policy 10 of the Dundee LDP there is sufficient parking within the curtilage of the properties to service the development. EV chargers are not denoted on plan. However, it is now a requirement of the Building

Regulations to provide these therefore this will be secured through the Building Warrant process. Cycle parking is proposed within cycle stores within the curtilage of each property.

7.82 The proposal complies with LDP Policy 56.

Flood Risk and Drainage

7.83 NPF4 Policy 20b: Blue and green infrastructure - states development proposals for or incorporating new or enhanced blue and/or green infrastructure will be supported. Where appropriate, this will be an integral element of the design that responds to local circumstances. Design will take account of existing provision, new requirements and network connections (identified in relevant strategies such as the Open Space Strategies) to ensure the proposed blue and/or green infrastructure is of an appropriate type(s), quantity, quality and accessibility and is designed to be multi-functional and well-integrated into the overall proposals.

7.84 A SUDs basin is proposed to manage surface water, and a biodiversity enhancement plan also supports the application. The provision of the SUDs basin and landscaping is an integral element of the design and layout of the site. The proposed SUDs area is located in an area where it can connect to the public network, and landscaping has been designed to take into account the sensitive nature of the Miley. Appropriate provision has been made within the site for blue and green infrastructure.

7.85 The proposal complies with NPF4 Policy 20b.

7.86 NPF4 Policy 22a - Flood risk and water management - presumes against development proposals at risk of flooding or in a flood risk area unless there are exceptional circumstances. The site is not in a flood risk area.

7.87 LDP Policy 36 – Flood Risk Management – provides a presumption against development on undeveloped land which is at medium to high risk of flooding unless there are exceptional circumstances. Where a site is at low to medium risk a flood risk assessment may be required. As above the site is not identified as being at risk of flooding.

7.88 The application is supported by a Flood Risk Assessment which has been assessed. The Head of Design and Property Services has no objection, subject to conditions.

7.89 The proposal is in accordance with NPF4 Policy 22a and LDP Policy 36.

7.90 NPF4 Policy 22c: relates to surface water. Development proposals will:

- i not increase the risk of surface water flooding to others, or itself be at risk;
- ii manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue green infrastructure. All proposals should presume no surface water connection to the combined sewer; and
- iii seek to minimise the area of impermeable surface.

7.91 LDP Policy 37: Sustainable Drainage Systems - states that surface water discharging to the water environment from new development must be treated by a Sustainable Drainage System (SUDS) except for single houses or where discharge is to coastal waters. SUDS should be designed so that the water level during a 1:200-year rainstorm event plus allowances for climate change and future urban expansion is at least 600mm below finished floor levels. This incorporates an allowance for the effect of climate change. In addition,

proposals will be encouraged to adopt an ecological approach to surface water management, ensure an appropriate level of treatment and exploit opportunities for the system to form an integral part of the Dundee Green Network through habitat creation or enhancement through measures such as the formulation of wetlands or ponds. Proposals should have no detrimental impact on the ecological quality of the water environment.

- 7.92 SUDs are proposed to deal with surface water within the site via connections from the plots to a detention basin. There are two pockets of surface water flood risk as identified on SEPA Flood Maps within the site. These are located on the area of hardstanding and an area to the north of the site at the boundary with Kingspark School. It is understood that there is an informal drainage route which runs along the eastern boundary of the site.
- 7.93 The proposal will deliver a formal drainage scheme for the site. The finalised design will require to be submitted for further consideration. The proposal will not exacerbate any existing issues at the site and should improve existing drainage issues. The SUDs are to be adopted by Scottish Water who has no objection to the application.
- 7.94 The use of SUDs and the detention basin also allows for habitat enhancement/creation which will feed into the adjacent natural environment.
- 7.95 **The proposal is in accordance with NPF4 Policy 22c of and LDP Policy 37 – Sustainable Drainage Systems subject to conditions.**
- 7.96 **NPF4 Policy 22d:** requires development proposals to connect to the public water mains. It is proposed to connect to the public water mains. Scottish Water has no objections noting that there is capacity within the network.
- 7.97 **The proposal is in accordance with NPF4 policy 22d.**
- 7.98 **LDP Policy 30: Green Infrastructure Maintenance** - is relevant as there are communal areas of open space, landscaping and trees which will require to be maintained. It is understood that SUDs arrangements will be vested by Scottish Water. Policy 30 states that the Council will apply planning conditions or Section 75 obligations to planning permissions to make suitable provision for the long-term maintenance of green infrastructure (including open space and landscaping associated with Sustainable Drainage Systems) in new housing developments, based on the following options:
- 1 green infrastructure will be adopted by the Council, subject to appropriate agreements with the developer over the landscaping scheme and annual maintenance, including payment of a commuted sum to cover annual maintenance costs; or
 - 2 a developer may lay out the green infrastructure, transfer the land to a suitable third party, and either:
 - iv pay a commuted sum to cover maintenance costs; or
 - v hand over the maintenance costs to residents of the new development. This latter option should be clearly set out in the sale agreement, so residents agree to effectively share the cost of maintaining green infrastructure on an annual basis.
- 7.99 Landscape and maintenance management proposals have been submitted with the application. These are acceptable. A condition is recommended to secure a finalised maintenance plan and its implementation.
- 7.100 **The proposal is in accordance with LDP Policy 30 subject to condition.**

Climate and Nature Crises

- 7.101 **NPF4 Policy 1: Tackling the climate and nature crises** - states that when considering all development proposals significant weight will be given to the global climate and nature crises.
- 7.102 **LDP Policy 1: High Quality Design and Placemaking** also makes reference to proposals being designed with reference to climate mitigation and adaptation.
- 7.103 **LDP Policy 48: Low and Zero Carbon Technology in New Development** and the associated Supplementary Guidance require proposals for all new buildings to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technologies. The relevant Building Standards and percentage contribution required is set out in supplementary guidance.
- 7.104 **NPF4 Policy 19f: Heating and cooling** - states that development proposals for buildings that will be occupied by people will be supported where they are designed to promote sustainable temperature management, for example by prioritising natural or passive solutions such as siting, orientation, and materials.
- 7.105 The houses have been designed to minimise energy consumption via insulated building envelopes. PV panels and air source heat pumps are proposed.
- 7.106 **The proposal is in accordance with NPF4 Policies 1, 2 and 19f and LDP Policies 1 and 48 alongside the associated Supplementary Guidance subject to condition.**
- 7.107 **NPF4 Policy 12: Zero waste** - states that development proposals will seek to reduce, reuse or recycle materials in line with the waste hierarchy.
- 7.108 **NPF4 Policy 12b** – states that development proposals will be supported where they:
- i Reuse existing buildings and infrastructure;
 - ii Minimise demolition and salvage materials for reuse;
 - iii Minimise waste, reduce pressure on virgin resources and enable building materials, components and products to be disassembled, and reused at the end of their useful life;
 - iv Use materials with the lowest forms of embodied emissions, such as recycled and natural construction materials; and
 - v Use materials that are suitable for reuse with minimal reprocessing.
- 7.109 **NPF4 Policy 12c** - states that development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed including:
- i provision to maximise waste reduction and waste separation at source, and
 - ii measures to minimise the cross contamination of materials, through appropriate segregation and storage of waste; convenient access for the collection of waste; and recycling and localised waste management facilities.
- 7.110 **LDP Policy 44: Waste Management Requirements for Development** - requires development proposals to demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise

opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012.

- 7.111 Policy 44 largely aligns with the requirements of Policy 12c of NPF4. Subject to a condition to secure finalised construction and operational waste management plans, the proposal complies with both policies.
- 7.112 **The proposal is in accordance with NPF4 Policy 12 and LDP Policy 44 subject to conditions.**
- 7.113 **NPF4 Policy 3a and Policy 3c: Biodiversity** - states that development proposals will contribute to the enhancement of biodiversity including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.
- 7.114 The site is grass covered with an area of hardstanding toward Clepington Road. The proposed housing and infrastructure will result in the loss of this unmaintained area. It will introduce structured planting arrangements and tree planting with a landscaped buffer to the Miley nature reserve. Conditions are recommended to secure further detail on measures to further enhance biodiversity at the site.
- 7.115 **The proposal is in accordance with NPF4 Policy 3a and 3c subject to condition.**
- 7.116 **NPF4 Policy 6a: Forestry, woodland and trees** - states that development proposals that enhance, expand and improve tree cover will be supported. Policy 6b states that development proposals will not be supported where they result in:
- i any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;
 - ii adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;
 - iii fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy; and
 - iv conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.
- 7.117 Criteria i, iii and iv are not applicable in this case.
- 7.118 **LDP Policy 35 – Trees and Urban Woodland** is also relevant. This states that The Council will support the establishment and enhancement of woodland, tree belts and corridors. New development must ensure the survival of woodland, hedgerows and individual trees, especially healthy mature trees, of nature conservation or landscape value through sensitive site layout both during and after construction, unless removal has been approved in advance by the council. Where appropriate, development proposals must be accompanied by maintenance arrangements and justification for the removal of any trees or hedgerows.
- 7.119 There are trees located along the boundary of the site with the Miley Local Nature Reserve. A Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan is submitted with the application. This states that there is no tree loss associated with the proposals. It is

specified there will be low impact to root protection areas of four trees within the site. However, on the basis that development progresses in accordance with the arboricultural methodology that the long-term health and longevity of those trees will not be impacted. A condition is recommended to ensure that tree protection measures are implemented on site to mitigate any tree impacts.

7.120 The proposal is in accordance with NPF4 Policy 6b and LDP Policy 35 – Trees and Urban Woodland subject to condition.

7.121 LDP Policy 33: Local Nature Conservation Designations – is of relevance as the site is located adjacent to the Miley which is identified as a Locally Important Nature Conservation Site within the Dundee LDP. Policy 33 states that development which could have a significant effect on the conservation interests associated with Local Nature Reserves, Locally Important Nature Conservation Sites or Wildlife Corridors will only be permitted where:

- 1 an ecological or similar assessment has been carried out which details the likely impacts of the proposal on the conservation interests of the designation;
- 2 any negative impacts identified are contained within the site and can be mitigated without affecting the integrity of the designated area; and
- 3 it has been demonstrated that there are no other suitable sites that could accommodate the development.

7.122 With regard to criterion 1, an Ecological Survey and Ecological Impact Assessment was carried out and found there was no presence of species on site, however there is potential for red squirrel in the area. A condition is recommended to secure a pre-construction red squirrel survey prior to commencement of works to ensure that any habitat which may be using the site and its surrounds, which includes the Miley is safeguarded. As assessed above there will be no impact to trees within the Miley subject to works being carried out in accordance with the Tree Protection measures proposed. There are also detailed landscaping plans which provide a buffer between the site and the Miley in order to support further biodiversity around the Nature Conservation site. As the relevant assessments have been carried out, and it has been demonstrated that, subject to conditions impacts to the Miley can be mitigated without affecting its integrity, the proposals would comply with criterion 2 LDP Policy 33. As the development site is adjacent to the Miley and impacts are mitigated criterion 3 is not relevant in this instance.

7.123 The proposal is in accordance with LDP Policy 33, subject to conditions.

7.124 LDP Policy 34 – Protected Species states that development proposals which are likely to have a significant effect on a European protected species will not be supported unless:

- 1 there is no satisfactory alternative; and
- 2 the development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature or which have beneficial consequences of primary importance for the environment.

Development proposals which would be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range will not be supported.

Development proposals that would be likely to have an adverse effect on a species protected under the Wildlife and Countryside Act 1981 (as amended) will not be supported unless the

development is required for preserving public health or public safety. For development affecting a species of bird protected under the 1981 Act there must also be no other satisfactory solution.

- 7.125 As assessed under LDP Policy 33 above, an Ecological Survey and Ecological Impact Assessment has been carried out and submitted in support of the application. The Greenspace Officer has recommended that a condition is attached in order to secure a pre-construction red squirrel survey due to potential for habitat in vicinity to the site. With the addition of this condition, should any protected species be found on site before works start, it will be possible to mitigate any impacts and ensure the protection of any species.
- 7.126 The proposal is in accordance with LDP Policy 33 subject to conditions.

Health, Safety and Amenity

- 7.127 **NPF4 Policy 23: Health and safety** - protects people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.
- 7.128 **NPF4 Policy 23e: Relates to noise** - development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.
- 7.129 **LDP Policy 39: Environmental Protection** - requires all new development that would generate noise, vibration, odour, emissions to air, dust, or light pollution to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area.
- 7.130 A Noise Impact Assessment (NIA) was submitted which demonstrated that the new houses would not be significantly affected by noise from existing commercial businesses adjacent to the site. This is subject to mitigation measures provided within the NIA which includes a specification for window performance, ventilator performance and solid boarded fencing around plots which are most affected by noise.
- 7.131 The NIA also considers new noise that will be generated from the proposed development due to air source heat pumps proposed at each property. The NIA demonstrated that the proposed air source heat pumps can achieve the required noise criteria. A condition is recommended to limit noise from all mechanical and electrical plant and services from the site.
- 7.132 **The proposal is in accordance with NPF4 Policy 23e and LDP Policy 39 subject to conditions.**
- 7.133 **NPF4 Policy 9c: Brownfield, vacant and derelict land and empty buildings** – NPF4 policy 9c relates to contaminated land. Part c states that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use.
- 7.134 **LDP Policy 41: Land Contamination** – part a states that development of potentially contaminated or statutorily contaminated land will be considered where:
- 1 a site investigation is submitted establishing the nature and extent of contaminated; 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.

