

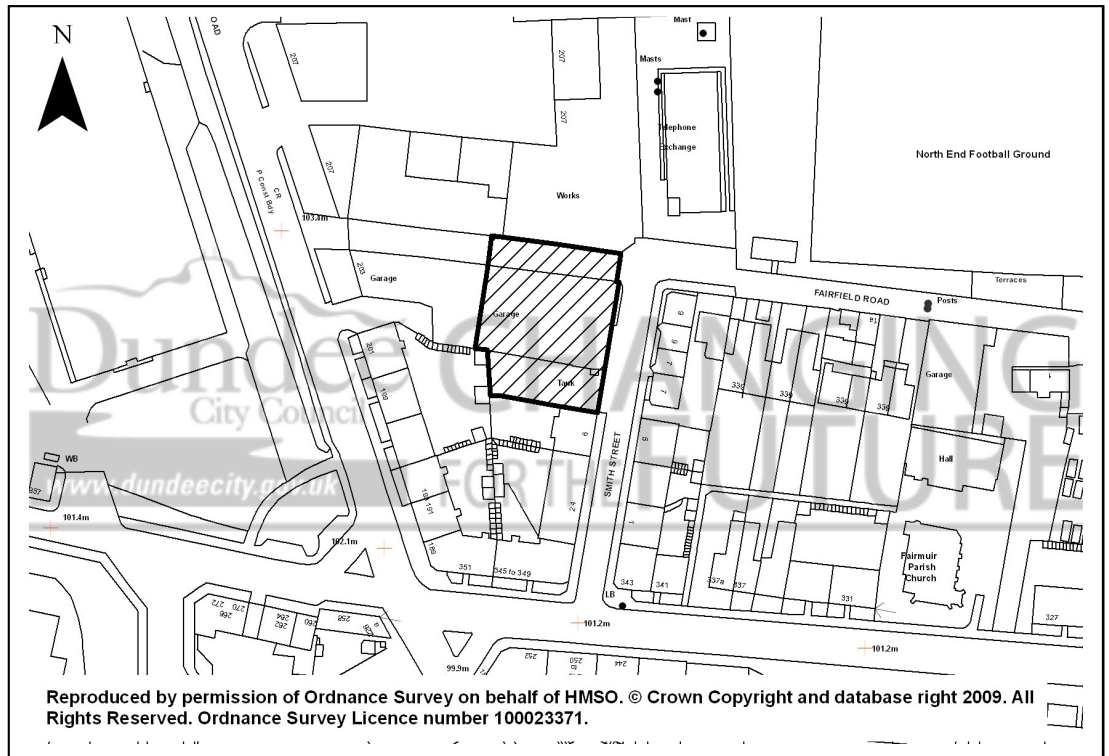
**KEY INFORMATION**

Ward Coldsidie

**Proposal**Demolition of Industrial Unit  
and Erection of Nineteen  
Flats**Address**Land to the West of  
Smith Street  
Dundee**Applicant**Baker Bradley Ltd  
64-70 North William Street  
Dundee  
DD3 7DB**Agent**ARKTX Chartered Architects  
187 Strathmartine Road  
Dundee  
DD3 8BL

Registered 16 July 2009

Case Officer P Macari



# Proposal for New Flats in Smith Street

The erection of Nineteen Flats is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

**RECOMMENDATION**

The proposal does not comply with Policies 2 and 4 of the Dundee Local Plan Review 2005 and there are no material considerations that justify approval of the application.

**SUMMARY OF REPORT**

- This application seeks full planning permission for the erection of 19 flats on land to the west of Smith Street Dundee. The proposals will involve the demolition of an existing industrial unit, the erection of a 3/4 storey L shaped building finished in contemporary materials along with the formation of an access road, parking area and communal amenity space.
- Policy 2 (Housing Land Release) and Policy 4 (Design of New Housing) of the Dundee Local Plan Review 2005 are relevant to the outcome of this planning application.
- This application has been advertised in the Dundee Evening Telegraph as contravening the criteria of Policy 4 of the Dundee Local Plan Review 2005.
- Eleven letters of objection have been received from neighbouring residents. The concerns of the objectors relate to the impact of the proposed development on the surrounding residential environment in terms of parking and access, amount of flats proposed, design, scale and massing of the buildings, the likely impacts upon privacy and overshadowing as well as how the proposals sit with current Development Plan Policies.

