

## KEY INFORMATION

**Ward** Law

### Proposal

Erection of mixed use development comprising food retail unit, bar/ restaurant, office accommodation, casino, serviced apartments, ancillary car parking and change of use of existing listed building to childrens day care nursery.

### Address

Land to the west of  
152 West Marketgait  
Dundee

### Applicant

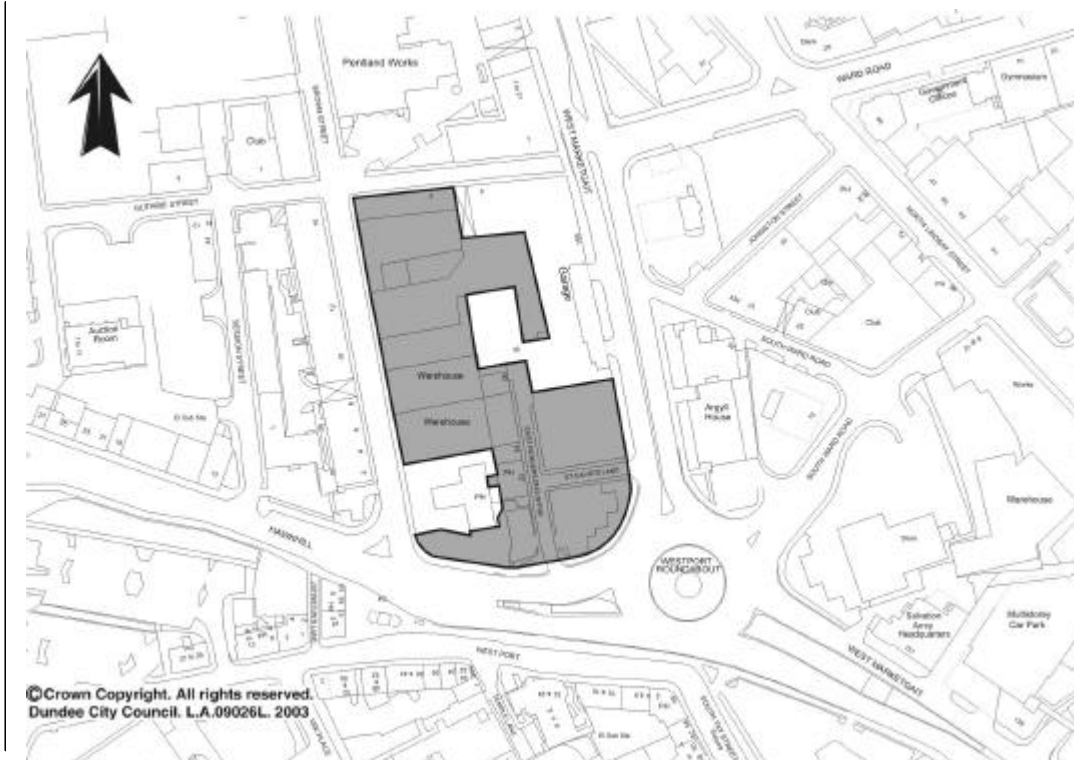
Marketgait Developments  
Ltd c/o  
James Stephen Architects  
Milton Studio  
Glamis  
DD8 1UN

### Agent

James Stephen Architects  
Milton Studio  
Glamis  
DD8 1UN

**Registered** 30 Mar 2006

**Case Officer** D Gordon



## Proposal for Major Redevelopment of site in West Marketgait/Hawkhill/Brown Street

A mixed use development is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of Planning and Transportation

## RECOMMENDATION

The proposal is viewed as a contemporary design solution to the development of this prominent city centre site for a variety of appropriate uses. The proposal is seen as a positive contribution to the continual improvement of the local area by ongoing and intended development projects. The application is recommended for approval subject to conditions.

## SUMMARY OF REPORT

- Planning permission is sought for the development of a city centre brownfield site for a variety of uses including casino, offices, service apartments, bar / restaurant, children's nursery and associated car parking. The proposed new building will vary in height from 3 to 7 storeys and will be contemporary in appearance.
- The statutory neighbour notification procedure has been undertaken and 2 objections have been received that relate to the location of the proposed nursery and the potential impact of the proposals on the residential properties located to the north-west.
- It is considered that the proposed mix of uses to be accommodated within the new building accord with the relevant development plan policies for the area. While the proposed number of operational car parking spaces does not meet the relevant policy requirements, it is considered that the proposed level is essential for the successful comprehensive redevelopment of this important city centre site. It is further considered that the design and appearance of the proposed new building is appropriate in this prominent location. There are no material considerations, including the submitted objections, which would justify the refusal of this application.
- It is proposed to enter into a legal agreement (Section 75) with the relevant parties in order to restrict the period of occupancy of the proposed new service apartments.

## DESCRIPTION OF PROPOSAL

The proposal under consideration involves the erection of a mixed use development comprising a food retail unit, bar/restaurant, office accommodation, casino, serviced apartments, car parking and a change of use of an existing building to a children's day care nursery. Alterations are also proposed to the boundary walls on the west side of the site.

The new building will vary from 3 to 7 storeys in height. The structure will be finished in a variety of materials including facing brick, curtain walling and coloured render.

The proposed accommodation will comprise of:

### Ground Floor

- \* Entrance foyer to casino and reception facilities
- \* Entrance foyer to office accommodation and reception
- \* Retail unit
- \* Bar/restaurant
- \* Entrance foyer and concierge reception to serviced apartments

### First Floor

- \* Open plan casino and serviced mezzanine level

### Second Floor:

- \* Open plan office accommodation

### Third Floor:

- \* Serviced apartments

### Fourth Floor

- \* Serviced apartments

### Fifth & Sixth Floor:

- \* Penthouse Serviced Apartment

### Casino Accommodation

The casino accommodation is to be located over 2 levels with the main entrance being positioned within the north-east corner of the application site immediately adjacent to the gable of the new Travel Lodge / restaurant. The entrance is to be located below a new structural glass canopy located within the pedestrian thoroughfare connecting with the office, new children's daycare nursery and car parking to the west.