- 7.135 The application is supported by a Site Investigation Report. This found exceedances of the “residential with home grown produce” assessment criteria for lead and copper. Elevated concentrations of carbon dioxide were also found in the northeast corner of the site. A remediation scheme and materials management plan is required and conditions are recommended to secure this.
- 7.136 **The proposal is in accordance with NPF4 Policy 9c and LDP Policy 41 subject to conditions.**
- 7.137 **It is concluded that the proposal is not in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

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

A – JUSTIFICATION FOR DEVELOPMENT PLAN DEPARTURE

- 7.139 As assessed within the report the proposal is contrary LDP Policy 28 – Protecting and Enhancing the Dundee Green Network and NPF4 policy 9a – Brownfield, vacant and derelict land as the proposal involves the development of a site which is designated as open space/greenfield land and no compensatory green infrastructure of equal benefit and accessibility is proposed.
- 7.140 The recommendation to approve planning permission is made on balance. The applicant submits that the site no longer has value as green infrastructure therefore the three criteria/exceptions in LDP Policy 28 are not applicable in this case. It should be noted that this is at odds with comments received in objections. At present, access to the site is restricted by locked gates with unauthorised access currently being gained via a hole in the fence from The Miley nature reserve. It is understood that the site is used by dog walkers, however, it is clear from the quality of the site that it is not a high value amenity space to the wider local population. It also appears to have low to no biodiversity value in its current state.
- 7.141 The proposal would develop the entire site for 100% social housing with associated infrastructure. The applicant submits that there are 7340 applications on the Council’s waiting list, with 3491 applicants indicating that they would live in the ‘Cleington area’ although this area is undefined. As assessed within the report, the site is located within an area which is well connected to public transport links, shops, employment opportunities and schools, set within a mixed-use area which includes residential uses. The development of the low value amenity space for social housing would introduce a land use which is compatible with the surrounding area, whilst helping to address housing need and demand within the area, the proposed use of the site is therefore supported.
- 7.142 With regard to the lack of delivery of green infrastructure of equal benefit as required by LDP Policy 28. As the site has low amenity and biodiversity value at present and that access to the site is not currently authorised, the delivery of an alternative equal to this would not be of significant benefit to the wider area. The development of the site for housing would be a positive use of the site and the proposals introduce high quality landscaping which includes delivery of blue green infrastructure through the SUDs detention basin, structured landscaping which includes hedging, tree planting, orchard trees, wildflower meadow and a buffer between the site and the Miley which will encourage and enhance biodiversity. This will be accessible to all and maintained by the applicant. An improved level surface from the site will be provided between the site and the Miley which provides better accessibility for all abilities to the locally

important nature reserve. These are matters of significant weight which would justify the approval of planning permission contrary to LDP policy 28 and NPF4 policy 9.

- 7.143 As assessed within the report 4 cottage flats are proposed within the suburban area, and there is a shortfall of useable garden ground and average garden space across the site contrary to LDP Policy 10.
- 7.144 Of the 31 units proposed only 4 are flats. There are two flats per block and therefore are largely of the scale and design of the proposed semi-detached houses. It is submitted that the proposed development is only viable with the flats and that there is a specific need and demand for social rented accommodation of this type. The flats allow for 2 disabled/all abilities flats to the ground floor and with the addition of two flats above results in an uplift of 2 additional dwellings within the site. As the scale and design of the proposed flats is in keeping with the remainder of the proposed development and the wider area which is a mix of single and 2 storey houses, the addition of this small number of flats within the site is acceptable.
- 7.145 The minimum requirement for private useable garden ground on greenfield sites is 120 square metres. There should also be an average of 160sqm garden space across the development. As an average of 150sqm is proposed, there is a shortfall of 10sqm of garden space across the development. Of the 27 houses proposed, seven have a shortfall of useable amenity space (6 square metres or less) and one with 20 square metres (8 units in total with a shortfall). As a consequence of this the average garden space across the development has a 10sqm shortfall. Whilst the useable private garden ground and average garden space is below the Appendix 4 standard, it is not a significant reason to warrant refusal of the proposals. The site will benefit from shared areas of useable open space which provides further amenity opportunities for residents. With the inclusion of shared useable open space in the site and as this is an affordable housing development, the shortfall is accepted on balance.
- 7.146 The proposal is for 100% affordable housing to meet an identified need and demand, the site has a low value as open space, and the development would improve the character and appearance of the site; and introduce better accessibility to areas of green space, including the Miley. These are material considerations of sufficient weight that justify approval of the application contrary to the development plan.

B – REPRESENTATIONS

- 7.147 57 objections have been received raising the following valid material grounds, these are considered and assessed as follows:

Objection - loss of open space/school playing fields.

Response – the loss of open space is assessed in detail within the report, and it is acknowledged that this would be contrary to relevant open space related policies. The area has not been used as a school pitch for a considerable time and the school in question has its own pitches within the school grounds.

Objection - no compensatory green space proposed as required by LDP policy 28.

Response – this matter is addressed within the report and there are material considerations of sufficient weight to support the application contrary to this requirement of the LDP.

Objection - health impacts associated with the loss of open space.

Response – the space is part brownfield, overgrown and is understood to be used largely for dog walking. It is a closed site (unauthorised access is gained via a hole in the fence). There

are alternative open spaces and parks near to the site which could be utilised. It is not considered that there will be a significant impact to health through the development of the site for social housing, but there would be significant impacts to residents who need such housing.

Objection - should develop other brownfield sites/buildings first.

Response – whilst this is noted the case must be assessed on its own merits.

Objection - changes suggested to the design and layout.

Response - the design and layout is assessed within the report and is considered to be acceptable.

Objection - further detail should be submitted on climate change adaptation and reductions in embodied carbon.

Response – the details submitted with the application are acceptable.

Objection - more biodiversity, green space and planting should be incorporated into the design.

Response – detailed landscaping plans have been provided. There is open space between the houses and the Miley so that a corridor is retained and there are trees and planting proposed to enhance biodiversity at the site. A condition is also recommended to secure more detail and the applicant will require to maintain the landscaping in perpetuity. This is an improvement over the current situation on site.

Objection - impact to wildlife and protected species.

Response – an Ecological Survey and Ecological Impact Assessment carried out found no protected species on site. However, the Greenspace Officer recommends that a pre-construction red squirrel survey is carried out before works commence as there is potential for habitat within vicinity of the site. This matter is secured by planning condition.

Objection - impact to The Miley.

Response – there will be no significant impact to the Miley which provides a corridor through an otherwise urban area. The development of the site will be in keeping with this setting. A condition is recommended to secure an appropriate specification for the proposed footpath into the Miley. A landscaped area is also proposed adjacent to the Miley to further support and enhance planting on the boundary. Further to this the site will introduce a level access to the Miley in this area which is currently only accessible via a set of steps, or a relatively steep uneven gradient from Clepington Road.

Objection - overlooking from two storey houses onto west side of Johnston Avenue, two storey houses are not in keeping with the area or school.

Response – the area is a built-up urban area whereby an element of intervisibility between properties is to be expected. There is more than 18 metres between windows of proposed and existing properties which is in accordance with the Development Plan. The school campus will also not be significantly affected in this regard over and above the current situation on site in this urban context.

Objection - construction noise impacts and traffic impacts to users of the neighbouring school.

Response – a condition is recommended to secure a Construction Management Plan and Construction Traffic Management Plan which takes the development of the site and the school into account. This should provide a level of mitigation to reduce impacts to pupils from construction impacts, the Traffic Management Plan will require to specify delivery times in order to demonstrate that this will be out with drop off/pick up times at the school.

Objection - impact on security, wellbeing and environment of pupils at neighbouring school.

Response – the school is entirely enclosed from the site which is located within a residential area. The impact from the additional housing should not affect the security and wellbeing of pupils over the current situation in this context.

Objection - air pollution from additional traffic.

Response – there are no concerns around air pollution arising from traffic for a development of this scale and nature. This is in the context of the wider area being a busy thoroughfare, near to a junction with a trunk road and the surrounding traffic that the nearby commercial uses generate.

Objection – noise pollution.

Response – there will be no significant impact arising from the development in regard to noise pollution that would not be expected from a housing development of this scale, as above it is also situated within an area which has a busy thoroughfare and a mix of uses.

Objection - increased traffic, existing congestion issues locally, road safety, potential increase in accidents, 500 estimated additional movements significant.

Response – the application is supported by a Transport Statement and a Road Safety Audit has been undertaken. This has been accepted by the Head of Sustainable Transport and Roads and no objections have been raised. The surrounding road network has been assessed as being able to accommodate the scale of development and the junction design has been informed by the audit.

Objection - the bus service quoted is every hour and does not stop on Clepington Road within 200 metres of the site.

Response – a full assessment of all nearby bus services is provided in detail within the report.

Objection - conflicts between existing residential uses, retail park, two schools and neighbouring commercial uses.

Response – the area comprises a mix of uses, the addition of 31 dwellings in this context will not create significant conflicts over and above any conflicts which may already be experienced locally.

Objection - lack of Transport Assessment to assess impacts and conflicts in local area.

Response – the information submitted to assess traffic impacts and road safety has been accepted by the Head of Sustainable Transport and Roads who raised no objections subject to conditions.

Objection - lack of detail on who will adopt SUDs and future maintenance of this.

Response – it is proposed that the SUDs will be adopted by Scottish Water and they will therefore be required to maintain this. No objections from Scottish Water have been raised in this regard.

Objection - impact to services/utilities including phone lines.

Response – there should be no impact to services/utilities arising from the proposed development. Utilities providers are responsible for maintaining services.

Objection - impacts to schools from additional population in the area.

Response – the proposal was discussed with the Council's Children and Families Service. It was concluded that a proposal of this scale would have a relatively small number of children across various ages who would not all be attending the same school. No significant impact would be had on local schools in this area arising from this development.

Objection - failure to demonstrate compliance with 20-minute neighbourhoods and local living.

Response – 20-minute neighbourhoods and local living principles are assessed within the report. The proposals comply with the principles set out in NPF4 policy 15.

Objection - impacts to shared boundaries with the site.

Response – any impacts to shared boundaries which fall within third party ownership would be a civil matter to be resolved between the relevant parties. The plans show that there will be no works to the wall which forms the boundary to rear gardens on the site. The applicant advises that the posts will be on the outside of the fence which will provide a small gap to allow the wall to be seen from the applicant's side of the site should repairs be necessary. No ransom strip/maintenance strip will be provided as this would contravene Secured by Design guidance. In regard to the boundary with the Miley, there will be repairs to the fence which is Council owned and the school boundary fences will remain unaffected.

7.148 Two representations in support of the application have been received stating the following:

Comment – need for more housing.

Response – this is a matter which is considered in detail within the report.

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

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

8 CONCLUSION

8.1 The application for the erection of 31 dwellings and associated roads and drainage is not in accordance with the Development Plan. However, there are material considerations of sufficient weight to justify approval of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

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

- 1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.

Reason - to comply with Section 58 of the Town & Country Planning (Scotland) Act 1997.

- 2 **Condition** - all landscaping works shall be carried out in accordance with the scheme and plans approved as part of this permission. All planting, seeding or turfing as may be comprised in the approved scheme and plans shall be carried out in the first planting and seeding seasons following the commencement of the development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason – in the interest of enhancing biodiversity and the amenity of the area.

- 3 **Condition** – No development shall commence until a scheme for the maintenance, in perpetuity, of all on-site green spaces, trees, biodiversity measures, public art and other spaces, facilities, features or parts of the development that are not the exclusive property of any identifiable individual home owner, have been submitted to, and approved in writing by, the Planning Authority. Thereafter, the approved scheme shall be implemented in full and in accordance with the timescales contained therein.

Reason - To ensure that all communal spaces, facilities and landscaping areas are properly managed and maintained in perpetuity.

- 4 **Condition** - all works and protective measures necessary to safeguard the trees on the site during development operations shall be undertaken as per BS 5837:2012. The protective measures shall be retained in a sound and upright condition throughout the development operations and no building materials, soil or machinery shall be stored in or adjacent to the protected area, including the operation of machinery.

Reason - to protect those trees which are of significant amenity value to the area and which would ensure a satisfactory standard of appearance of the development.

- 5 **Condition** – no development shall commence until a statement is submitted which includes details of the building fabric and heating and hot water systems, together with a sustainability statement to demonstrate that the development will comply with Scottish Building Standards in relation to carbon emissions reduction. Thereafter the development shall progress in accordance with the approved details.