## DESCRIPTION OF PROPOSAL

Planning permission is sought for the erection of 19 flats on land on the west side of Smith Street, Dundee. The site extends to 0.152 hectares in size.

The flats will be accommodated in a three/four storey L shaped building. The building will front on to Smith Street with the northern wing of the building separating the vehicular access/parking area from the communal space to the rear.

Vehicular access to the site will be taken from Smith Street from a new access road located along the northern boundary of the site. 26 parking bays will be located at either side of the access road. Recycling facilities will be located along the western boundary of the site between the communal space and parking area.

The flats are predominantly four storeys in height with a three storey corner feature. Of the 19 flats proposed 17 will have two bedrooms and two will have three bedrooms. The communal amenity space located behind the proposed building amounts to 280m<sup>2</sup> in area.

The elevations of the building will be finished in smooth ivory and red render with grey cladding panels. The roof will be finished in grey coloured single ply roofing membrane with grey clad eaves and soffits. The windows will be double glazed units with grey UPVC frames.

## SITE DESCRIPTION

The application site is located on the west side of Smith Street. The site is currently occupied by an industrial building with white render walls and corrugated metal roof. The building is currently used as an MOT Station. There is an access road to the north of the building. There are four storey stone-built tenement flats to the south and fairly modern three storey flats to the east, on the opposite side of Smith Street. Smith Street is a narrow street and cars park on both sides. The street turns through 90 degrees at the north and is narrower along this section and leads into Fairfield Street.

## POLICY BACKGROUND

### Dundee and Angus Structure Plan 2001-2016

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



### Dundee Local Plan 2005

The following policies are of relevance:

Policy 2 stipulates criteria that development proposals must be adhered to enable the release of land for housing in addition to sites already allocated for housing in the Finalised Dundee Local Plan.



NORTH ELEVATION

Policy 4 and Appendix 1 set out standards for new housing development. In an Inner City area such as this there are minimum requirements for garden ground and parking provision.

## Scottish Planning Policies, Planning Advice Notes and Circulars

There are no statements of Government policy relevant to the determination of this application.

## Non Statutory Statements of Council Policy

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

## SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

## SITE HISTORY

Planning application 06/01121/FUL sought full planning permission for the erection of 21 flats. The Development Quality Committee refused planning permission on the basis that the proposals were contrary to Policy 2: Housing Land Release and Policy 4: Design of New Houses of the Dundee Local Plan Review 2005. This was mainly because the proposed development did not comply with the housing standards contained in Appendix 1 of the Local Plan. Further, the Committee were not satisfied that the proposal would make a positive contribution to the choice of housing available in the local area.

Planning application 08/00329/FUL sought planning permission for the erection of 21 flats. This application was no different to planning application 06/01121/FUL. As such this application was reported to the Development Quality Committee with a negative recommendation. During the Committee meeting after discussions with the Chair and members of the Committee the applicant withdrew the application.

## PUBLIC PARTICIPATION

The applicant has carried out the statutory neighbour notification procedure as stipulated in Section 23 (1) of the Town and Country Planning

(General Development Procedure) (Scotland) Order 1992.

This application was advertised in the Dundee Evening Telegraph as a departure to Policy 4 of the Dundee Local Plan Review 2005.

Eleven letters of objection have been received from neighbouring residents and businesses. The concerns raised include:

- over provision of flats in Smith Street and surrounding area;
- contrary to the provisions of the Dundee Local Plan Review 2005;
- finishing materials are not in keeping with surrounding buildings;
- traffic, parking and access problems;
- the scale and massing of the proposed development is too high;
- overshadowing and overlooking of adjacent properties;
- loss of view;
- insufficient boundary treatments;
- operation of a Garage without Planning Permission; and
- connection to water/drainage network.