On entry to the casino at ground floor level, the members are registered and transferred to the main lift/stair access to the first floor which is to be fully allocated for casino use. Ancillary accommodation such as plant, offices, toilets, kitchens and storage are all to be located peripheral to the main gaming hall and lounge on both the main floor and mezzanine floor levels.

Separate service access is to be provided from the designated service area/compound to be located to the north west of the building. Service access will be required between 0800 hours and 1700 hours Monday to Friday and 0900 hours to 1400 hours Saturday/Sunday.



It is intended to operate the casino from 1400 hours to 0600 hours Monday to Saturday and from 1400 hours to 0400 hours on Sunday.

The floor area of the casino will measure approximately 2663 sq.m (a ground floor entrance area and service access of 188 sq m and first floor and mezzanine of 2475 sq.m)

### Office Accommodation

The office accommodation is to be located over 2 levels with the main entrance being positioned within the north-west corner of the building directly opposite the existing entrance to the former Tay Works cloth store which it is now proposed to change to a children's daycare nursery. The office entrance is to be located within the proposed pedestrian thoroughfare and faces directly onto the proposed tree lined courtyard area.

All ancillary plant, service and toilet areas are to be located within the main open plan office area to be located on the second floor.

Separate service access is to be provided from the designated service area located to the north west of the building. Service access will be required between 0800 hours and 1700 hours Monday to Friday.

### Bar/Restaurant

The bar/restaurant accommodation is to be located on the ground floor on a

split level basis in the south western corner of the application site immediately adjacent to the existing public house within the former Brown Street school.

Customer entrance to the bar/restaurant would be directly from the Hawkhill via doors at both levels. The interior bar / restaurant and lounge areas would access a private landscaped area enclosed by 2.1m high masonry walls and partially covered by an extended horizontal canopy. The orientation of this private external area faces south / south west and will enjoy sunshine all year round during the daytime.

Access to the private external area is anticipated during the opening hours of the bar / restaurant. Separate service access to the bar / restaurant is to be provided from the designated service area running along the west facade of the building linking with the secure service area to the north.

Service access will be required between 0800 hours and 1700 hours Monday to Friday and 0800 hours to 1600 hours on Sundays.

### Food Retail

The food retail unit is to be located within the ground floor level within customer access being taken directly from West Marketgait. This unit will accommodate a floor area of approximately 880 sq.m.

The food retail unit is intended to primarily service the convenience requirements of the growing mainstream/student residential accommodation and the increase in potential customers from adjacent offices, hotel and serviced apartments. The unit is intended to operate on an "eight 'til late" basis seven days a week. Separate service access is to be provided from the designated service area running along the west facade of the building linking with the secure service area to the north. Service access will be required between 0800 hours and 1700 hours Monday to Friday and 0800 hours to 1400 hours Saturday/Sunday.

### Serviced Apartments

The proposed serviced apartments accommodation is intended to satisfy a particular "short term let" market which is currently available in other Scottish cities, but which is not currently available in Dundee.

The concept of the serviced apartments is to provide higher quality and more spacious accommodation than is afforded in the traditional hotel bedroom, in an attempt to cater for the particular needs of business, academic and tourist related visitors to Dundee. Such short term lets may be for a few days duration or a few months dependant upon the nature of the visitors requirements. The location of the proposed accommodation within the heart of the academic, cultural and commercial quarter of the city is considered to be important to the success of the development.

The apartments are generally of a one bedroom size, however there are 4 "duplex" two bedroom apartments and one four bedroom penthouse apartment. All one and two bedroom apartments have access to a conservatory area with the third floor area and penthouse apartment being afforded the additional benefit of access to open air rooftop terraces.

Secure and controlled access to the apartments will be via a concierge controlled entrance foyer at ground floor level with dedicated lift access to the third to sixth floor levels. Each apartment is to be fully furnished with the services of a concierge available on a 24 hour / 7 days a week basis with cleaning / linen service being provided as required dependant upon the length of the short term let.

#### Children's Day Nursery

A 50 place children's day nursery is proposed for the existing building that is located immediately to the west of Tay Works. The structure is stone built with a slate roof and is a Category B listed building. No detailed plans for the internal arrangements of the facility have been submitted for consideration at this time. Maintenance and improvements works to the external facades of the building are proposed. These works are subject of a listed building application that is to be found elsewhere in this agenda (06/00299/LBC refers). The nursery does not propose to provide any external play area as it is considered that there is sufficient space within the building to accommodate the play space requirements.

The proposal also involves the provision of operational off-street car parking on the west side of the site. A total of 142 spaces are identified on the submitted plans. Forty eight of these

spaces have been the subject of a previous approval of planning permission for the development of Tay Works. The following is a breakdown of the allocation of the proposed new spaces:-

- \* 32 spaces for the sole use and private use of the recently completed provision of 32,000 sq.ft. of digital media/creative industry office accommodation occupying ground, first and second floors of the northern section of the adjacent Tay Works
- \* 39 spaces for the sole and private use of the proposed casino
- \* 3 spaces for the proposed nursery and bar / restaurant operators
- \* 20 spaces for the shared private use between the above digital media offices and casino.

The proposed retail unit, 22,500 sq.ft. of new office accommodation and the service apartments will have no allocated spaces.

The applicants also intend to provide a new lay by facility for a taxi drop off point at the entrance to the new development on the West Marketgait frontage.

#### SITE DESCRIPTION

The site is located at the edge of the city centre and is bounded by Guthrie Street to the north, Brown Street to the west, West Marketgait to the east and Hawkhill to the south. The site, in part, previously accommodated a night club, now demolished following substantial fire damage a number of years ago. The surrounding area accommodates a variety of uses, typical of a city centre location, and includes residential, commercial, business, hotel, educational, leisure and industrial. Also in evidence are a number of listed buildings that are historically associated with the industrial past of the local area. These include the former Brown Street School (now a public house), South Mills (housing) and Tay Works (hotel and commercial uses).

The site is generally flat and low lying although the land does rise gently towards the junction of Brown Street and Hawkhill.

The site is contained within the Blackness Conservation Area.

