

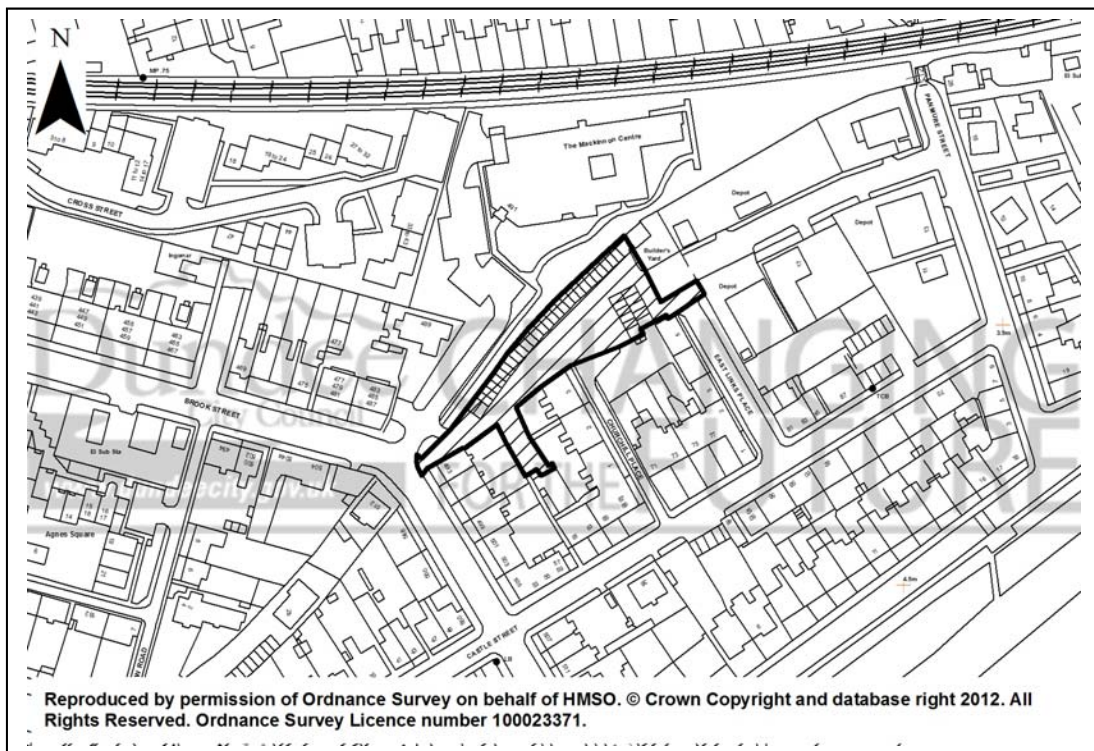
KEY INFORMATION

Ward The Ferry

ProposalProposed Housing
Development – 15 no
Apartments**Address**Lock Ups
Churchill Place
Broughty Ferry**Applicant**Mr Michael Ferrier
Ferrier Holdings Limited
Waulkmills
St Vigeans
Arbroath
DD11 4RG**Agent**The Voigt Partnership Ltd
Studio 1
Erskine Business & Design
Centre
Commerce Street
Arbroath
DD11 1WB

Registered 22 Oct 2012

Case Officer Paul Macari



Flatted Housing Development at Churchill Place

Proposed Housing Development – 15 no. Apartments is **RECOMMENDED FOR APPROVAL** subject to conditions. Report by Director of City Development.

RECOMMENDATION

The proposals fail to satisfy the requirements of the Development Plan. However, there are material considerations relating to the position of facing windows and the provision of affordable housing in Broughty Ferry that justify approval of planning permission. Therefore it is recommended that this application is approved subject to conditions and the completion of a Section 75 Planning Obligation

SUMMARY OF REPORT

- This application seeks planning permission for the erection of 15 flats on the site of the existing Lock Up garages at Churchill Place, Broughty Ferry, Dundee.
- Policy 4 (Design of New Housing) and Policy 55 (Urban Design) of the Dundee Local Plan Review 2005 and the Dundee Urban Design Guide are relevant to the outcome of this planning application.
- Letters of objection have been received from the occupiers of 3 neighbouring dwellings concerned about access, increased traffic, insufficient parking and road safety, the design and finish of the proposed flats is not suitable, overlooking, overshadowing, overdevelopment of the application site, contrary to the Dundee Local Plan Review 2005, over-bearing impact on neighbouring properties, poor quality amenity space and proximity of the proposed development to the adjacent scaffolding yard.
- The concerns of the objectors are partly supported.
- The proposals fail to satisfy the requirements of the Development Plan.
- The applicant is agreeable to the tenure of the proposed flats being restricted for intermediate rental in accordance with the terms and conditions of the National Housing Trust.
- There are material considerations that justify the approval of planning permission contrary to the Development Plan

DESCRIPTION OF PROPOSAL

This application seeks planning permission for the erection of 15 flats on the site of the existing Lock Up Garages at Churchill Place, Broughty Ferry, Dundee.