The issues raised are discussed in detail in the "Observations" section below. Copies of the letters of objection are available for viewing in the various Members' Lounges.

## CONSULTATIONS

The Head of Environmental Health and Trading Standards has raised a concern that the application site may be contaminated due to historic uses. Concern has also been raised that the surrounding land uses may give rise to significant levels of noise disturbance.

A contaminated land risk assessment has been submitted to the satisfaction of the Head of Environmental Health and Trading Standards. Environmental Health and Trading Standards are satisfied that the issues of contamination can be addressed by

condition should the Committee be mindful to grant planning permission.

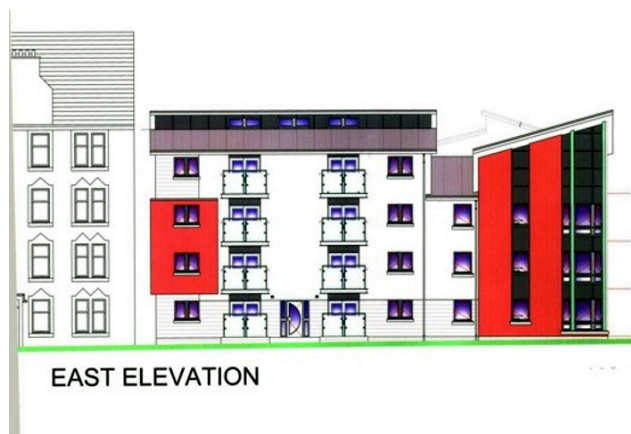
With regard to noise, the Head of Environmental Health and Trading Standards has requested additional information from the appointed noise



SOUTH ELEVATION

consultants to supplement the original Noise Impact Assessment carried out in 2006. The applicant has contested this requirement. No further information relating to the occurrence of late night noise disturbance has been submitted by the applicant.

Scottish Water has confirmed that they have no objection to the proposed development and advise that a separate application should be made for connection to their infrastructure, should planning permission be granted.



EAST ELEVATION

## OBSERVATIONS

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

- whether the proposals are consistent with the provisions of the development plan; and if not
- 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

In terms of Appendix 1 of Policy 4, flats are only permitted in the Inner City where the site is identified in a site planning brief, site specific circumstances demand a flatted solution or conversion of an existing building is proposed.

Smith Street comprises of four storey tenement buildings and a recently built three storey block of flats. At the northern end of Smith Street there is a general economic development area which accommodates commercial development falling within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The application site is located on the western side of Smith Street and is currently occupied by a single storey industrial building that has previously been used as a carpet warehouse and is currently used as an MOT station. The application site is bound to the south and west by four storey tenement buildings and to the east by a three storey block of recently built flats. Smith Street has a uniform street frontage whereby the flatted tenement buildings abut the public footway which runs along either side of the street.

While the application site is not allocated in a site planning brief and the proposals do not involve the conversion of the existing buildings on site, the surrounding built form in combination with the uniform street frontage as well as the ever increasing on street car parking pressures dictate that the redevelopment of the application site with flats is acceptable. Principally this is because proposals involving the erection of houses on site would not maintain the street frontage, the provision of off street car parking would lead to additional on street car parking pressures through the removal of existing spaces. Further, the scale and massing of the existing buildings surrounding the application site would dwarf houses blocking significant amounts of daylight and sunlight from the east and west. Therefore, in this instance site specific circumstances demand a flatted solution.

Appendix 1 to Policy 4 states that flats should have a minimum gross internal floor area of 60m<sup>2</sup>. All flats exceed this figure.

26 car parking spaces are provided, which complies with the parking requirement of 130%. There is a private amenity space of 280m<sup>2</sup>, which complies with the garden space requirement. A separate drying area is located between the bin store and western gable of the northern wing of the building. In addition, there are 18m between the facing windows of habitable rooms of the proposed and existing flats bounding the application site.