#### POLICY BACKGROUND

##### Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

##### Dundee Local Plan Review 2005

The following policies are of relevance:

##### POLICY 1: VIBRANT AND SUSTAINABLE COMMUNITIES

The City Council will promote vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas. New development should be in accordance with other policies in the Plan and seek to minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

##### POLICY 2: HOUSING LAND RELEASE

Proposals for housing land release additional to the Finalised Local Plan allocations will be acceptable where:

- a housing development is in accordance with all other policies in the Local Plan; and
- b it will make a positive contribution to quality and choice of housing available in the local area; and
- c it satisfies all of the housing standards contained in Appendix 1 of the Local Plan or those in any site planning brief approved by the City Council; and
- d it will improve tenure mix in areas where there is limited choice and contribute to wider community regeneration objectives.

Outwith the Housing Investment Focus Areas identified in the Local Plan, a condition may be imposed requiring that development commences within two years.

Proposals for additional greenfield land release will only be supported where allocated greenfield sites are agreed not to be effective and where the scale and location of development

is in accordance with the strategy of the Structure Plan.

### **POLICY 3: HOUSING INVESTMENT FOCUS AREAS**

The City Council will encourage investment in housing and related social and physical infrastructure in the Housing Investment Focus Areas identified on the Proposals Map, working in partnership with Communities Scotland and the private sector. More detailed development frameworks, masterplans and action plans for each of the focus areas will be brought forward as appropriate by the Council and will form supplementary guidance to this Local Plan.

### **POLICY 4: DESIGN OF NEW HOUSING**

The design and layout of all new housing in Dundee should be of a high quality. As a basis for achieving this, new development will be required to conform to the Design Standards contained in Appendix 1 of this Local Plan unless:

- a the City Council, through either site allocation in the Local Plan or site planning briefs, considers it appropriate to vary the standards to reflect the constraints or opportunities offered by the development of a particular site; or
- b the proposal is within an established low density residential area, in which case the density of the new development should reflect this and more generous external space standards will be required.

New housing development should also have regard to the principles of the City Council's Urban Design Guide.

In addition, new housing development should meet "Secured by Design" standards. New residential streets should be designed to promote low vehicle speeds of 20 m.p.h. or less. New housing should have regard to opportunities to maximise energy efficiency and promote sustainable waste management.

Where conversion of a listed building or other building worthy of retention is proposed, there may be limited flexibility in applying parking and garden ground requirements where compliance is impractical. The

development of flats through conversions of buildings of merit may also be acceptable where conversion to flats the only appropriate action.

### **POLICY 9: STUDENT HOUSING**

Sites identified on the Proposals Map are considered appropriate for the development of student housing. In addition, student housing proposals on sites within fifteen minutes walking distance of the Universities will be supported where this is in accordance with other Local Plan policies. A Section 75 Agreement will be required to restrict occupancy to students unless a higher education institution was a partner in the proposed development, in which case planning conditions would be appropriate. Given the prominent location of many sites close to the City's Universities, it is important that development proposals are of a very high quality design. Adequate car parking should be provided based on a parking and accessibility assessment that takes account of factors identified in the Addendum to National Planning Policy Guideline 17 - Transport and Planning Maximum Parking Standards, including the need to avoid overspill parking on surrounding streets. Secure bike storage facilities should be included in all proposals.

### **POLICY 17: CULTURAL QUARTER**

Within the Cultural Quarter uses and developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged. Proposals which would extend and improve the area's representation of small scale independent and speciality retailers will also be encouraged. Proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance its visitor attraction.

Where appropriate, proposals outwith the area but capable of meeting these requirements may also be supported.

### **POLICY 18: MAJOR LEISURE USES**

The City Centre and District Centres will be the locations of first choice for major new leisure uses capable of contributing to their vitality and viability. Other than within the existing leisure parks at The Stack, Douglasfield and Camperdown, new

freestanding out of centre proposals involving these uses will only be accepted where it can be established that:

- a no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres or within the existing leisure parks; and
- b the site is readily accessible by modes of transport other than the car; and
- c the proposal is consistent with other Local Plan policies.

Development proposals generating significant traffic must be supported by Transport Assessments and Travel Plans where necessary. Travel Plans will be implemented through appropriate planning conditions and/or other agreements.

Where appropriate, developments will require to include provision for measures to encourage convenient access by bus, bicycle and on foot. The incorporation of these measures into existing developments will also be encouraged and pursued.

### **POLICY 19: PRIVATE DAY NURSERIES**

In support of the development of well located nurseries offering good quality facilities in a pleasant surrounding environment, planning permission will only be granted where proposals are in accordance with the guidelines contained in Appendix 4 of the Local Plan. In general proposals that provide for more than 50 full time places (or equivalent) will not be supported, nor will sites on major or heavily trafficked roads be considered suitable. Nursery premises should be situated wholly or predominantly on the ground floor and should have ground floor access, including ramped access suitable for wheelchairs and pushchairs. Tenement buildings/flatted accommodation are not considered suitable. Adequate sound insulation to the satisfaction of the Director of Environment and Consumer Protection should be provided.

### **POLICY 28: HIGHER EDUCATION DEVELOPMENT**

The City Council will support further higher education development generally and particularly in association with relevant business and

research expansion. Development proposals in the Blackness area will be encouraged subject to other Local Plan policies and agreed Masterplan.

#### **POLICY 30: VISITOR ACCOMMODATION**

The Council will support the provision of a range of high quality visitor accommodation and conference facilities in and close to the City Centre, where they are consistent with the Central Waterfront Masterplan. Additional visitor accommodation will be encouraged within central Broughty Ferry to improve the attractiveness of this location for tourism.

There will be a presumption against additional out of centre hotel accommodation on or close to major routes through the City.

#### **POLICY 37: EXTENDING AND UPGRADING SHOPPING PROVISION IN THE CITY CENTRE**

The following will be supported as priority locations capable of accommodating a major element of the new comparison goods floorspace requirement in the City Centre :

- \* The Overgate Centre
- \* The Wellgate Centre (extension and internal remodelling)
- \* The Forum Centre (redevelopment to provide extension of retail core area)

Provision for new food and grocery shopping is encouraged within the City Centre's Retail Core and within the Speciality Shopping and Non Core Area defined on the City Centre Retail Area map. Outwith these areas, new food and grocery provision will only be permitted where it can be demonstrated that the proposal :

- a cannot be accommodated within the City Centre Retail Core and Speciality Shopping and Non Core Areas ; or
- b is of a scale and nature which is geared to the local shopping needs of the residents of the City Centre.