It is proposed to erect 2 blocks of flats that will be 3 storeys in height. The proposed flats will be located towards the northern boundary of the application site. Existing accesses to the site from Brook Street, Churchill Place and East Links Place will be maintained and a new access road running along the southern boundary of the site linking Brook Street, Churchill Place and East Links Place will be formed.

Each of the proposed flats will have 2 bedrooms, an open plan kitchen, dining and living area as well as a bathroom.

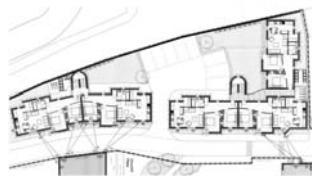
Communal drying areas and refuse storage areas will be located to the north of each of the proposed blocks of flats. A total of 20 car parking spaces will be spread throughout the application site to serve the proposed flatted development. The proposed development will also be served by a total of 381m² of communal garden ground located around the blocks of flats.

In addition to the flats, access road, parking areas and areas of garden ground, the remainder of the site will be landscaped with pedestrian footpaths maintaining existing links with Churchill Place, Brook Street, East Links Place and Castle Street.

The applicants have confirmed that the proposed development is to be partially funded by the National Housing Trust (NHT) should the Committee be minded to grant planning permission and their application for NHT funding be successful.

This application is very similar to planning application ref: 12/00423/FULL which was refused planning permission for the erection of 15 flats by the Development Management Committee on 17 September 2012. The main differences between the current proposals and the development proposed by planning application ref: 12/00423/FULL relate to the south facing window positions in Blocks A and B which have been revised to

address issues of overlooking of neighbouring properties. Where it has not been possible to design out issues of overlooking, the applicant has demonstrated through supporting information the extent of overlooking.



In accordance with the Council's Scheme of Delegation this application is being reported to the Council's Development Management Committee at the request of the Director of City Development.

SITE DESCRIPTION

The application site is located at the end of East Links Place and Churchill Place. The site is currently occupied by lock up garages. The site is accessed from East Links Place, Churchill Place and Brook Street. The existing vehicle accesses have been blocked by 1m high steel bollards to prevent local residents parking on the application site without the applicant's permission.



There are residential properties adjoining the application site on Churchill Place, Brook Street and East Links Place. The site is bound to the east by a scaffolding yard. The Mackinnon Centre bounds the site to the north. The northern boundary of the application site is formed by 2m high retaining wall.

POLICY BACKGROUND

TAYplan Strategic Development Plan 2012

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

Dundee Local Plan 2005

The following policies are of relevance:

Policy 4: Design of New Housing - this policy sets out standards for new housing developments.

Policy 55: Urban Design - this policy emphasises design quality.

Proposed Dundee Local Development Plan

Policy 7: High Quality Design.

Policy 9: Design of New Housing.

Policy 47: Environmental Protection.

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

The following policy statements are of relevance:

Dundee Urban Design Guide.

SUSTAINABILITY ISSUES

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

SITE HISTORY

Planning application ref: 11/00629/FULL sought planning permission for the erection of 18 flats on the site of the lock up garages and scaffolding yard on Churchill Place, Broughty Ferry, Dundee. This application was approved subject to conditions and the completion of a Section 75 Planning Obligation by the Development Management Committee in March 2012. The application was approved contrary to the requirements of the Development Plan because the proposals presented an opportunity to introduce affordable housing into Broughty Ferry despite inflated land values and a very buoyant local housing market. The purpose of the Section 75 planning obligation was to restrict development on the application site to the terms and conditions of the National Housing Trust to ensure the

delivery of properties for intermediate rent.

One of the owners of part of the application site was unable to agree terms and consequently the Section 75 planning obligation has not been signed. In order to ensure that the timescales set by the National Housing Trust for the delivery of properties for intermediate rent could still be met the applicant submitted a revised application (12/00423/FULL). Planning application ref: 12/00423/FULL had a smaller site area and proposed the erection of 15 flats to take account of the landowner that did not want to participate in the development proposed by planning application ref: 11/00629/FULL. This application attempted to address issues of overlooking that were prevalent in planning application ref: 11/00629/FULL.