The design and finishing materials of the proposed building are contemporary and the colours proposed will enhance the appearance of Smith Street. However, the front elevation (Smith Street frontage) of the proposed building extends to 13m in height. The proposed building will therefore overshadow the ground floor of the three storey block of flats on the eastern side of Smith Street in the evening hours and in the winter months. Although the existing buildings to the south of the application site overshadow 7-9 Smith Street already, the combined level of overshadowing generated by the existing and proposed building will have a significant impact upon the level of amenity afforded to the ground floor flats of 7-9 Smith Street.

Six two-bedroom flats will be located in the northern wing of the proposed building. These flats will significantly overlook the gardens of existing flats to the south and west of the application site while their north facing bedrooms will look out over the proposed car parking area and existing industrial premises to the north of the application site. The level of amenity afforded to the flats accommodated in the northern wing of the proposed building is considered to be of a low quality that is unacceptable for a new development. Given the level of development proposed and the significant issues of amenity which will arise from this, the proposals are considered to be an overdevelopment of the application site and are contrary to the requirements of Policy 4 (Design

of New Housing) of the Dundee Local Plan Review 2005.

In terms of Policy 2, the proposals fail to comply with Policy 4 of the Local Plan and therefore are not considered to make a positive contribution to the quality and choice of housing available in the local area. This is because the



WEST ELEVATION

proposed flats will significantly overlook and overshadow existing dwellings surrounding the application site to the detriment of residential amenity. Further the level of amenity afforded to the six flats accommodated in the northern wing of the proposed building will be significantly low due to the poor outlook of the north facing windows over the existing general economic development area to the north of the application site. The proposals therefore fail to satisfy the requirements of Criteria (a) and (b) of Policy 2.



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

**Other Material Considerations**

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

- a *Justification from Applicant*

The applicant has provided a justification for the departure from Policy 4 as follows:

- 1 The costs involved in demolishing the existing buildings on site, decontaminating the site and then rebuilding outweigh the return on a development of townhouses;
- 2 Alternative design solutions involving townhouse layouts have been investigated. However, these were considered problematic by the developer as such proposals would lead to overshadowing of neighbouring properties and insufficient parking.
- 3 The proposals by virtue of scale, design and finishing materials meet the requirements of Appendix 1 in terms of car parking provision, amenity space and window distances for flatted developments in inner city areas.

It is accepted that there are site specific circumstances which would allow for a flatted solution rather than houses on the application site. However, the type and amount of flats proposed has led to the development of a layout and design that will have a significant impact upon the level of amenity afforded to neighbouring properties as well as the proposed flats. The proposals are therefore contrary to the provisions of Policy 2 and Policy 4 of the Dundee Local Plan Review.

The supporting statement asserts that the number of flats, proposed is required due to the costs of removing the existing building from the application site, decontaminating the site and then rebuilding. The supporting statement also states that such costs could not be met by a development comprising of houses rather than flats. Although development economics are a material planning consideration, the supporting statement does not demonstrate that the number and form of the flats proposed is required to make this development economically viable. Indeed the only flatted design solution presented is the subject of this planning application.

While the information submitted addresses the principle of a flatted solution on the application site to the satisfaction of Appendix 1 of Policy 4, it does not deal with the failure of the proposals to comply with the requirements of Policy 2 and Policy 4 in terms of the quality of residential accommodation provided. Therefore the proposals in combination with the supporting statement do not justify a departure to the provisions of Policy 2 and 4 of the Dundee Local Plan Review 2005.

#### b *Objections*

Eleven letters of objection were received from neighbouring residents and business owners. The grounds of objection are discussed below:

##### 1 *Overprovision of flats in Smith Street and surrounding area*

This issue has been discussed in the Observations section of this report. These concerns are not supported.

##### 2 *Proposed materials for the development are not in keeping with surrounding properties*

As discussed above, the materials proposed are contemporary and the colours will enhance the streetscape, which are considered acceptable for this location.