Reason - in the interests of promoting renewable energy and reducing carbon emissions associated with the proposed development.

- 6 **Condition** - no development shall commence until details of all proposed boundary treatments and their location on site has been submitted to, and approved in writing by the Planning Authority. For the avoidance of doubt this shall include:
- i full details of the stopping up of any fencing adjacent to the Miley;
 - ii full details of the proposed gate to the Miley, which shall be designed to tie in with other entrance points to the Miley; and
 - iii full details including elevation drawings of a solid timber fence to the north of the site

Thereafter, the erection of the boundary treatments shall be carried out in strict accordance with the details approved by this condition.

Reason – in the interest of visual amenity.

- 7 **Condition** - no development shall commence until full details including a plan which shall show a specification for the proposed path and barrier to the north of the site which links into “The Miley” has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt this plan shall denote a path showing the following:
- i it shall be narrowed to no more than 2m in width at the entrance to The Miley;
 - ii it shall include a geotextile membrane to protect tree roots;
 - iii it shall be finished in uncompacted stone where it meets the boundary with the Miley;
 - iv no timber edging shall be installed out with the site boundary, or within the Miley;
 - v soil grading shall be finished to fall away from the path; and

details of a chicane barrier to be installed between the site and the Miley with ironmongery finished to match the existing entrances.

Reason – as no specific details have been provided and to preserve the character of the Miley.

- 8 **Condition** - no development shall commence until a scheme of features or measures to conserve, restore and enhance biodiversity, such as those measures set out in the NatureScot Developing with Nature guidance, shall be submitted for the prior approval of this planning authority. The approved details thereafter shall be implemented prior to the first operation of the development and then retained and maintained for their designed purpose in accordance with the approved scheme.

Reason - in the interests of conserving, restoring and enhancing biodiversity.

- 9 **Condition** – no development shall commence until a pre-commencement survey for red squirrel and dreys has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason – in order to ensure that the site and its environs are further surveyed and the development does not have an adverse impact on any protected species or habitats.

- 10 **Condition** - no development shall commence until details of a scheme of public art to be provided within the development hereby approved shall be submitted to and approved in writing by the Planning Authority. Thereafter, the approved scheme of public art shall be installed prior to first occupation of the development.

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

- 11 **Condition** - no development shall commence until a detailed risk assessment and remediation scheme to deal with any contamination at the site has been submitted to and approved in writing by the planning authority. The scheme shall contain proposals to deal with contamination to include:

- i the nature, extent and type(s) of contamination on the site;
- ii measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
- iii demonstration of the durability and expected life-span of the remediation;
- iv measures to deal with contamination during construction works; and
- v verification of the condition of the site on completion of decontamination measures.

Reason - in order to ensure that contamination on site is dealt with appropriately in the interest of health and safety.

- 12 **Condition** - before any unit is occupied the remediation scheme shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation scheme have been achieved shall be submitted to and approved by the planning authority.

Reason - in order to ensure that contamination on site is dealt with appropriately in the interest of health and safety.

- 13 **Condition** - the total noise from all mechanical and electrical plant/services shall not exceed NR 35 as measured 1metre external to the facade of adjacent residential accommodation.

Reason - in the interest of residential amenity.

- 14 **Condition** - prior to the occupation of any of the dwellings, the noise mitigation measures identified within Section 4 of the Noise Impact Assessment by Sharps Redmore, "Report 1b, Proposed residential development, land off Clepington Road, Dundee, Environmental Noise Assessment, dated 6th February 2025, project No 2422730" shall be implemented in full. For avoidance of doubt, this includes:

- i the minimum glazing performance requirements for window systems as outlined in Sections 4.6 to 4.9;
- ii the minimum ventilator performance requirements as outlined in section 4.10; and

- iii the installation of a solid boundary fence of a minimum height of 1.8metres to the gardens of the dwellings as outlined in Section 4.11.

Reason - in the interest of residential amenity.

- 15 **Condition** – no development shall commence until full details of secure, covered cycle parking for the flatted accommodation within the site has been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt this shall include floor and elevation plans. Thereafter the approved details shall be available for use prior to first occupation of the development hereby approved.

Reason - to promote sustainable transport.

- 16 **Condition** - no development shall commence until full details of electric vehicle charging points has been submitted to the Planning Authority. For the avoidance of doubt this shall include the number and location of EV charging points within the site. Thereafter, the development shall progress in accordance with the approved details.

Reason - to ensure sustainable transport can be accommodated on site.

- 17 **Condition** – prior to first occupation of the development hereby approved a Residential Travel Pack shall be submitted to, and approved in writing by the Planning Authority. Thereafter this shall be made available to all residents.

Reason – in the interests of promoting sustainable transport.

- 18 **Condition** – no development shall commence until full details on plan, of the proposed road and access within the site, which shall include all road markings has been submitted to and approved in writing by the Planning Authority. Thereafter, the road and access must be formed and constructed in accordance with the approved details.

Reason - in the interests of vehicle and pedestrian safety.

- 19 **Condition** - no development shall commence until full details of a disposal route for road surface water has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt this shall discharge to a system which is maintained by the relevant authority.

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

- 20 **Condition** - no development shall commence until a Traffic Management Plan for all construction related traffic on site, shall be submitted to and approved in writing by the Planning Authority. For the avoidance of doubt this shall include:

- i details on construction vehicle routing;
- ii details of access and parking for construction workers and contractors; and
- iii timing of deliveries to the site, this shall require to take into account school opening and closing times and peak travel times.

Thereafter all construction traffic shall access and exit the application site in strict accordance with the approved management plan.

Reason - to protect road safety and the amenity of other users of the public roads around the site.

- 21 **Condition** – no development shall commence until a Construction Environmental Management Plan (CEMP) for the construction phase has been submitted to, and approved in writing by the Planning Authority. For the avoidance of doubt this shall cover:

- i dust management;
- ii noise and vibration mitigation;
- iii lighting plans during construction;
- iv site and construction waste management;
- v surface and ground water management during construction;
- vi details of consultation; and
- vii any other relevant environmental management as may be relevant to the development.

Thereafter the development shall progress in accordance with the approved details.

Reason - in order to ensure construction is managed appropriately on site and in the interests of amenity of neighbours and users of the adjacent school.

- 22 **Condition** – no development shall commence until an Operational Waste Management Plan is submitted to and approved in writing by the Planning Authority.

Reason - in the interest of sustainable waste management.

- 23 **Condition** – no development shall commence until a detailed surface water drainage/ SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in section 26.7.1 of the CIRIA SUDS Manual (C753), and where appropriate SEPA comments shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

Reason - in the interests of flood protection.

- 24 **Condition** – no development shall commence until full details of 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.

Installation of Footbridge, Formation of Hard Surfacing, Landscaping and Associated Works

KEY INFORMATION

Ward West End

Address

Footpath From Magdalen Green
Over Railway To Riverside Park
Dundee

Applicant

Dundee City Council

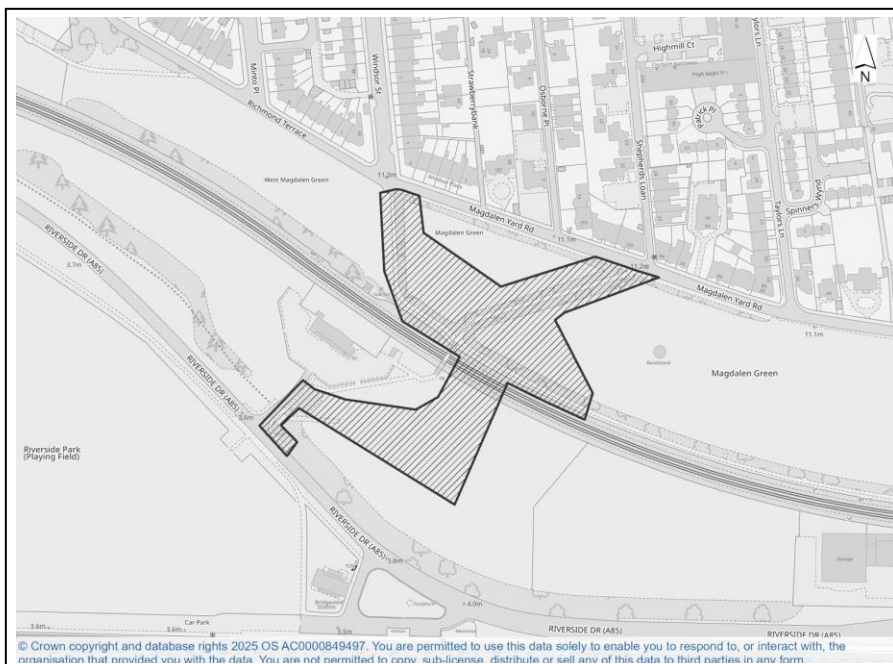
Agent

Dundee City Council

Registered: 27 November 2024

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

Contact: Edward Bean



SUMMARY OF REPORT

- Planning Permission is sought for the installation of a new footbridge across the railway line between Magdalen Green to the north, and the open space to the south.
- The application site is 1.7 hectares of public open space split between the north and south sides of the railway line.
- The applicant is Dundee City Council. Detailed plans including site layout, elevations and section drawings along with supporting information including a design statement, landscaping plans and drainage strategy have been submitted with the application.
- The application is in accordance with the requirements of the Development Plan.
- The statutory neighbour notification process was undertaken. In total, 43 letters of objection and 105 letters of support were received. The letters of objection raise concerns with, but are not limited to, impact on the surroundings of the application site, suitability of design, anti-social behaviour, failure to comply with Development Plan policy and impact on biodiversity.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as six or more valid written objections have been received, and the recommendation is for approval.
- More details can be found at: <https://idoxwam.dundee.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>

RECOMMENDATION

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

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the installation of a new footbridge across the railway line between Magdalen Green to the north, and the open space to the south. The bridge has been designed to create a fully accessible active travel link to key destinations across the existing railway.
- 1.2 The proposed location for the new footbridge is approximately 19 metres east of the existing footbridge. On the north side of the bridge, the design will integrate the bridge into the natural slope of Magdalen Green. Since the open space south of the railway is at a lower level, an earth embankment will be formed to connect the playing field level to the bridge deck.
- 1.3 It will span a length of some 66.7 metres, and its footway would be 9.2 metres at its widest, and 4.6 metres at its narrowest. The bridge would be roughly 7.9 metres in height above ground at its highest point. The footbridge will feature weathered steel plate for decking and parapets, supported by weathered steel stiffeners. The parapet construction may incorporate glazing and open mesh, depending on the specifications and requirements set by Network Rail. The bridge will be supported by weathered steel circular hollow section columns, resting on solid red class 'A' brick-faced concrete abutments at each end, with curved red class 'A' brick parapets.
- 1.4 On the north side of the bridge, a 4-metre-wide footpath link will be created to the north-west and south-east to provide access to the existing path network within Magdalen Green. On the south side, a new 4-metre-wide path will be routed down the embankment, and tie into an existing footpath at the southwest. A flight of steps would also provide access from the playing field.
- 1.5 The proposal also includes several areas of seating, lighting, signposts and an informal play area.
- 1.6 To facilitate the positioning of the new footbridge and its pathways, thirteen existing trees are proposed to be removed, including eight cherry blossom trees that form part of the avenue along the current Magdalen Green footpath. However, it is proposed to plant 55 replacement trees, forming a new east-to-west avenue within Magdalen Green, in addition to a number of new trees within the playing field to the south.
- 1.7 The applicant is Dundee City Council. The following documents have been submitted in support of the application:
 - Surface water proposals;
 - Location/Block plan;
 - Site layout plan;
 - Proposed elevations;
 - Sections;
 - Lighting layout;
 - Design statement;
 - Landscaping plans;

- Preliminary Ecological Appraisal;
- 3D visualisations; and
- Public consultation report.