#### **POLICY 45: LOCATION OF NEW RETAIL DEVELOPMENTS**

The City Centre and District Centres will be the locations of first choice for new or expanded retail developments not already identified in the Local Plan. Proposals for retail developments

outwith these locations will only be acceptable where it can be established that:

- a no suitable site is available, in the first instance, within and thereafter on the edge of the City Centre or District Centres; and
- b individually or cumulatively it would not prejudice the vitality and viability of the City Centre or District Centres; and
- c the proposal would address a deficiency in shopping provision which cannot be met within or on the edge of these centres; and
- d the site is readily accessible by modes of transport other than the car; and
- e the proposal is consistent with other Local Plan policies.

Development proposals generating significant traffic must be supported by Transport Assessments and Travel Plans where necessary. Travel Plans will be implemented through appropriate planning and/or other agreements.

#### **POLICY 46: COMMERCIAL DEVELOPMENTS**

Proposals for new freestanding out of centre commercial developments involving uses other than leisure and retail and geared to visiting members of the public will only be accepted where it can be established that:

- a no suitable site is available , in the first instance, within and thereafter on the edge of the City Centre or District Centres; and
- b the site is readily accessible by modes of transport other than the car; and
- c the proposal is consistent with other Local Plan policies.

#### **POLICY 52: RESTRAINT ON LICENSED PREMISES IN THE CITY CENTRE**

Within the City Centre as defined on the Proposals Map, care will be taken to avoid an excessive concentration of public houses and nightclubs, particularly those in close proximity to residential areas. A such, there will be a presumption against the establishment of licensed premises (excluding restaurants) in the City Centre :

- a with a total floor area in excess of 300 square metres; or
- b any more than one in five units in a single frontage where the combined floor area is in excess of 300 square metres.

This restraint will not apply in the Cultural Quarter although the development of night clubs will be carefully controlled so that they do not dominate its character and disrupt the Quarter as a daytime visitor environment.

#### **POLICY 55: URBAN DESIGN**

For all new developments the emphasis will be on design quality and the City Council will seek the creation of new public places and points of interest which incorporate architectural and landscape features and reflect and enhance historic street layouts, significant views and vistas. All development should respect the setting of listed buildings.

The City Council require the use of Design Statements for planning applications or listed building applications for new buildings or extensions to existing buildings on significant sites.

All development will, in its design and layout, be expected to contribute to an environment which is safe and accessible to all.

#### **POLICY 56: PUBLIC ART**

The City Council will continue to support Public Art through the adopted Public Art Strategy and the Percent for Public Art Policy by:

- a implementing the "Percent for Public Art" policy where all new development in Dundee with construction costs of £1,000,000 or over will be required to allocate at least 1% of the construction costs for the inclusion of an art project/s in a publicly accessible/visible place or places within their development. The implementation of the policy will be delivered through the development control process by the imposition of appropriate conditions on planning permission and the conclusion of legal agreements; and
- b involving the Dundee Public Art Programme at every opportunity in future environmental

- improvements and building developments; and
- c encouraging and developing the role of the artist within private sector developments; and
- d promoting the development of the community arts in residential areas; and
- e identifying sites through Development Briefs where public art would make a contribution to the streetscape, City image or local environment.

#### POLICY 59: ALTERNATIVE USES FOR LISTED BUILDINGS

Suitable alternative uses will be considered for listed buildings where this is necessary to secure their future. Any adaptation of the fabric must be undertaken carefully and sensitively and have minimum impact on the architectural and historic interest, character and setting of the building. Reference should be made to other policies in the Plan.

#### POLICY 61: DEVELOPMENT IN CONSERVATION AREAS

Within Conservation Areas all development proposals will be expected to preserve or enhance the character of the surrounding area. This will require the retention of all features which contribute to the character and appearance including unlisted buildings of townscape interest, trees and landscape features and the historic pattern of streets and spaces, as identified in the Conservation Area management plans to be advanced in the near future.

#### POLICY 79: CONTAMINATED LAND

When considering development proposals involving sites where the presence of contamination is suspected, the City Council will require applicants to :

- a submit the results of site investigations which assess the nature and extent of any contamination which may be present; and
- b where contamination is found to be present, notify the authority of the remediation measures proposed to render the site fit for its intended use including all receptors.

Appropriate conditions and/or legal agreements may be applied to ensure that such measures are implemented to the satisfaction of the Council.

Alternatives to the uses permitted by the Local Plan may be supported on contaminated sites in instances where evidence can be presented to establish that the severity of contamination is such that the site cannot be economically developed for its allocated use. In such instances the City Council will require to be satisfied that:

- \* clear evidence has been provided to establish the nature and extent of the contamination present;
- \* an economic appraisal has been provided which demonstrates that development based on the Local Plan allocation is not economically feasible due to the remediation requirement;
- \* justification for the proposed alternative to the Local Plan allocation is supported by economic and market appraisals which include the assessment of other potential options; and
- \* the proposed alternative use can be justified in relation to other policies of the Local Plan.

#### POLICY 80: WASTE MANAGEMENT FACILITIES

The City Council supports the policy of self-sufficiency for waste management within the Tayside Waste Plan Area. Development proposals for waste management facilities in Dundee will only be supported where they:

- a are in accordance with the Development Strategy and BPEO as set out by the Tayside Area Waste Plan;
- b accord with the proximity principle;
- c avoid air, noise, land, surface water and groundwater pollution;
- d avoid areas of flood risk and potential sea level rise;
- e minimise impact on the natural, historic and built environment;
- f safeguard the amenity of surrounding areas; and
- g minimise effects of traffic on the road network. Where appropriate and as prescribed in the appropriate Regulations,

development proposals will require to be accompanied by an Environmental Statement and Transport Assessment.