##### 3 *Traffic, parking and access problems*

The proposed development complies with the parking requirements as specified in Appendix 1 of Policy 4. No access problems were raised as an issue from consultees. Whilst it is appreciated that the width on Smith Street is reduced due to on-street parking, it is not considered that the level of traffic introduced by the new development will adversely affect the existing road network. Any proposed new roads or changes to existing roads or footways will have to comply with Dundee City Council specifications and road construction consent will be required, should planning permission be granted for the proposal.

##### 4 *Scale and massing of the proposed development is too high*

The proposals by way of scale, massing and design give rise to issues of overshadowing and overlooking to the detriment of residential amenity. These concerns are supported.

##### 5 *Overshadowing and overlooking of neighbouring properties*

The layout and design of the existing streetscape is mirrored in the proposed development. However, the front elevation of the proposed building extends to 13m in height (four storeys). Given that Smith Street is only 12m wide the ground floor flats of the three storey flatted block on the eastern side of Smith Street will be overshadowed by the proposed development in the evening hours and during the winter months when the sun is at its lowest horizontal angle.

The northern wing of the proposed building which accommodates six two-bedroom flats will significantly overlook the rear gardens of flats at 6 Smith Street and 199 Strathmartine Road.

These concerns are supported.

##### 6 *Loss of view*

Concerns of loss of view are not considered material to the outcome of this planning application.

##### 7 *Inadequate boundary treatments*

Concern has been expressed over the condition of the existing northern boundary wall dividing the application site and neighbouring industrial buildings. While instability of the existing boundary wall is not strictly a planning matter, should the Committee be mindful to approve this application, conditions dictating the form of boundary treatment required for the northern edge of the site will be incorporated into the grant of planning permission.

##### 8 *Connection to the Existing Water/ Drainage Network*

Concern has been expressed that there is insufficient capacity within the existing water and drainage network to support the proposed development. No adverse comments have been received from Scottish Water. Therefore it would seem that there is sufficient capacity within the existing water and drainage networks to support the proposed development.

##### 9 *Operation of a Garage without Planning Permission*

Concern has been expressed that the applicants are operating a car garage/ MOT station from the application site. Although this is not related to the current proposals, the Council's Planning Enforcement Officer is currently investigating this issue.

##### 10 *Contrary to the provisions of the Development Plan*

It has been concluded in the Observations section of this Report that there are site specific circumstances that dictate that a flatted solution would be an acceptable form of development on the application site. Therefore this concern is not supported.

It is concluded from the foregoing that the concerns of the objectors are supported. The supporting statement from the applicant is not sufficient to justify a departure from the development plan in these circumstances.

## **Design**

It is considered that the design and use of contemporary materials will enhance the appearance of Smith Street. However, the scale and massing of the proposed building will give rise to significant issues of overlooking and overshadowing.

## **CONCLUSION**

The proposal does not comply with Policies 2 and 4 of the Dundee Local Plan Review 2005. There are no other material considerations that would justify approval of this application contrary to the provisions of the Development Plan.

## **RECOMMENDATION**

It is recommended that consent be REFUSED for the following reasons:-

- 1 The proposed flatted development by virtue of scale, design and massing will give rise to significant issues of overlooking and overshadowing to the detriment of residential amenity. Therefore the proposals will not make a positive or sustainable contribution to the quality of housing available in the local area. The proposals are contrary to the provisions Policy 4 (Design

of New Housing) and consequently Criteria (a) and (b) of Policy 2 (Housing Land Release) of the Dundee Local Plan Review 2005. There are no material considerations that would justify approval of the application contrary to the provisions of Policy 2 and Policy 4 of the Dundee Local Plan Review 2005.

- 2 The six flats accommodated in the northern wing of the proposed building will have a poor outlook over the existing General Economic Development area which bounds the application site to the north. These flats will also significantly overlook the garden grounds of 6 Smith Street and 199 Strathmartine Road. The six flats accommodated in the northern wing of the proposed building are therefore an overdevelopment of the application site as they are afforded a poor quality outlook to the north and give rise to significant issues of overlooking and overshadowing to the detriment of residential amenity. The proposed development is therefore contrary to the requirements of Policy 4 (Design of New Housing) of the Dundee Local Plan Review 2005.