Planning application ref: 12/00423/FULL was refused planning permission by the Development Management Committee on 17 September 2012. The reasons for refusal were that the proposals were contrary to the requirements of Policy 4 (Design of New Housing) and Policy 55 (Urban Design) of the adopted Local Plan by virtue of the provision of flats on the application site, the failure of the proposals to observe the Council's window to window distance policy, the impact on road and pedestrian safety through an increase in traffic and parking pressures and the design of the proposed flats was not in keeping with the scale, massing and form of the surrounding built environment.

The current application that is the subject of this report attempts to address the Committees concerns relating to planning application ref: 12/00423/FULL.

PUBLIC PARTICIPATION

The Council has carried out the statutory neighbour notification procedure as stipulated in Section 19 of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2008.

This application was also advertised in the Dundee Evening Telegraph as a departure to the Development Plan.

3 letters of objection have been received from the occupiers of

neighbouring dwellings concerned about:

- increased traffic;
- insufficient parking and road safety;
- the design and finish of the proposed flats is not suitable;
- overlooking;
- overshadowing;
- overdevelopment of the application site;
- contrary to the Dundee Local Plan Review 2005;
- over-bearing impact on neighbouring properties;
- poor quality amenity space; and
- proximity of the proposed development to the adjacent scaffolding yard.

Members will already have had access to copies of the letters of objection and the issues raised are discussed in the "Observations" section below.

CONSULTATIONS

The Council's Head of Environmental Protection is satisfied that any issues of contamination can be addressed by conditions.

The Head of Environmental Protection has also requested that the recommendations of the submitted Noise impact Assessment are fully implemented prior to the first occupation of the proposed flats. Should the Committee be minded to grant planning permission this matter will be addressed by condition.

OBSERVATIONS

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

The Development Plan

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

Policy 4 (Design of New Housing) - it is the aim of Policy 4 to ensure that new houses and flats benefit from a

high level of amenity while the level of environmental quality afforded to surrounding properties is maintained or enhanced by residential development.

Policy 4 requires proposals for the erection of new houses and flats to comply with the requirements of Appendix 1 of the adopted Local Plan unless the application site is located within an established low density area or a site planning brief varies the quantitative standards that new housing developments must comply with. Given the density of development in the surrounding area, the proposed development is expected to satisfy the requirements of Appendix 1.

Appendix 1 stipulates that new flats in central Broughty Ferry will only be permissible where the application site is identified in a site planning brief, site specific circumstances demand a flatted solution or conversion of an existing building is proposed and houses are impractical. Where flats are permissible Appendix 1 requires them to have a minimum gross floor area of 60m², 130% off street parking provision and useable private communal garden areas of 100m² or 10m² per flat whichever is greatest. In addition to communal garden areas, new flats should have drying areas. Appendix 1 also stipulates that new flats should not have windows serving habitable rooms that are within 18m of facing windows of neighbouring houses. In addition new flats should not have windows serving living rooms that overlook private gardens of neighbouring houses.

The application site is not the subject of a planning brief. The Design and Access statement demonstrates that the site was previously a dense housing development and that given the surrounding built form the site lends itself well to a flatted development solution. Indeed as there is an even split between flats and houses in the dense residential area surrounding the application site it is considered that the erection of houses or a low rise flatted development on the application site would not adversely impact on the character of the surrounding area. In these circumstances a low rise flatted development on the application site would be acceptable.

Each of the proposed flats will have a gross floor area which exceeds 60m². In terms of communal private garden

ground, the proposed flats will benefit from 381m² of communal garden ground with drying facilities to the rear of the proposed buildings. The proposed flats will also benefit from 133% off street parking provision.

The south facing windows serving habitable rooms in flats in Blocks A and B will in some instances be positioned no more than 4m from facing windows serving habitable rooms of neighbouring houses and flats on Churchill Place and East Links Place.

Although the proposed south facing windows serving flats in Blocks A and B will also overlook the private communal gardens of flats and houses on East Links Place, Churchill Place and Brook Street, these properties are terraced and therefore the level of overlooking of private gardens will be no more significant than the existing level of overlooking generated by adjoining properties.

In accordance with the requirements of Policy 4 and in addition to satisfying the guidance contained within Appendix 1, the proposed development should also have regard to the Council's Urban Design Guide. The Dundee Urban Design Guide requires new buildings, extensions and infill developments to be well designed, flexible and outwardly expressive as to their purpose. An agenda of imaginative and innovative contemporary architecture is sought to discourage 'off-the-peg' design and debased versions of historical styles.

The application site is currently used as lock up garages. The existing garages are in a poor and run down condition. The application site displays signs of vandalism and graffiti where previously parked cars were being broken into regularly and garages damaged. It is considered that the buildings on site are not worthy of retention and would not facilitate the regeneration of the application site.