Proposals for waste management facilities which satisfy the above criteria will be acceptable within General Economic Development Areas provided they also meet the Policy 26 criteria relating to other uses of a wider industrial nature.

Key existing waste management sites will be safeguarded for future waste management use and, where appropriate, for expansion, in keeping with the requirements of the Tayside Area Waste Plan.

Proposals for new housing and commercial developments will be required to make appropriate on-site provision to accommodate recycling facilities. This will include provision for the separate collection of recyclates within the curtilages of individual houses.

#### POLICY 87: CITY CENTRE CAR PARKING PROVISION

Long stay City Centre car parking will be maintained at 1900 spaces.

There will be a presumption against the development of further private non-residential parking spaces within the central area. The removal of City Centre private non-residential car parking will be supported where properties are being redeveloped for new or improved use.

Proposals for new short and variable stay car parking will be considered for the benefit of shoppers, business callers and visitors where they are directly associated with new facilities.

#### Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

Scottish Planning Policy 8 sets out the Scottish Executives policy for town centres and key uses particularly retailing which contributes to their economic growth and enhancement. This SPP replaces NPPG 8 1998.

## National Planning Policy Guideline 18 - Planning and the Historic Environment

Planning Advice Note 67 - Housing  
Quality

Planning Advice Note 68 - Design  
Statements.

Designing Places - A Policy Statement  
for Scotland

## Memorandum of Guidance on Listed Buildings and Conservation Areas.

Non Statutory Statements of Council  
Policy

Dundee - The Urban Design Guide.

## LOCAL AGENDA 21

A key theme of Agenda 21 is that places, spaces and objects combine meaning and beauty with utility. A further aim is to create safe, clean and pleasant environments in which to live. The proposal involves the redevelopment of a city centre brownfield site with a structure of contemporary design resulting in a continued improvement and enhancement of this visually important site. This is considered to be consistent with the aims of Agenda 21.

## SITE HISTORY

There are no recent planning applications for the development of this site that are of direct relevance to the consideration of this proposed mixed use development. The surrounding area has been the subject of several applications for development, the most relevant being 02/00388/COU that sought to change the use of the building to the north (Tay Works) to a hotel, restaurants, bars, office accommodation and leisure uses (approved 31.03.2003). A further application for the required alterations to carry out these proposed conversion works (05/00043/FUL) was granted permission on 08.04.2005. These works also carry appropriate listed building and conservation area consents.

## PUBLIC PARTICIPATION

The applicants' agents have undertaken the statutory neighbour notification

procedure. In addition, the proposed development was advertised in the local press as being potentially contrary to Dundee Local Plan Review 2005 Policy 19 (Private Day Nurseries) and Policy 37 (Expanding and Upgrading Shopping Provision in the City Centre). The proposal was also advertised under Section 34 of the Act (bad neighbour) and also affecting the setting of a listed building and conservation area.

Objections to the proposals have been submitted by a neighbouring business and a local resident.

The main points of concern raised relate to:

- \* proximity of proposed new day nursery to existing nursery facilities
- \* impact the proposals will have on the residential amenities of the area by virtue of overlooking, overshadowing, noise and traffic and parking matters.

Copies of these objections can be viewed in the Members Lounges. It is intended to comment on the matters raised in the 'Observations' Section of this Report below

## CONSULTATIONS

The relevant Council Departments and outside bodies have been consulted with regard to the application. The following comments have been received:

Council's Head of Environmental Health and Trading Standards.

Due to the nature of the proposals and the need to protect the amenity of existing occupiers in the surrounding area and the future occupiers of the new building, it is considered that certain conditions relating to noise levels and the provision of noise mitigation measures should be attached to any permission granted.

Due to the history of the various uses on the site, it is considered that a condition relating to any decontamination works should be attached to any permission granted. The applicants have submitted a comprehensive site investigation report for determination the terms of which are currently being considered by this Council.

The Council's Forestry Officer

Associated landscape proposals have been indicated on the submitted plans. Further details of this proposed planting have been requested. It is intended to attach an appropriate condition to any permission granted.

## OBSERVATIONS

In accordance with the provisions of Section 25 of the Act the Committee is required to consider

- a whether the proposals are consistent with the provisions of the development plan; and if not
- b whether an exception to the provisions of the development plan is justified by other material considerations

### The Development Plan

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

The proposal under consideration involves the erection of a mixed use development to incorporate a casino, offices, retail unit, bar / restaurant and service apartments. A change of use of the existing listed building on the site to a children's day nursery is also proposed. A breakdown of the size and location of these proposed new uses is outlined in the 'Description of Proposal' Section of this report above. The building will vary from 3 - 6 storeys in height and will be finished in a variety of materials including facing brick, curtain walling, metal cladding and render.

The site is identified on the Proposals Map of the Dundee Local Plan Review 2005 as a Potential Student Housing Opportunity. As this application does not contain such a proposed use, the appropriateness of the alternative uses now submitted for determination should be considered against the requirements of the relevant land-use policies for the area. With regard to these proposed new uses the following comments are offered.

### Casino

The use of the ground and first floor for casino purposes should be primarily considered against the requirements of Policy 17 (Cultural Quarter) and Policy 18 (Major Leisure Uses). Policy 17 states that within the Cultural Quarter uses and

developments which will assist the further development of its role as a focus for cultural and related leisure and business activities will be encouraged. In addition, proposals for the area will be viewed in terms of their contribution to the mix and diversity of uses and to their potential to enhance its visitor attraction. The use of part of the building (ground floor (reception), first floor with mezzanine (approximately 2663 sq.m.)) for casino purposes will add to the mix of uses needed to generate the vibrancy, interest and enjoyment required for the future success of the Cultural Quarter. Consequently such a use is considered to be in full accordance with the land use requirements and philosophies of Policy 17. With regard to Policy 18, this requires the City Centre and District Centres to be the location of first choice for major new leisure uses capable of contributing to their vitality and viability. The use as a casino in this city centre location is considered to be compliant with the location requirements of Policy 18.