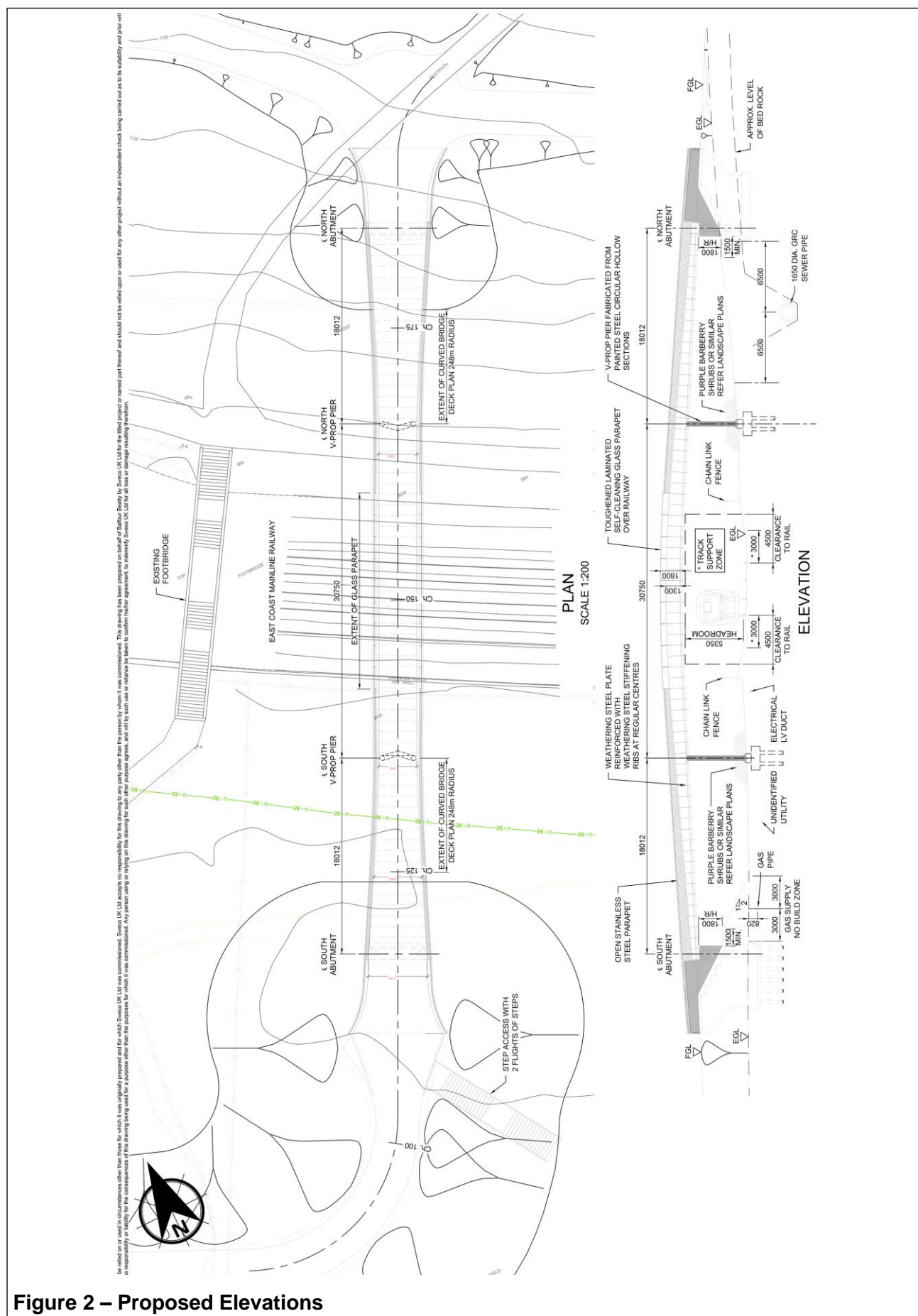
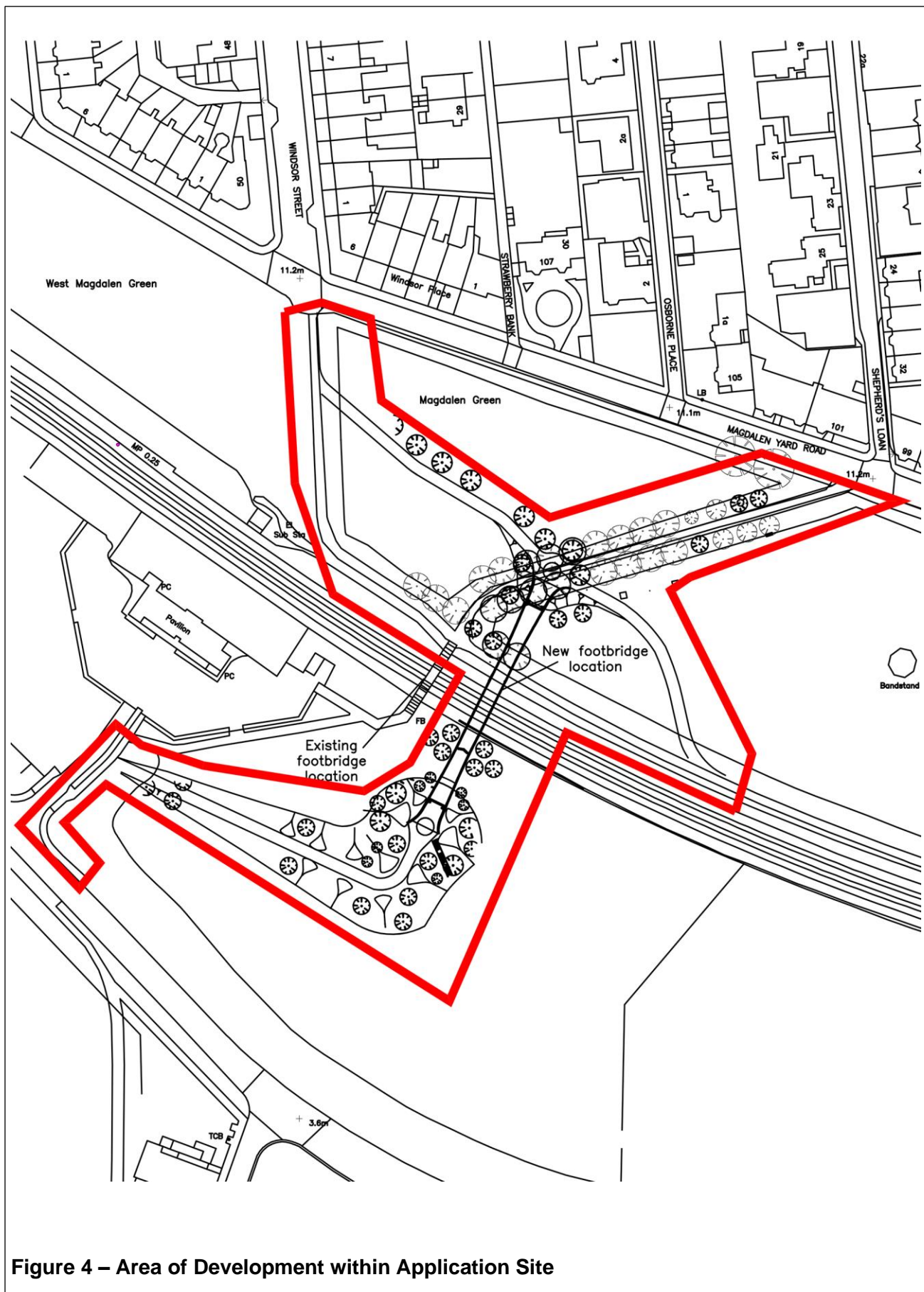


Figure 2 – Proposed Elevations



Figure 3 – Visualisations



2 SITE DESCRIPTION

- 2.1 The application site is 1.7Ha of public open space split between the north and south sides of the railway line (Magdalen Green and Riverside Park Respectively). An existing footbridge over the railway is located centrally within the application site.
- 2.2 The land to the north of the railway line sits within the West End Lanes Conservation area and has the Category 'A' listed bandstand close to the existing footbridge. An avenue of cherry blossom trees stretches from the existing footbridge to Magdalen Yard Road to the north. The site is bound by Riverside Drive to the south, and Magdalen Yard Road to the north. To the east and the west, the site is bound by open space. To the southwest of the application site lies Riverside Pavilion and its car park.
- 2.3 The application site to the south of the railway line is relatively flat, whereas the land to the north of the railway line slopes gently uphill towards Magdalen Yard Road.
- 2.4 Most of the application site is allocated as Public Open Space (Riverside Drive and Magdalen Yard Road) in the Dundee Local Development Plan 2019. The area of open space to the south of the railway is currently used semi-regularly as an area to site a pleasure fair. The application site to the south of the railway line is also designated as a Wildlife Corridor (Riverside Drive (East)).



Figure 5 – View of Existing Bridge From Playing Fields



Figure 6 – View From Existing Bridge Facing North



Figure 7 – View of Existing Bridge Facing East



Figure 8 – View of Existing Cherry Tree Boulevard Facing East

3 POLICY BACKGROUND

- 3.1 The following plans and policies are of direct relevance:

National Planning Framework 4 (NPF)

Policy 1: Tackling the climate and nature crises
Policy 2: Climate mitigation and adaptation
Policy 3: Biodiversity
Policy 4: Natural places
Policy 6: Forestry, woodland and trees
Policy 7: Historic assets and places
Policy 9: Brownfield, vacant and derelict land and empty buildings
Policy 13: Sustainable transport
Policy 14: Design, quality and place
Policy 15: Local living and 20-minute neighbourhoods
Policy 18: Infrastructure first
Policy 20: Blue and green infrastructure
Policy 22: Flood risk and water management
Policy 23: Health and safety

Dundee Local Development Plan 2019 (LDP)

Policy 1: High Quality Design and Placemaking
Policy 2: Public Art Contribution
Policy 28: Protecting and Enhancing the Dundee Green Network
Policy 29: Outdoor Access and the Dundee Green Network
Policy 33: Local Nature Conservation Designations
Policy 35: Trees and Urban Woodland
Policy 36: Flood Risk Management
Policy 37: Sustainable Drainage Systems
Policy 41: Land Contamination
Policy 49: Listed Buildings
Policy 51: Development in Conservation Areas
Policy 54: Safe and Sustainable Transport

West End Lanes Conservation Area Appraisal

- 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 24/00727/CON - application for Conservation Area Consent to Demolish existing railway footbridge at Magdalen Green- Currently pending consideration.
- 4.2 25/00002/EIASCR - screening request. Decision issued on 23 April 2025.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 In total, 43 letters of objection and 105 letters of support were received. A letter of objection was also received from West End Community Council. However, that is set out in the Consultations section below.
- 5.3 **A letter of objection was received from the Dundee City Centre and Harbour Community Council (DCCHCC), raising the following points;**
- the proposed bridge is too big and out of scale with its environment;
 - loss of amenity space;
 - contrary to the Conservation Area character appraisal as the development will interrupt views of the Tay; and
 - insufficient pre-development consultations.
- 5.4 **Aside from the objections received from DCCHCC and WECC, the letters of objection raise the following valid material grounds:**
- loss of car parking spaces and additional pressure on parking in the vicinity;
 - the period for representation over Christmas is too short;
 - overshadowing;
 - no Environmental Impact Assessment (EIA) was provided;
 - the south side of the bridge will impinge on land used for the carnival;
 - the proposals will lead to road congestion around Magdalen Green; and
 - negative impact on drainage from new hard surfaces.
- 5.5 **The letters of support raise the following points:**
- the proposals will greatly improve connectivity in and around the West End;
 - the proposals will improve safety for those travelling between town and the playing fields;
 - the design of the bridge is innovative and modern;
 - the gently sloping nature of the bridge will improve accessibility for those with disabilities, pedestrians, cyclists, wheelchair users and those with prams;
 - the increase in footfall will be great for the community;
 - the proposal will encourage running and cycling;
 - the bridge will reduce reliance on private vehicles;

- the old bridge is unattractive and difficult to use for those with lower mobility;
- the bridge will improve access to the green circular route and Riverside;
- the bridge will encourage inclusivity and equality;
- the additional planting will benefit the park; and
- the bridge will allow access to the new Sports Hub.

6 CONSULTATIONS

6.1 **Head of Environment** commented on the following matters:

Greenspace - the Head of Environment has reviewed the replacement planting specification which proposes new trees, plants and areas of wildflower. The Greenspace Officer does not object to the proposals, and conditions have been included to secure the aforementioned mitigation planting and biodiversity measures, ensuring the biodiversity of the wider site is improved and enhanced over the medium to long term.

6.2 **The Head of Design and Property Services** – has no objection to the proposed development, recommending planning conditions to secure standard construction SUDS and also that the SUDS maintenance certificate is submitted for the proposed soakaway.

6.3 **Historic Environment Scotland (HES)** – has no objection.

6.4 **Network Rail** – has no objection subject to the inclusion of conditions relating to provision of a detailed drainage scheme, and submission of details of the design, dimensions, materials and finish for the glazed parapet sections of the footbridge for the review of the planning authority in conjunction with Network Rail.

6.5 **West End Community Council (WECC)** - submitted an objection, raising the following points:

- the proposal does not preserve or enhance the West End Lanes Conservation Area;
- impact on the setting of the Category A-listed Bandstand;
- the construction of the new bridge is premature, given that the design is to comply with required specifications of a railway decarbonisation deadline of 2045;
- the bridge should be funded by Network Rail;
- the submitted feasibility report did not consider the cumulative impact of this bridge with the future plans of Network Rail to introduce a freight loop on their line in the vicinity of Magdalen Green;
- impact on wildlife/protected species;
- amenity impacts during construction phase;
- the design would facilitate cyclists using the bridge at inappropriate speeds;
- loss of trees;

- impact from light pollution;
- no assessment of impact upon the Wildlife Corridor;
- contrary to Sustrans design criteria;
- there are no drop kerbs, safe crossing and surfaces in the wider area to link up access for those wheeling to and from the new bridge;
- there is no strategy or long-term plans for the control of cycling or road traffic in the area to ensure safe egress off the bridge at Magdalen Green;
- no assessment against LDP Policy 28 carried out by the applicant;
- contrary to the West End Lanes Conservation Area Appraisal;
- no Landscape and Visual Impact Assessment (LVIA) has been submitted;
- no noise impact assessment has been submitted for the demolition/construction phase;
- the bridge will likely be used by motorbikes and scooters;
- the proposal would set a harmful precedent for other projects within the city;
- no maintenance plan for the bridge structure has been submitted;
- conditions should be included to require landscape maintenance;
- creation of a new active travel route across Magdalen Green would represent a significant change in the usage of the Green from a park to a thoroughfare; and
- the proposals would encourage antisocial behaviour.