#### Office Accommodation

The proposed new office accommodation is to be provided over 2 levels. Although there are no Dundee Local Plan Review policies specific to the provision / location of new office accommodation within Dundee, Policy 46 (Commercial Developments) makes it clear that the City Centre is a first choice location for new commercial developments, particularly those geared to visiting members of public. It is considered that the provision of new office accommodation in this city centre location is consistent with the policy requirements for the area.

#### Bar/Restaurant

The primary consideration for this type of use in this city centre location is Policy 52 (Restraint on Licensed Premises in the City Centre) of the Dundee Local Plan Review 2005. This Policy advises that care should be taken to avoid an excessive concentration of public houses and nightclubs, particularly those in close proximity to residential areas. As such there is presumption against the establishment of licensed premises (excluding restaurants) in the city centre with a floor area in excess of 300 sq.m. or any more than one in five units in a single frontage where the

combined with a floor area is in excess of 300 sq.m.. However, the Policy further states that this restraint will not apply in the Cultural Quarter. Consequently, the location of the proposed new licensed premises in this location does not contravene Policy 52 of the Plan. Existing residential properties are located approximately 40 metres to the south (Westport) and 70 metres to the north-west (South Mills) of these new licensed premises. It is intended to attach conditions to any permission granted requiring that certain noise mitigation measures are put in place in order to avoid any detrimental impact on the environmental quality currently enjoyed by the occupiers of these flats.

#### Serviced Apartments

While the provision of service apartments is evident in other cities throughout Scotland, it is a new concept in Dundee. This form of accommodation is intended to satisfy a particular "short term let" market in the city and offers more spacious accommodation than is afforded by the traditional hotel bedroom. This form of accommodation is intended to cater for the needs of the business, academic and tourist related visitors to the city. They are generally one bedroom apartments however there are 4 "duplex" two bedroom apartments and one four bedroom penthouse apartment proposed. All one and two bedroom apartments have access to a conservatory area with the third floor area and penthouse apartment being afforded the additional benefit of access to open air rooftop terraces. While the accommodation offers outside space in the form of a conservatory and external terracing it does not offer any of the other requirements that are outlined in Appendix 1 of the Plan. However, it is considered that this form of residential accommodation proposed ie a hybrid between a flat and hotel accommodation, is unique in its concept and consequently should not be determined against the requirements of Policy 4 (Design of New Housing) of the Plan which is directed more towards mainstream housing. The proposal does, however, satisfy the requirements of Policy 30 that encourages the provision of quality visitor accommodation in and close to the city centre. It is intended, should permission be granted, to exercise a degree of control over the operational

aspects of the facility in order to prevent the use of the accommodation as mainstream flats or houses in multiple occupation.

#### Food Retail

The proposed development is located within the City Centre as identified by the Local Plan Review and includes a Class 1 foodstore of approximately 880 sq. metres gross floor area.

Given the size and location of the proposed foodstore it is considered that it does not raise any significant issues in terms of the retailing policies of the Dundee and Angus Structure Plan.

In terms of the retailing policies of the Local Plan Policies 45 (Location of New Retail Developments) and Policy 37 (Extending and Upgrading Shopping Provision in the City Centre) are relevant.

Given the location the proposed foodstore within the identified City Centre it is considered that the proposal meets the sequential test provisions of Policy 45.

Whilst the site is located within the City Centre it is not identified for a retailing use. Policy 37 sets out criteria for the consideration of new food shopping within the City Centre. The Policy allows for new food retailing within the retail core and the speciality shopping and non core areas. The proposal is located outwith both of these areas. However, the Policy also sets out criteria for the consideration of new food proposals outwith these areas. The criteria are 1) that the proposal cannot be accommodated within the Retail Core or Speciality Shopping Non-Core Area and 2) that it is of a scale and nature which is geared to the local shopping needs of the residents of the City Centre.

The applicants argue that the proposed foodstore is intended to primarily service the convenience requirements of both the growing mainstream/student population accommodation and the significant increase, both existing and intended, in potential customers from adjacent offices, hotels and serviced apartments. They highlight that particular cognisance has been taken of the potential need for a food retail presence within the Cultural Commercial Centre within the western edge of the City Centre.



It is accepted that there is a growing population and further expansion of employment accommodation within this part of the City Centre. Whilst there is an existing Lidl Store at West Marketgait this is likely to be removed as part of the Overgate Extension. It is considered that there is a need for modern food retail provision to meet the local shopping needs of this area. Given the scale and nature of the proposal it is considered that it is acceptable in terms of Policy 37. In order to exercise control over the operational aspects of the retail unit, it is intended to attach restrictive conditions to any permission granted that relate to the control of the sale and display of comparison goods.

#### Children's Day Nursery

It is intended to change the use of the existing building located within the site to a 50 place children's day nursery. This structure is a category B listed building. Minor alterations, repair and maintenance works are proposed to the external fabric of the building. No plans have been submitted for internal changes to the property. The applicants have advised that no external play area is to be provided for the children as the building is of such a size that the appropriate space can be provided within the structure. Dropping off provision is to be provided in association with the new facility. Policy 19 (Private day Nurseries) and Appendix 4 (Guidelines for New Private Nurseries) of the Local Plan Review offers advice for city centre locations for new nurseries. Appropriate sizes of outdoor play space should be provided if possible although indoor dedicated space is an acceptable alternative if outdoor provision is not possible. No dedicated car parking is required and dropping off is preferable if appropriate. There are no restrictions on the size of proposed nurseries or their proximity to other private nurseries. It is considered that the proposed new facility can comply with the requirements of Policy 19. In addition, the use of the listed building for an alternative appropriate use is consistent with the terms of Policy 59 of the Plan (Alternative Uses for Listed Buildings).