7 DETERMINING ISSUES

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

THE DEVELOPMENT PLAN

The development plan consists of the National Planning Framework 4 (NPF4) and the Dundee Local Development Plan 2019 (LDP). The policies relevant to the determination of this application are specified in the Policy Background section above.

Principle of Development

- 7.2 **NPF4 Policy 18: Infrastructure first b)** - advises that the impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure.

- 7.3 For future railway line electrification, the existing footbridge or any new footbridge will require a minimum 5.35 metre clearance height above the railway line. This proposal addresses that requirement.
- 7.4 Network Rail has been consulted on the proposals as a statutory consultee and has no objection subject to the inclusion of conditions relating to provision of a detailed drainage scheme, and submission of details of the design, dimensions, materials and finish for the glazed parapet sections of the footbridge for the review of the planning authority in conjunction with Network Rail. With the inclusion of these conditions, the proposal would not impact on the rail line as a piece of critical infrastructure.
- 7.5 **The proposal complies with Policy 18 of NPF4, subject to conditions.**
- 7.6 **NPF4 Policy 20: Blue and green infrastructure b)** - advises that development proposals for or incorporating new or enhanced blue and/or green infrastructure will be supported. Where appropriate, this will be an integral element of the design that responds to local circumstances.
- Design will take account of existing provision, new requirements and network connections (identified in relevant strategies such as the Open Space Strategies) to ensure the proposed blue and/or green infrastructure is of an appropriate type(s), quantity, quality and accessibility and is designed to be multi-functional and integrated into the overall proposals.
- 7.7 **LDP Policy 28: Protecting and enhancing the Dundee Green Network** - advises that development proposals shall protect and enhance the Dundee Green Network by ensuring that development will not lead to the fragmentation of the existing network of green infrastructure. New development should contribute to the Dundee Green Network where appropriate and as determined by the Council, through the integration of green infrastructure in masterplans or development frameworks and the creation and/or improvement of green infrastructure within development sites or in the local area.
- 7.8 The submitted Design Statement explains that the existing footbridge is reaching the end of its life, and the Council aims to replace it with a fully accessible structure for all users, including those walking, wheeling, and cycling.
- 7.9 In terms of the usability of the existing bridge, its steep steps pose challenges for individuals with reduced mobility and are unsuitable for cyclists. Feedback received from the community during previous consultation process highlighted these accessibility issues and emphasised the need for a design that accommodates all users.
- 7.10 The proposed replacement bridge has taken this feedback into account and will create a fully accessible active travel link between the north and south sides of the railway. It will improve accessibility between and through the two areas of public open space and beyond, in line with the aspirations of the Dundee Public Open Space Strategy. The proposals will not impact on the ability for the areas of open space to the north and south of the railway to be used as open space.
- 7.11 **The proposal complies with Policy 20 of NPF4 and Policy 28 of the Dundee LDP.**
- 7.12 **NPF4 Policy 23: Health and safety a)** supports development proposals that will have positive effects on health.
- 7.13 The proposal will improve accessibility and active travel between places of residence, local shops, schools, parks, and workplaces, thereby having a positive impact on health.

7.14 **The proposal complies with Policy 23 of NPF4.**

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

- 1 Safeguard the line of any existing or proposed outdoor access route affected by the development, and require its incorporation into the development unless a satisfactory alternative route can be agreed;
- 2 Seek to secure any additional outdoor access opportunities which may be achievable as a result of the development; and
- 3 Where an outdoor access route is to be temporarily disrupted, require the provision of an alternative route for the duration of construction work and the satisfactory reinstatement of the route on completion of the development.

7.16 The existing footbridge forms part of a core path between Perth Road to the north, and Riverside Drive to the south. Given the limited number of connections across the railway, the retention of this core path route is important.

7.17 The replacement bridge would be the to the east of the existing footbridge which would be subsequently removed (application 24/00727/CON- Conservation Area Consent to Demolish existing railway footbridge at Magdalen Green is currently pending consideration).

7.18 For the reasons stated above, the new bridge would improve accessibility between the two areas of public open space and beyond and thus would improve the existing core path as an outdoor access route.

7.19 Because the existing bridge would be replaced by the now proposed new bridge, the core path access route would not be permanently disrupted. A condition is recommended to require that details are provided showing how the core path route will be retained during construction.

7.20 **The proposal complies with Policy 29 of the Dundee LDP, subject to condition.**

7.21 **NPF4 Policy 15a: Local living and 20 minute neighbourhoods** - states development proposals will contribute to local living including, where relevant, 20-minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:

- sustainable modes of transport including local public transport and safe, high-quality walking, wheeling and cycling networks;
- employment;
- shopping;
- health and social care facilities;
- childcare, schools and lifelong learning opportunities;

- playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
- publicly accessible toilets; and
- affordable and accessible housing options, ability to age in place and housing diversity.

- 7.22 The proposed new footbridge supports local living and 20-minute neighbourhoods by improving accessibility and active travel. The new bridge will provide a fully accessible active travel link across the railway, making it easier for people to move between Magdalen Green and the open space to the south.
- 7.23 The design statement explains that the new bridge design follows Transport Scotland's "Cycling by Design" standards, promoting walking and cycling. It will enhance the existing core path as a walking and cycling route and will provide much improved levels of connectivity between the two sides of the railway line.
- 7.24 By improving connections, the new bridge will support local amenities and services by enabling easier access between places of residence, local shops, schools, parks, and workplaces, helping to integrate Magdalen Green with surrounding areas, making it more practical to access daily necessities without a car.
- 7.25 It is therefore considered that the new footbridge would provide support to 20-minute neighbourhoods by improving accessibility and active travel.
- 7.26 **The proposal is in accordance with Policy 15a of NPF4.**

Design

- 7.27 **NPF4 Policy 14: Design, quality and place** - states that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Development proposals will be supported where they are consistent with the six qualities of successful places.
- 7.28 **LDP Policy 1: High Quality Design and Placemaking** - states that all development proposals should follow a design-led approach to sustainable, high quality placemaking. The design and siting of development should respect the character and amenity of the place, create a sense of community and identity, enhance connectivity and incorporate creative approaches to urban design, landscaping and green infrastructure, appropriate to the local context and the scale and nature of the development. New development will be required to meet the six qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.29 The new Magdalen Green footbridge would align well with the six qualities of successful places:

Healthy - the new bridge will provide a fully accessible active travel link across the railway, making it easier for people to move between Magdalen Green and the open space to the south. It would assist in improving levels of physical activity by encouraging walking and cycling. The new bridge would provide a barrier-free route, making movement easier for people with disabilities.

Pleasant - although larger in scale than the existing footbridge, the new bridge has been designed to fit within the surrounding natural and built environment, resulting in a positive enhancement to the streetscape.

Connected - the proposed new bridge would enhance the existing core path as a walking and cycling route and would provide enhanced connectivity between the two sides of the railway line. The new bridge will also provide a much more easily accessible alternative to the Riverside Approach bridge, which has narrow footpaths.

Distinctive - the new bridge would be of contemporary design, and would utilise high-quality materials, featuring weathered steel plate for decking and parapets, supported by weathered steel stiffeners. The use of steel circular hollow section columns with curved red parapets would result in a modern, contemporary appearance, whilst the use of red brick for the abutments gives a nod to the Tay Rail Bridge. Although the new bridge would be larger than the existing bridge, it would not be out of scale with its surroundings. In the context of the rising topography from the railway line to the north, the new bridge would not appear as a prominent or obtrusive feature in its landscape setting. The existing trees to be retained along with the proposed mitigation planting will also provide an element of screening during summer months, reinforcing the existing natural landscape and respecting and preserving Magdalen Green's character. Overall, the design will result in a visual enhancement to the streetscape, and is of a form which has no detrimental impact on the character or amenity of the locality.

Sustainable - the new bridge will support climate resilience by provide a fully accessible active travel route, thus promoting sustainable transport. The bridge will use low-maintenance materials to reduce long-term environmental impact. Furthermore, the proposals will result in a positive enhancement to biodiversity by planting more trees than were removed, together with areas of wildflower.

Adaptable - the proposed bridge is flexible in its function, allowing for changing transport needs over time. It is designed for long-term use with durable materials, whilst meeting future railway electrification requirements.

7.30 **The proposal is in accordance with Policy 14 of NPF4, and Policy 1 of the Dundee LDP.**

Climate and Nature Crises

7.31 **NPF4 Policy 1: Tackling the climate and nature crises** - states when considering all development proposals, significant weight will be given to the global climate and nature crises.

7.32 Through the assessment of this planning application consideration has been given to the global climate and nature crises. The assessment of the proposal against policies relating to biodiversity, transport, flooding and drainage considers the local level effects of development, which can collectively with other developments have an impact on the global climate and nature crises.

7.33 **The proposal is in accordance with Policy 1 of NPF4.**

7.34 **NPF4 Policy 2: Climate mitigation and adaptation crises** – states that:

- a development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible; and
- b development proposals will be sited and designed to adapt to current and future risks from climate change.

7.35 The new bridge will facilitate sustainable transport and will use low-maintenance materials to reduce lifecycle greenhouse gas emissions thus reducing the long-term environmental impact.

7.36 The site is shown to be at low to medium risk of surface water flooding. However, this is largely contained within the lower rail corridor. Therefore, based upon the low degree of risk of flooding and the fact that the proposal is supported by a drainage system, it is considered that the proposal is able to adapt to current and future risks from climate change.

7.37 **The proposal is in accordance with NPF4 Policy 2.**

Public Art

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

7.39 The proposals will require to provide public art as part of the development due to construction costs exceeding £1 million. Details of the public art have not been confirmed as part of this application. Therefore, it is recommended that full details of public art provision, and its completion as part of the development be secured by condition.

7.40 **The proposal is in accordance with LDP Policy 2 subject to a condition.**

Biodiversity

7.41 **NPF4 Policy 3c: Biodiversity** - requires that development proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.

7.42 The application site comprises grassed areas of open space to the north (Magdalen Green) and south (Riverside Drive) of the railway line. An existing 'boulevard' of cherry trees lines the pathway from the existing footbridge up to Magdalen Yard Road. Several trees also exist at the pathway on the north side of the foot bridge. On the south side of the footbridge, several trees exist along the west edge of the footpath leading to the pavilion.

7.43 To facilitate the positioning of the new footbridge, 13 trees are planned to be removed, including 8 of the cherry trees. To compensate for this, it is proposed that 55 new trees be planted. The planting specification includes extra heavy-duty standard specimen cherry trees within the existing 'boulevard', the new boulevard running east to west along the new pathway, and on the south side of the bridge. The Head of Environment has reviewed and accepted the replacement planting specification, which includes new trees, plants and areas of wildflower.

7.44 While the removal of the 13 trees would have a negative initial impact, the proposed mitigation planting would represent a significant improvement in terms of not just biodiversity value, but also landscape value. Conditions have been included to secure the aforementioned mitigation planting.

7.45 NatureScot's Developing with Nature Guidance includes measures that could be introduced to further enhance the biodiversity opportunities on site. Typically, these are relatively low-cost measures such as swift bricks, bee bricks, rain gardens and wildlife friendly planting. Given the scope of the project, it is considered reasonable to attach a condition which requires full details of biodiversity enhancement measures that will be introduced as part of the development to be provided for written approval prior to the commencement of development.

7.46 On balance, the proposal would have no significant detrimental impact on any protected species, and the aforementioned mitigation planting and biodiversity measures will be secured

via a planning condition to ensure the biodiversity of the wider site is improved and enhanced over the medium to long term.

- 7.47 **The proposal is in accordance with Policy 3 of the National Planning Framework 4, subject to conditions.**

Trees

- 7.48 **NPF4 Policy 6b : Forestry, woodland and trees** - states that development proposals will not be supported where they will result in adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy.
- 7.49 **Dundee LDP Policy 35: Trees and Urban Woodland** - states that the Council will support the establishment and enhancement of woodland, tree belts and corridors. New development must ensure the survival of woodland, hedgerows and individual trees, especially healthy mature trees, of nature conservation or landscape value through sensitive site layout both during and after construction, unless removal has been approved in advance by the Council. Where appropriate, development proposals must be accompanied by maintenance arrangements and justification for the removal of any trees or hedgerows.
- 7.50 As discussed above, 13 trees are planned to be removed to facilitate the positioning of the new footbridge at its pathways. In response, a compensatory planting plan has been submitted. The planting specification includes extra heavy-duty standard specimen cherry trees within the existing 'boulevard', the new boulevard running east to west along the new pathway, and on the south side of the bridge. The Head of Environment has reviewed and accepted the proposed planting specification as a positive improvement to the biodiversity of the area.
- 7.51 The existing boulevard of cherry trees contributes to the landscape and biodiversity value of this part of Magdalen Green. While the removal of eight cherry trees would have a negative initial impact, the proposed mitigation planting would represent a significant improvement in terms of biodiversity and landscape value. Specifically, the existing 'boulevard' effect up to Magdalen Yard Road would be maintained over the medium term, and a new boulevard running east to west along the new pathway would be created, further enhancing the public realm.
- 7.52 Conditions are therefore attached to include replacement planting, its maintenance, and protection for any retained trees during construction.
- 7.53 **The proposal is in accordance with Policy 6b of NPF4 and Policy 35 of the Dundee LDP, subject to conditions.**

Local Nature Designations

- 7.54 **NPF4 Policy 4d: Natural places-** states that development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:
- i development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or
 - ii any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.

- 7.55 **Dundee LDP Policy 33: Local Nature Conservation Designations** – states that development which could have a significant effect on the conservation interests associated with Local Nature Reserves, Locally Important Nature Conservation Sites or Wildlife Corridors will only be permitted where:
- i an ecological or similar assessment has been carried out which details the likely impacts of the proposal on the conservation interests of the designation;
 - ii any negative impacts identified are contained within the site and can be mitigated without affecting the integrity of the designated area; and
 - iii it has been demonstrated that there are no other suitable sites that could accommodate the development.
- 7.56 The south side of the application site is located within the Riverside Drive (East) Wildlife corridor, which is noted within the Preliminary Ecological Appraisal submitted with the application. The appraisal notes that this feature should be retained and preferably strengthened as part of the development, to at least maintain its function as a connecting feature. The Head of Environment has reviewed the proposals and advises that the proposed new tree planting and meadow creation provides biodiversity enhancement for the parks on both sides of the railway, mitigating any potential impact and improving upon the current habitat availability. The Head of Environment is therefore content that there would be no adverse effects on the integrity of the area.
- 7.57 **The proposal is in accordance with Policy 4 of NPF4 and Policy 33 of the Dundee LDP.**
- Land Contamination
- 7.58 **NPF4 Policy 9c: Brownfield, vacant and derelict land and empty buildings** - states where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use.
- 7.59 **Dundee LDP Policy 41: Land Contamination** - states that development of potentially contaminated or statutorily identified contaminated land will be considered where 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.
- 7.60 Due to the historic use of the central portion of the site as a railway line, there is potential for infilled land, especially on the Riverside Drive side to contain ash or other waste from historic steam train use.
- 7.61 As such, a condition will require the submission of details of a scheme to ensure potentially contaminated soils have been adequately assessed and will be managed appropriately. Furthermore, a second condition will require the aforementioned scheme to be fully implemented and the submission of a completion report demonstrating that the objectives have been achieved.
- 7.62 **The proposal complies with Policy 9c of NPF4 and Policy 41 of the Dundee LDP subject to the inclusion of conditions.**

Historic Environment

- 7.63 **NPF4 Policy 7c: Historic assets and places** – states that development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.
- 7.64 **Dundee LDP Policy 49: Listed Buildings** – states that development proposals in close proximity to or within the curtilage of a listed building, should have regard to the preservation or enhancement of the setting of the listed building.
- 7.65 The proposal is in the vicinity of the Category A listed Magdalen Green Bandstand. However, at a distance of some 95 metres to the east of the proposed new footbridge, there would be no significant impact on the setting of this listed building.
- 7.66 Historic Environment Scotland (HES) has been consulted and does not object.
- 7.67 **The proposal complies with Policy 7c of NPF4 and Policy 49 of the Dundee LDP.**
- 7.68 **NPF4 Policy 7d: Historic assets and places** – states that Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced.
- 7.69 **Dundee LDP Policy 51: Development in Conservation Areas** – states 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.
- 7.70 The land to the north of the railway line sits within the West End Lanes Conservation Area. As discussed above, the proposed development is of a design and form which has no significant detrimental impact on the character or visual amenity of the locality.
- 7.71 In terms of landscaping, the assessment above accepts that the existing boulevard of cherry trees contributes to the landscape value of this part of Magdalen Green, and thus the West End Lanes Conservation Area. However, it is considered that the proposed scheme of mitigation planting would represent an improvement in terms of landscape value, insofar that “boulevard” effect up to Magdalen Yard Road would be maintained over the medium term, and a new boulevard running east to west along the new pathway would be created as an enhancement to the area. By virtue of the above, it is considered that the proposals would reinforce the existing natural landscapes and respect and preserve Magdalen Green’s character.
- 7.72 Consequently, the proposal would retain the overall character and appearance of the West End Lanes Conservation Area.
- 7.73 **The proposal complies with Policy 7d of NPF4 and Policy 51 of the Dundee LDP.**

Flood Risk and Drainage Impact

- 7.74 **NPF4 Policy 22c: Flood risk and water management** – states development proposals will: not increase the risk of surface water flooding to others, or itself be at risk; manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; and seek to minimise the area of impermeable surface and accessibility and is designed to be multi-functional and well-integrated into the overall proposals.

7.75 **LDP Policy 36: Flood Risk Management** – states that in medium to High Risk Areas there is a general presumption against a) development on previously undeveloped land and b) development of essential civil infrastructure, in high risk areas based on a 0.5% or greater annual probability of flooding (equivalent to a 1 in 200 year flood or greater) plus an additional allowance of 600mm. Other development may be acceptable where:

- 1 sufficient flood defences already exist, or a Flood Protection Scheme or flood defence, designed and constructed to a standard of 0.5% annual probability plus climate change allowance, will be in place prior to occupation of the proposed development.
- 2 those flood defences will be maintained for the lifetime of the development and will not increase the probability of flooding elsewhere;
- 3 the extent of development potentially affected by flooding is protected through the use of appropriate water resistant materials and construction; and
- 4 the finalised scheme does not result in a land use which is more vulnerable to flooding.

A flood risk assessment will be required for any development within the medium to high risk category.

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

7.77 The site is shown to be at low to medium risk of surface water flooding. However, this is largely contained within the lower rail corridor. As the bridge is a raised structure, it would not be susceptible to flooding. Proposed surface water drainage system information has been provided through the application and reviewed by The Head of Design and Property Services. The Head of Design and Property Services has no objections to the proposed development, recommending planning conditions to secure standard construction SUDS and also that the SUDS maintenance certificate is submitted for the proposed soakaway.

7.78 **The proposal is in accordance with Policy 22c of NPF4 and Policy 37 of the Dundee LDP, subject to conditions.**

Roads and Parking

7.79 **NPF4 Policy 13b: Sustainable transport** - states development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii will be accessible by public transport, ideally supporting the use of existing services;

- iii integrate transport modes;
- iv provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii adequately mitigate any impact on local public access routes.

7.80 **LDP Policy 54: Safe and Sustainable Transport** - states all development proposals that generate travel should be designed to be well served by all modes of transport. In particular, the sustainable modes of walking, cycling and public transport should be afforded priority and provide for easy access to local amenities, education facilities and other services.

Development proposals will be required to:

- 1 minimise the need to travel by private car;
- 2 provide facilities on-site (and/or off-site through developer contributions or by direct delivery) for walking, cycling and public transport networks, including road/junction improvements and cycle parking. Developments without high quality, safe and convenient links to adjacent walking and cycling networks will not be supported;
- 3 incorporate measures to permit access to public transport networks within a walking distance of no more than 400 metres from all parts of the development;
- 4 have no detrimental effect on the capacity or safe functioning of the existing road or rail networks;
- 5 ensure that safe and adequate provision is made for road freight and waste access, loading and unloading;
- 6 comply with the National Roads Development Guide and any local variations within Dundee City Council's roads design standards; and
- 7 be supported by a travel plan to mitigate transport impacts and improve the accessibility of developments where the Council considers that the development will generate significant travel.

7.81 As the proposals are for a bridge, the below assessment will only consider those criteria relevant to the current proposals.

7.82 The proposed footbridge will provide a fully accessible traffic free active travel link across the railway, making it much easier for people to move between Magdalen Green and the open space to the south. The design follows Transport Scotland's "Cycling by Design" standards, promoting walking and cycling, and will enhance the existing core path as a green travel route in line with the transport needs of a diverse group of users.

- 7.83 The application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.
- 7.84 **The proposal is in accordance with Policy 13b of NPF4 and Policy 54 of the Dundee LDP.**

MATERIAL CONSIDERATIONS

- 7.85 **The letter of objection from the West End Community Council (WECC), raised the following points;**

- **The proposal does not preserve or enhance the West End Lanes Conservation Area**

Response - the impact on the West End Lanes Conservation Area is discussed above in relation to assessment against Policy 7d of NPF4 and Policy 51 of the Dundee LDP, where it is determined that the proposals will retain the character and appearance of the West End Lanes Conservation Area.

- **Impact on the setting of the A-listed Band Stand**

Response - the impact on the Band Stand is discussed above in relation to assessment against Policy 7c of NPF4 and Policy 49 of the Dundee LDP, where it is determined that the proposals would have no significant impact on the setting of this listed building.

- **The construction of the new bridge is premature, given that the design is to comply with required specifications of a railway decarbonisation deadline of 2045**

Response - this is not a material consideration in the determination of this application. The application requires to be determined on its own merits at the present time.

- **The bridge should be funded by Network Rail**

Response - this is not a material consideration in the determination of this application.

- **The submitted feasibility report did not consider the cumulative impact of this bridge with the future plans of Network Rail to introduce a freight loop on their line in the vicinity of Magdalen Green**

Response - this is not a material consideration in the determination of this application. The current application must be determined on its own merits and any future plans for other development in the area would be determined on their own merits.

- **Impact on wildlife/protected species**

Response - the impact on wildlife/protected species is discussed above in relation to assessment against Policy 4 of NPF4 and Policy 33 of the Dundee LDP, where it is determined that the proposals would have no significant adverse effects on the integrity of the area in terms of impact on wildlife/protected species.

- **Amenity impacts during construction phase**

Response - this is not a material consideration in the determination of this application.

- **The design would facilitate cyclists using the bridge at inappropriate speeds**

Response - the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.

- **Loss of trees**

Response - the loss of trees is discussed above in relation to assessment against Policy 6b of NPF4 and Policy 35 of the Dundee LDP, where it is determined that the proposed tree removal would only affect a minor part of the boulevard, and once established, the proposed mitigation planting would represent an improvement in terms of biodiversity and landscape value.

- **Impact from light pollution**

Response - the proposed lighting would be sufficient distance away from residential properties that it would not result in a nuisance. In terms of impact on flora/fauna, the Head of Environment has reviewed the proposals and is content that there would be no significant adverse effects on the integrity of the area.

- **No assessment of impact upon the Wildlife Corridor**

Response – A Preliminary Ecological Appraisal was submitted with the application. The impact on the Wildlife Corridor is considered in the development plan policy assessment above.

- **Contrary to Sustrans design criteria**

Response - Although not a material consideration in the determination of this application, the bridge is designed to comply with Sustrans Cycling by Design guidance for a shared footway/ cycleway.

- **There are no drop kerbs, safe crossing and surfaces in the wider area to link up access for those wheeling to and from the new bridge**

Response - this is not a material consideration in the determination of this application.

- **There is no strategy or long-term plans for the control of cycling or road traffic in the area to ensure safe egress off the bridge at Magdalen Green**

Response - this is not a material consideration in the determination of this application.

- **No assessment against LDP Policy 28 carried out by the applicant**

Response - there is no statutory requirement for the applicant to submit an assessment against LDP Policy 28 for this application. However, Policy 28 of the Local Development Plan is considered in the Development Plan Policy Assessment above.

- **Contrary to the West End Lanes Conservation Area Appraisal**

Response - the impact on the West End Lanes Conservation Area is discussed above in relation to assessment against Policy 7d of NPF4 and Policy 51 of the Dundee LDP, where it is determined that the proposals will retain the character and appearance of the West End Lanes Conservation Area.

- **No Landscape and Visual Impact Assessment (LVIA) has been submitted**

Response - there is no statutory requirement for the applicant to submit a Landscape and Visual Impact Assessment (LVIA) for this application.

- **The bridge will likely be used by motorbikes and scooters**

Response - the potential for antisocial behaviour is not a material consideration in the determination of this application. As above, the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.

- **The proposal would set a harmful precedent for other projects within the City**

Response - every application is determined on its own merits. Therefore, this is not a material consideration in the determination of this application.