#### Urban Design

With regard to the design and appearance of the proposed new

building, the applicants have submitted a Design Statement that sets out the design rationale for the development (as required by Policy 55 (Urban Design) of the Dundee Local Plan Review 2005. The applicants advise that an analysis of the environment and existing uses already in operation surrounding the application site has exerted a particular influence on design considerations relative to the overall site layout and development proposals. In particular, recognition has been taken of the amenity currently enjoyed by the new residences in South Mills to the west. An integral part of such amenity is afforded by the existing peripheral masonry walls along the application site's boundary with Brown Street which have historically screened the previous industrial and general employment uses which have taken place within the site. The design decision has been taken to retain and enhance the presence of such walls to assist in maintaining the amenity, character and privacy which they currently afford. The decision was also taken to reduce the number of vehicle entrances into the site from Brown Street from six to two to minimise access/egress movements. Five existing entrances are to be built up as part of the proposals and a new entrance is to be formed in the northern section of Brown Street where existing residential windows are located at a height well above car roof top level. The desire to create additional pedestrian permeability and movement within and around the site and maintain a physical separation between the adjacent listed buildings and any contemporary design led to the incorporation of a 10 metre wide pedestrian route along the south facade of the former Tay Works building. This area which is similar in dimension to the space between listed buildings on Guthrie Street is intended to provide pedestrian access to the casino, offices, the children's nursery as well as providing amenity to the ground floor restaurant to be formed within Tay Works. A hard / soft landscaped courtyard is to be formed within a central area between the entrances to both the old and the new buildings in an area that will benefit from afternoon sunshine throughout the majority of the year.

The applicants have further advised that the design proposals have been developed with an awareness of the

various significant regeneration and development projects within the immediate vicinity of the application site which are either intended or on-going. Such considerations include the significant academic and student residential developments within the campus of the University of Dundee and the Hawkhill area, the intended extension to the Overgate Centre and the intended relocation of Council Office accommodation to North Lindsay Street. The close proximity of the variable appearance and scale of both listed and non-listed buildings surrounding the site has been considered however the design intention is to avoid any form of pastiche and create contemporary design which is complimentary to the character of the immediate environment. This resulted in the decision to physically separate the existing 3 storey former Tay Works building from any proposed development on this very prominent corner site. This resulted in the opportunity for the proposed development to rise slightly higher than the adjacent buildings to emphasise the street corner and allow the building to form a pivotal role at the transition of the Hawkhill, West Marketgait and Marketgait (south). Generally, the scale of the proposed design rises through three storeys on the west and north elevations, five storeys on the south and east elevations and seven storeys in the south eastern corner. The applicants intend to use a variety of finishing materials including facing brick, curtain walling, metal cladding and render.

The proposed development is considered to be appropriate in scale, orientation, style, design, form and materials for this prominent frontage site and is to be welcomed in this city centre location. In this respect, the proposals are considered to be in accordance with Policy 55 (Urban Design) and Policy 61 (Development in Conservation Areas) of the Dundee Local Plan Review.

With regard to Policy 56 (Public Art), the applicants are aware of the requirement to allocate at least 1% of the construction costs for the inclusion of an art project in a publicly accessible / visible place or places within their development. This is to be incorporated in the south east corner of the new building. An appropriate

condition is to be attached to any permission granted.

With regard to Policy 79 (Contaminated Land), the applicants' agents have submitted, due to the historical land uses contained within the site, a comprehensive site investigation report. The terms of this document are currently being considered by this Council and it is intended to attach a condition to any permission granted requiring any remediation works to be carried out prior to the occupation of the new building.

With regard to Policy 80 (Waste Management Facilities), discussions on this matter have taken place with the applicants agents. They have been made aware of the requirement to submit a scheme, to be agreed with this Council, for the provision of refuse storage facilities associated with the new development. It is intended to attach an appropriate condition to any permission granted.

With regard to Policy 87 (City Centre Car Parking Provision), the proposed operational car parking to be provided on the west side of the site is contrary to the requirements of this policy. The applicants have advised that the parking is required predominantly for the uses that have already been granted permission within the adjacent Tay Works building ie the hotel and the digital media office accommodation. A limited amount of the proposed new parking is to be allocated to the casino, bar/restaurant and nursery with no operational spaces being provided for the new office accommodation or the service apartments. The applicants' agents have advised that the success of the comprehensive redevelopment of this site, which includes Tay Works, is dependant to a considerable degree on the provision of the proposed associated parking, particularly for the approved digital media offices that are located on the north side of the new hotel. While the provision of operational car parking is not generally encouraged within the city centre it is considered that, in this instance, the provision of the spaces proposed would not significantly prejudice the terms of this policy. The site is located on the edge of the city centre, the local road network can accommodate the proposed increase in traffic movements and the site of the car park could be developed for new build structures that could, due to their proximity, impact

on the environmental qualities currently enjoyed by the residents of the adjacent South Mills to the west. In this respect, it is considered that the terms of Policy 87 can be set aside without prejudice.

It is concluded from the foregoing that the all proposed new uses to be accommodated within the new building comply with the provisions of the development plan. The proposed provision of operational car parking on the west side of the application site is contrary to Policy 87 (City Centre Car Parking Provision).

It is also concluded from the foregoing that the statutory duty set out in Sections 14 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is discharged in this instance.

## Other Material Considerations

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

### Objections:

The following matters have been raised by surrounding occupiers:

- 1 the proximity of the proposed children's day nursery to existing nursery provision, and
- 2 the impact the proposals will have on the environmental quality of the adjacent occupiers of residential properties.

With regard to the proximity of the proposals to a neighbouring children's nursery, this issue has been discussed under the terms of Policy 19 of the Dundee Local Plan Review above. This matter has been discharged as there are no distance/proximity requirements between nursery provision within the city centre.

With regard to the impact of the proposals on the amenities of adjacent residential properties, this matter has been discussed above. The applicants are aware of the requirements to protect the environmental qualities currently enjoyed by adjacent occupiers and have ensured that the alterations to the boundary walls on the west side of the site do not significantly impact on existing amenities. It is also considered that there will be no significant overlooking/overshadowing of these residential properties.

The Councils relevant terms contained 'Dundee City Council Local Transport Strategy' and 'Streets Ahead' that relate to city centre parking have been discharged above in consideration of Policy 87 of the Dundee Local Plan Review 2005.

It is concluded from the foregoing that insufficient weight can be accorded to any of the material considerations such as to justify the refusal of planning permission contrary to the provisions of the development plan. It is therefore recommended that planning permission be granted with conditions.