- **No maintenance plan for the bridge structure has been submitted**

Response - this maintenance of the bridge structure is not a material consideration in the determination of this application.

- **Conditions should be included to require landscape maintenance**

Response - the Head of Environment has reviewed a replacement planting specification which shows the planting of a number of new trees, plants and areas of wildflower. Conditions have been included to secure the aforementioned mitigation planting and biodiversity measures, and their maintenance, ensuring the biodiversity of the wider site is improved and enhanced over the medium to long term.

- **Creation of a new active travel route across Magdalen Green would represent a significant change in the usage of the Green from a park to a thoroughfare**

Response – the impact of the proposal on the designated open space is discussed above in relation to Policy 20 of NPF4 and Policy 28 of the Dundee LDP. It is considered that the proposal will greatly improve accessibility between Magdalen Green and the Riverside playing fields. The use of the park would remain as open space.

- **The proposals would encourage antisocial behaviour**

Response - this is not a material consideration in the determination of this application.

7.86 **The objection received from the Dundee City Centre and Harbour Community Council (DCCHCC), raised the following points;**

- **The proposed bridge is too big and out of scale with its environment**

Response - the design and scale of the bridge as discussed above in relation to Policy 14 of NPF4, and Policy 1 of the Dundee LDP, where it is determined that the proposals would not result in a form which has a detrimental impact on the character or amenity of the locality, nor would they appear as prominent or obtrusive features in their landscape setting. Instead the design will result in a visual enhancement to the public realm, and is a form which has no detrimental impact on the character or amenity of the locality.

- **Loss of amenity space**

Response - Magdalen Green is allocated as public open space. Impact on open space is discussed above in relation to Policy 20 of NPF4 and Policy 28 of the Dundee LDP, where it is determined that the proposals would help to improve accessibility between Magdalen Green and the Riverside open space area, thus resulting in an improvement to the infrastructure and the Dundee Green Network. The development footprint would not result in the loss of any area in use as playing fields, and the use of the park would remain as open space.

- **Contrary to the conservation area character appraisal as the development will interrupt views of the Tay**

Response - the West End Lanes Conservation Area Appraisal advises that 'impressive vistas consist of long continual views down the narrow lanes to Magdalen Green and the Tay and Tay Bridge which are focal points as all the lanes converge on this space'. Although larger than the existing footbridge (which is visible in these views), it is considered that the new footbridge, due to the rising topography from the railway line to the north, would not appear as a prominent or obtrusive feature in its landscape setting. As discussed above in relation to Policy 14 of NPF4, and Policy 1 of the Dundee LDP, the existing trees to be retained along with the proposed mitigation planting will also provide some screening during summer months, reinforcing the existing natural landscape and respecting and preserving Magdalen Green's character.

- **Insufficient pre-development consultations**

Response - there is no statutory requirement for this application for pre-development consultations.

7.87 **Aside from the above letters received from DCCHCC and WECC, the letters of objection raise the following grounds:**

- **Loss of car parking spaces and additional pressure on parking in the vicinity**

Response - the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.

- **The period for representation over Christmas is too short**

Response - the period of representation was extended to account for the festive period.

- **Overshadowing**

Response - the proposal would not give rise to any harmful loss of daylight or sunlight.

- **No Environmental Impact Assessment (EIA) was provided**

Response - the proposal was screened under Schedule 2 of the 2017 EIA Regulations to determine if it would likely to have a significant effect on the environment. It was determined that Environmental Impact Assessment was not required.

- **The south side of the bridge will impinge on land used for the carnival**

Response - this is not a material consideration in the determination of this application.

- **The proposal will lead to road congestion around Magdalen Green**

Response - the application has been considered by the Council's Head of Sustainable Transport and Roads, who is content that the proposed development would not have a detrimental effect on the capacity or safe functioning of the existing road network.

- **Negative impact on drainage from new hard surfaces**

Response - the proposal has been reviewed by The Head of Design and Property Services who recommends planning conditions to secure a finalised drainage design and flood risk assessment. As such, any impact on surface water drainage would be negated.

- **Deliberate effort has been made via the use of CAD images to downplay the visual impact of the proposed developments.**

Response – scaled drawings of the proposal have been provided. The CAD images help to illustrate the proposal from a variety of viewpoints.

7.88 The matters raised in the representation are not considered to be of sufficient weight to justify refusal of planning permission.

8 CONCLUSION

8.1 The application accords with National Planning Framework 4 and the Dundee Local Development Plan 2019. There are no material considerations of sufficient weight that would justify refusal of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

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

- 1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.

Reason - to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 **Condition** - prior to the commencement of development, 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, construction works commencing on any part of the development hereby approved shall be carried out in accordance with the measures approved by this condition.

Reason - to ensure the surface to ensure the surface water from construction is properly managed in the interests of flood protection.

- 3 **Condition** – prior to the commencement of development, the maintenance certificate for the proposed soakaway shall be submitted to the Council for written approval.

Reason – in the interests of flood prevention.

- 4 **Condition** - no development shall take place on site until temporary protective fencing has been erected around any existing trees to be retained on the development site. This temporary protective fencing shall be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837:2005 "Trees in Relation to Construction".

All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - keep out" and the fencing shall remain on site and intact through to completion of the development.

Care must be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jibs and counterweights can operate without coming into contact with any retained trees.

Material that will contaminate the soil, eg concrete/mortar mixing, diesel oil, paints, solvents and vehicular washings, shall not be discharged within 10 metres of any tree trunk. Allowance shall be made for the slope of the ground so that such damaging materials cannot run towards retained trees.

Reason – to ensure the retention and maintenance of any trees on the site which make an important contribution to the visual appearance of the area.

- 5 **Condition** - the approved landscaping shall be implemented prior to first use of the bridge. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.

Reason - to ensure the implementation and management of the approved scheme of landscaping which will help to integrate the proposed development into the local landscape, and to mitigate the biodiversity impact that development has on the site.

- 6 **Condition** - if any vegetation clearance takes place within the bird nesting season (March to August inclusive), then prior to any such works taking place, the developer shall be required to first gain the express written consent of the Council as Planning Authority. This shall require the developer to submit a walkover survey during the bird nesting season in question, undertaken by a suitably qualified ecologist.

Reason - in the interests of biodiversity and ecology.

- 7 **Condition** - prior to the commencement of development, a scheme of features or measures to enhance biodiversity, such as those measures set out in the NatureScot Developing with Nature guidance, shall be submitted to and agreed in writing by the Local Planning Authority. The approved details thereafter shall be implemented prior to first use of the bridge, and then retained and maintained for their designed purpose in accordance with the approved scheme.

Reason - to ensure that a satisfactory biodiversity enhancement scheme is proposed and implemented, mitigating the biodiversity impact that development has on the site.

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

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

- 9 **Condition** - development shall not begin until a scheme to ensure potentially contaminated soils have been adequately assessed and will be managed appropriately has been submitted to and approved in writing by the planning authority. This scheme should include consideration the suitability of existing and imported materials, their appropriate placement, and plans for dealing with unexpected contamination during works.

Reason - in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

- 10 **Condition** - before first use, the above scheme shall be fully implemented and a completion report with relevant documentation demonstrating that the objectives have been achieved shall be submitted to and approved by the planning authority.

Reason - in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

- 11 **Condition** - prior to commencement of any works, details shall be provided of how the operation of the core path route will be retained during construction shall be submitted to and approved in writing by the planning authority.

Reason - in order to ensure that the core path route as outdoor access route is not disrupted by the proposals.

- 12 **Condition** - notwithstanding the approved drawings, before development commences, details of the design, dimensions, materials and finish for the glazed parapet sections of the footbridge shall be submitted for the review of the planning authority - in conjunction with Network Rail – and agreed in writing. Network Rail reserves the right to require design modifications and additional supporting information from the applicant in relation to the glazed parapet sections to ensure the design does not result in unacceptable glint and glare impact on train drivers. Thereafter, the agreed parapet design shall be fully implemented prior to the first operation of the footbridge.

Reason - in the interests of safety in ensuring the development does not result in unacceptable impacts of glint and glare on train drivers.

Informative

- 1 It should be noted by the applicant that further agreements out with the town planning process, including (but not limited to) a Basic Asset Protection Agreement, a Bridge Agreement and property lease/servitude for the land/airspace must be agreed with Network Rail before development can commence. Therefore, Network Rail not objecting to this planning permission application should not be viewed as Network Rail agreeing to the location, design or any other aspect of the footbridge development proposed. Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.
- 2 Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed

to rail traffic ie by a “possession” which must be booked via Network Rail’s Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

- 3 The developer must contact our Asset Protection Engineers regarding the above matters, either by submitting an enquiry on the Network Rail website or by writing to:

Network Rail Asset Protection Engineer, 151 St Vincent Street, Glasgow, G2 5NW

E-mail: AssetProtectionScotland@networkrail.co.uk

Further information regarding working on or near the railway can be found on the Network Rail website.

Application for Conservation Area Consent to Demolish Existing Railway Footbridge at Magdalen Green

KEY INFORMATION

Ward West End

Address

Footpath From Magdalen Green
Over Railway To Riverside Park
Dundee

Applicant

Dundee City Council

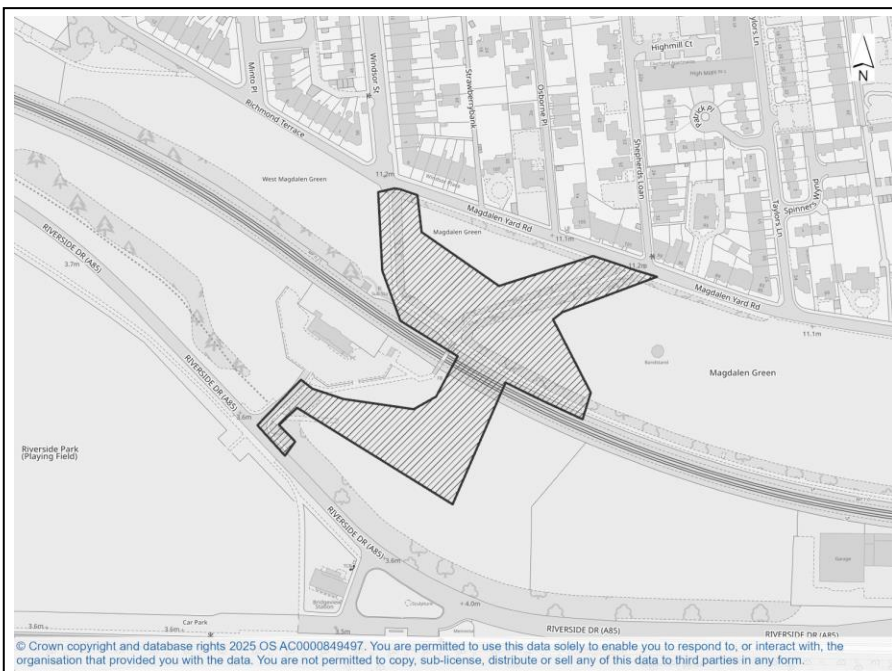
Agent

Dundee City Council

Registered: 27 November 2024

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

Contact: Edward Bean



SUMMARY OF REPORT

- Conservation Area Consent is sought for the complete demolition of the unlisted footbridge across the railway line between Magdalen Green to the north, and the playing fields to the south.
- The application is in accordance with the Development Plan.
- Detailed plans for the replacement footbridge including site layout, elevations and section drawings along with supporting information including a design statement, and landscaping plans have been submitted with the application.
- The statutory neighbour notification process was undertaken. In total, 21 letters of objection and three letters of support have been received.
- In accordance with Dundee City Council's scheme of delegation, this application is to be determined by the Planning Committee as six or more valid written objections have been received and the recommendation is for approval.
- More details can be found at: <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=SMUHWCGCGSO00>

RECOMMENDATION

The proposal is in accordance with the Development Plan. There are no material considerations of sufficient weight to justify refusal of Conservation Area consent. It is therefore recommended that consent be APPROVED.

1 DESCRIPTION OF PROPOSAL

- 1.1 Conservation Area Consent is sought for the complete demolition of the unlisted footbridge across the railway line between Magdalen Green to the north, and the playing fields to the south.
- 1.2 The existing footbridge spans over the railway line, between Magdalen Green and playing fields to the south. The existing footbridge, the adjacent land to the north (Magdalen Green) and to the south (playing fields) are maintained by Dundee City Council.
- 1.3 The statement submitted explains that the existing bridge can be accessed by existing footpaths but due to the steep steps arrangement it has limited access and does not meet accessibility standards for equality, nor is it cycle friendly. Disabled people, people with limited mobility, cyclists, prams and wheelchair users find it difficult to use the existing bridge for access.
- 1.4 The bridge was constructed in 1933, following closure of Magdalen Station and is over 90 years old. The application submission explains that with UK design codes require bridge design to be for a 100-120 year lifespan, meaning Magdalen footbridge is approaching the end of its design life.
- 1.5 The application seeks Conservation Area Consent for the complete demolition of the unlisted footbridge. A separate application has been made for planning permission for a new footbridge over the railway in close proximity to the existing bridge. The application for planning permission also includes new pathways, planting, several areas of seating, lighting, signposts and an informal play area. These proposals are assessed separately under planning application 24/00728/FULL.
- 1.6 The following documents have been submitted in support of the application:
 - Location/ Block plan;
 - Design statement; and
 - Feasibility Study.