## Design

The design rational for the development is set out in the applicants submitted Design Statement. This visually important site fronting onto the West Port roundabout will be completed with an appropriate quality landmark building and a mixture of uses that will compliment the scale, appearance and character of the surrounding area. The appropriate use of a limited palette of materials and the contemporary composition of the proposals combine to provide a dramatic building of high quality design. It is considered that the scheme satisfies the requirements of Policy 55 of the Dundee Local Plan Review 2005.

## CONCLUSION

The proposed uses to be contained within the new building are considered to be in accordance with the requirements of the relevant development plan policies for the area. The design of the new structure has been the subject of pre-application discussions. It is considered that an appropriate solution has been achieved for the redevelopment of this prominent and important city centre site and that there will be a resultant positive impact on the setting of the Blackness Conservation Area and the adjacent listed buildings.

The provision of service apartments is a new concept for this city. The use is considered to be a hybrid use between a flat and a hotel. In order that an appropriate degree control can be exercised over the occupancy of these units, particularly to prevent their use as mainstream housing, it is intended to require that a legal agreement is entered into by all relevant parties that

would restrict the letting period of the rooms to short term stay only.

## RECOMMENDATION 1

This planning permission shall not be issued unless and until an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 between the Council and parties with appropriate interests in the land has been recorded. This agreement will relate to the letting of the rooms of the proposed service apartments being limited to a minimum of one day and a maximum 90 day lease.

## RECOMMENDATION 2

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

- 1 That prior to the commencement of any works, the applicants will submit for the written approval of the planning authority, exact details of the allocation of the operational off street car parking spaces that are to be provided for the various uses within the development site.
- 2 The development hereby permitted shall be commenced within five years from the date of this permission
- 3 samples of the finishing materials proposed to be used shall be submitted to the Council for approval and if approved the development shall be carried out only in accordance with such approved samples
- 4 Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - 1 location of new trees
  - 2 schedule of plants to comprise species, plant sizes and proposed number/density
  - 3 details and materials of all hard landscaping works
  - 4 programme for completion and subsequent maintenance.

For the avoidance of doubt, any trees or shrubs which, in the opinion of the planning authority, are dying, severely damaged or diseased with 5 years of planting

shall be replaced by trees or shrubs of a similar specification to those originally planted.

- 4 Details of refuse storage measures to be provided shall be submitted to the Council for approval prior to the commencement of development and if approved the development shall be carried out only in full accordance with such approved details.
- 5 Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the planning authority. The scheme shall contain details of proposals to deal with contamination to include:
  - 1 the nature, extent and type(s) of contamination on the site
  - 2 measures to treat/remove contamination to ensure that the site is fit for the use proposed
  - 3 measures to deal with contamination during construction works
  - 4 condition of the site on completion of decontamination measures

- 1 the nature, extent and type(s) of contamination on the site
- 2 measures to treat/remove contamination to ensure that the site is fit for the use proposed
- 3 measures to deal with contamination during construction works
- 4 condition of the site on completion of decontamination measures

Before any of the proposed accommodation hereby granted permission is occupied the measures to decontaminate the site shall be fully implemented as approved by the planning authority

- 6 That the sale and display of comparison goods shall be limited to no more than 30% of the net sales area of the proposed retail unit, subject to a limitation that no single group of goods from the following list (a) and (h) inclusive shall occupy more than 50% of the said sales area floor space devoted to the sale of comparison goods, the said listing being as follows:
  - a books
  - b clothing and footwear
  - c furniture, floor coverings and household textiles
  - d radio, electrical and other durable goods
  - e hardware and DIY supplies
  - f chemist goods

- g jewellery, silverware, watches and clocks; and
- h recreational and other miscellaneous goods.

- 7 That the proposed foodstore shall have a gross floor area not in excess of 880 square metres
- 8 That full details of public art provision for the development shall be submitted to the planning authority for approval prior to the commencement of development and if approved, the development shall be completed only in full accordance with such approved details.
- 9 That prior to the commencement of the use of the proposed children's day nursery hereby granted permission details of dropping off provision for the patrons of the facility shall be submitted for the written approval of the planning authority and if approved the development shall be carried out only in full accordance with such approved details.
- 10 Total noise from all mechanical and electrical services shall not exceed NR35 during the night. For the avoidance of doubt night time shall be 2300 - 0659 hrs, as measured, 1 metre external to the facade of any residential accommodation at 2-16 Brown Street, Dundee.
- 11 Total noise from all mechanical and electrical services shall not exceed NR35 as measured 1 metre external the facade of any residential accommodation within the proposed development boundary.
- 12 Before the use commences, the building shall be insulated to achieve sound attenuation in accordance with a scheme approved by the City Council and thereafter implemented.
- 13 All amplified music and vocals from the site shall be so controlled as to be inaudible within adjacent residential accommodation o any residential accommodation at 2-16 Brown Street, Dundee..
- 14 That traffic noise levels within each individual living apartment within the proposed development

shall not exceed 45dB(A) during the day and 35dB(A) during the night (2300 - 0659 hrs)

- 15 That prior to the commencement of development, construction details of the proposed new vehicular dropping off facility on West Marketgait shall be submitted to and approved in writing by the planning authority and thereafter constructed only in full accordance with the approved details.

## Reasons

- 1 In order to ensure that the Council's adopted policies and guidelines relating to operational car parking within the city centre are not prejudiced.
- 2 To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- 3 to ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 4 to ensure a satisfactory standard of appearance of the development.
- 5 In the interests of sustainable development.
- 6 In order to ensure that the site is fit for the use proposed.
- 7 In order to conform with the approved shopping policies of the development plan.
- 8 In order to conform with the approved shopping policies of the development plan.
- 9 In order to provide for public art in the interests of visual amenity
- 10 In order to provide safe and adequate facilities for the dropping off and picking up of children attending the nursery.
- 11 To protect local residents from any noise from the site generated as a result of the uses granted permission.
- 12 To protect the future occupants of the service apartments from any noise generated by the uses hereby granted permission.
- 13 In order to protect residents from any noise generated by adjacent uses.

- 14 In order to protect residents from any noise generated from the uses granted permission within the development site.
- 15 To protect local residents from traffic noise.
- 16 To allow the facility to be constructed in a manner that will not prejudice the road traffic and pedestrian safety of the area.