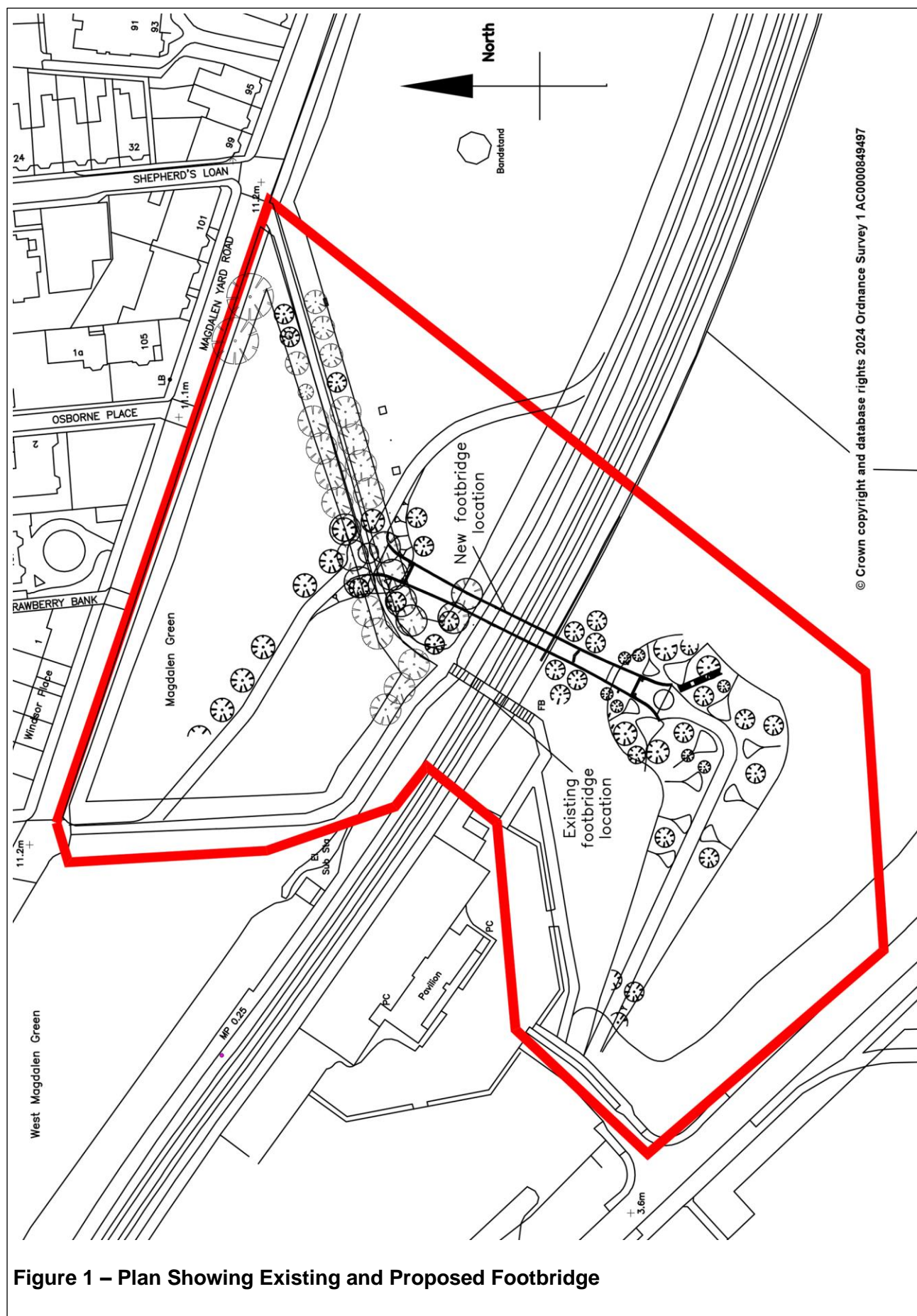


Figure 1 – Plan Showing Existing and Proposed Footbridge

2 SITE DESCRIPTION

- 2.1 The application site is an unlisted footbridge across the railway line between Magdalen Green to the north, and the playing fields to the south.
- 2.2 The land to the north of the railway line sits within the West End Lanes Conservation area and has the Category 'A' listed bandstand approximately 130 metres to the east of the existing footbridge. An avenue of cherry blossom trees stretches from the existing footbridge to Magdalen Yard Road to the north. The site is bound by Riverside Drive to the South, and Magdalen Yard Road to the North. To the east and the west, the site is bound by open space. To the southwest of the application site lies Riverside Pavilion and its car park.
- 2.3 The application site to the south of the railway line is relatively flat, whereas the land to the north of the railway line slopes gently uphill towards Magdalen Yard Road.
- 2.4 The majority of the application site is allocated as Public Open space (Riverside Drive and Magdalen Yard Road) as defined within the Dundee Local Development Plan 2019. The application site to the south of the railway line is also designated as a Wildlife Corridor (Riverside Drive (East)).



Figure 2 - View of Existing Bridge From Playing Fields



Figure 3 - View From Existing Bridge Facing North



Figure 4 - View of Existing Bridge Facing East



Figure 5 - View of Existing Cherry Tree Boulevard Facing East

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4

Policy 7: Historic Assets and Places

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 50: Demolition of Listed Buildings and Buildings in Conservation Area

West End Lanes Conservation Area Appraisal

- 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 24/00728/FULL- installation of footbridge, formation of hard surfacing, landscaping and associated works – currently pending consideration.

5 PUBLIC PARTICIPATION

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

- 5.2 In total, 21 letters of objection and three letters of support were received.

- 5.3 **The letters of objection raise the following valid material grounds:**

- the existing bridge contributes significantly to the character of the area;
- the existing bridge is a historic landmark;
- removal of bridge would result in a lengthy detour; and
- lack of public consultation.

- 5.4 **The letters of support raise the following points:**

- the new bridge will improve accessibility for all users; and
- the existing bridge is ugly and not fit for purpose.

6 CONSULTATIONS

- 6.1 **Historic Environment Scotland** - has no objection to the proposal.

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 The building proposed for complete demolition is the existing unlisted footbridge across the railway line between Magdalen Green to the north, and the playing fields to the south. A northern portion of the bridge is situated within the West End Lanes Conservation Area.
- 7.4 Supporting documents have been submitted with the application including a Design Statement, and Feasibility Study. The supporting documents outline that Magdalen footbridge is reaching the end of its design life. In addition, it does not meet accessibility standards for equality. The refurbishment of the bridge is considered unviable due to costs and the existing design which does not meet accessibility standards.
- 7.5 The existing bridge is visible within the landscape. However, it is not considered to be of significant townscape value and does not make a significant positive contribution to the West End Lanes Conservation Area. As such, the demolition of the existing footbridge is considered to be acceptable.
- 7.6 The demolition of the existing footbridge would have no significant detrimental impact on the character of the local streetscape or wider area.
- 7.7 The statutory duty set out in Section 64 of the Act would be satisfied by the approval of this application, given the bridge's neutral contribution to the character and appearance of the conservation area.

OTHER MATERIAL CONSIDERATIONS

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

A – NATIONAL PLANNING FRAMEWORK 4 AND DUNDEE LOCAL DEVELOPMENT PLAN 2019

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

Demolition within a Conservation Area

- 7.10 National Planning Framework 4 Policy 7(f) - Historic Assets and Places: NPF4 Policy 7(f) states demolition of buildings in a Conservation Area which make a positive contribution to its character will only be supported where it has been demonstrated that:
- i reasonable efforts have been made to retain, repair and reuse the building;
 - ii the building is of little townscape value;
 - iii the structural condition of the building prevents its retention at a reasonable cost; or

iv the form or location of the building makes its reuse extremely difficult.

- 7.11 Dundee Local Development Plan 2019 Policy 50 - Demolition of Listed Buildings and Buildings in Conservation Areas: LDP Policy 50 (Demolition of Listed Buildings and Buildings in Conservation Areas) states applications for the demolition of a listed building or 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. Where the demolition of a building is acceptable, applications must be supported by acceptable proposals for the redevelopment or treatment of the cleared site.
- 7.12 The proposal is for the demolition of an unlisted building located partially within in the West End Lanes Conservation Area. It is considered that the bridge is not of significant historic or architectural merit. The feasibility report submitted as part of the application confirms that remedial works to bring the bridge up to current standards would be both financially onerous, and would not be able to meet modern day accessibility standards, making it's reuse impractical.
- 7.13 While the bridge is not considered to have significant historic or architectural value, its demolition, if not replaced as part of a redevelopment proposal, would be acceptable in terms of its impact on the Conservation Area. However, the applicant also proposes to install a new footbridge over the railway, located close to the current bridge site. While that is the subject of a separate planning application, it is clear that the site can be developed with an acceptable design, layout and material finish.
- 7.14 The proposal meets criteria i, ii, iii and iv of Policy 7f of NPF4 and meets the requirements of Policy 50 of the adopted LDP.

Redevelopment of the Site

- 7.15 NPF4 Policy 7g) states where demolition within a Conservation Area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.
- 7.16 It is considered that the proposed scheme of redevelopment (application 24/00728/FULL) is of a design and form which has no detrimental impact on the character or visual amenity of the locality. While the replacement bridge is the subject of a separate planning application, it is clear that the site can be developed with an acceptable design, layout and material finish as required by Policy 7g of NPF4.
- 7.17 The proposed complete demolition of the existing footbridge meets the requirements of the Development Plan.

B – NATIONAL POLICY AND GUIDANCE

- 7.18 Historic Environment Policy for Scotland (2019) should be taken into account when determining applications for development which may affect the historic environment. Scottish Planning Policy (Valuing the Historic Environment) advises that the planning system should promote the care and protection of the historic environment and its contribution to sense of place, including settings and the wider cultural landscape; development which will affect a listed building, or its setting should be appropriate to the character and appearance of the building and its setting. The Historic Environment Policy for Scotland sets out principles and policies for the recognition, care and sustainable management of the historic environment. It seeks to influence decision making that will be sufficiently flexible and adaptable to deal with

wide-ranging and ongoing changes to society and the environment, and to achieve the best possible outcome for the historic environment, maximising its benefits.

- 7.19 For the reasons set out in the assessment above, the proposed works would comply with national planning guidance concerned with the historic environment.

C – REPRESENTATIONS

- 7.20 **The letters of objection raise the following valid material grounds:**

Objection – the existing bridge contributes significantly to the character of the area.

Response – Whilst the bridge does form part of the established streetscape, the above assessment considers that the existing bridge is not of significant historic or architectural merit to be worthy of retention.

Objection – the existing bridge is a historic landmark.

Response – the above assessment considers that the existing bridge is not of significant historic significance.

Objection – removal of bridge would result in a lengthy detour.

Response – the applicant proposes the installation of a new footbridge over the railway in close proximity to the current site. The new bridge is the subject of a separate planning application.

Objection – lack of public consultation.

Response – the statutory neighbour notification process was undertaken.

- 7.21 **The following points of objection are not relevant to the determination of this application, which pertains solely to the proposed demolition of the existing bridge;**

- the existing bridge should be upgraded;
- Riverside road should be used instead to negate the demolition of the footbridge;
- the new bridge is too big and is out of keeping;
- the replacement of the bridge due to it coming to the end of its useful lifespan is flawed logic;
- the new bridge does not link to any existing cycle paths;
- the existing bridges provide sufficient access;
- loss of green open space as a result of the new bridge;
- there is nothing wrong with the existing bridge;
- loss of view as a result of the new bridge;

- loss of trees as a result of the new bridge;
- impact on the Magdalen Green and the Conservation Area as a result of the new bridge;
- the requirement to raise the bridge to support electrification is inadmissible;
- safety impact of fast moving bikes, as a result of the new bridge;
- new bridge would be a poor use of public funds;
- impact on listed Band Stand as a result of the new bridge;
- disturbance during construction as a result of the new bridge;
- impact on wildlife as a result of the new bridge;
- lack of maintenance plan as for the new bridge;
- the new bridge would set a harmful precedent; and
- deliberate effort has been made to downplay the visual impact of the proposed development.

7.22 **The matters raised in the representation are not considered to be of sufficient weight to justify refusal of Conservation Area consent.**

8 CONCLUSION

- 8.1 The application for the complete demolition of the footbridge across the railway line between Magdalen Green to the north, and the playing fields to the south is in accordance with the Development Plan and satisfies the duty imposed under Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. There are no material considerations of sufficient weight that would justify the refusal of Conservation Area consent. Therefore, it is recommended that consent be granted.

9 RECOMMENDATION

- 9.1 It is recommended that Conservation Area consent be GRANTED.