The design of the proposed development includes elements of elevations, roof lines, doors, windows and materials from surrounding buildings and draws from the site context to create a valued development that reflects the scale, massing and design of the surrounding built form. It is therefore evident that the proposed development has regard to the requirements of the Council's Urban Design Guide.

The proposals although of a high quality design and finish fail to satisfy the requirements of Appendix 1 of the adopted Local Plan by virtue of window to window distances. The proposals are therefore contrary to the requirements of Policy 4 (Design of New Housing).

Policy 55 (Urban Design) emphasises support for proposals of a high quality design that respect the setting of listed buildings, creates new public places and points of interest which incorporate architectural and landscape features and reflect and enhance historic street layouts, views and vistas.

The proposed development by virtue of scale, massing, design, finishing materials and site layout is considered to be a sensitive redevelopment of the application site. The proposals will provide an open extension to the Churchill Place and East Links Place streetscapes linking Panmure Street and Brook Street through an interactive streetscene that maintains the setting of listed buildings to the south of the application site. The open and interactive streetscape will be created through the use of shared surfacing for the roads and footpaths, the position of the proposed buildings and areas of landscaping.

In this instance the proposals satisfy the requirements of Policy 55 (Urban Design).

It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.

Statutory Duty

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities, in considering applications that affect listed buildings, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which they possess.

The proposed development will not adversely impact on the character or setting of the listed buildings located on East Links Place. The requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are therefore discharged.

Other Material Considerations

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

a Windows Report

The applicant has submitted a revised windows report on the proximity of the south facing windows serving habitable rooms in Blocks A and B to neighbouring properties with north facing windows. The content of this report is similar to that of the windows report submitted in support of planning application ref: 12/00423/FULL.

The revised windows report highlights the changes that have been made to the window positions and window forms in Blocks A and B in response to the refusal of planning application ref: 12/00423/FULL.

The applicant has demonstrated that although many of the south facing windows serving Blocks A and B will be positioned within 18m of facing windows of neighbouring properties none of the windows serving the proposed flats will be positioned directly opposite the existing north facing windows of the properties on Churchill Place and East Links Place. Using guidance adopted by other Council's the windows report demonstrates that apart from 2 windows in Block A the proposed flats will not adversely affect the level of privacy afforded to neighbouring properties due to the acute horizontal angles between the facing windows. The revised windows report also demonstrates that the extent of overlooking generated by the 2 offending windows in Block A which do not comply with the Council's adopted window to window distance standards or the window to window guidance adopted by other Council's will be minimal.

b Design Statement

The design statement justifies the position of the proposed flatted blocks on the application site by comparing the proposed development with the historic occupation of the site by railway cottages. However, the form of the proposed flats differs significantly from the original cottages that occupied the application site and this is considered by the design statement to be acceptable because the provision of a development in the form of flats is the most appropriate and efficient use of the application site.

The design statement does not take account of the extension and formation of a new streetscape or the increased permeability created by the form of the proposed development.

The design statement also includes a short analysis of the proposals in relation to the 6 qualities of successful places detailed in *Designing Places 2008*.

The design statement submitted in support of the proposed development demonstrates that the proposed development is of a high quality design that fits comfortably within the existing context of the application site.

c The Proposed Dundee Local Development Plan

The Proposed Dundee Local Development Plan was approved by the Council on 29 October 2012. It sets out the spatial strategy that will guide future development up to 2024 and shows which land is being allocated to meet the City's development needs. The proposed Plan contains policies and proposals covering the principal land use issues in the city and sets out where new development should and should not happen.

The proposed Dundee Local Development Plan will in time replace the Dundee Local Plan Review 2005. Approval of the Proposed Dundee Local Development Plan represents the Planning Authority's settled view as to what the final adopted content of the Plan should be. Whilst the Dundee Local Plan Review 2005 (along with TAYplan) constitutes the statutory Development Plan against which all applications require to be assessed in accordance with Section 25 of the Planning Act, the Proposed Dundee Local Development Plan has the status of a material planning consideration to be taken into account in the assessment of planning applications.

The provisions of the Proposed Dundee Local Development Plan relevant to the determination of this application are specified in the Policy background section above.

Policy 7: High Quality Design, mirrors the criteria of Policy 55 (Urban Design) of the Dundee Local Plan Review 2005. As the proposals satisfy the requirements of Policy 55 they also satisfy the criteria of Policy 7: Design

Quality of the Proposed Dundee Local Development Plan.

Policy 9: Design of New Housing and Appendix 4, have a similar criteria to Policy 4 (Design of New Housing) and Appendix 1 of the Dundee Local Plan Review 2005. The proposals satisfy the requirements of Policy 9: Design of New Housing and Appendix 4 of the Proposed Dundee Local Plan Review 2005.

Policy 47: Environmental Protection states that new development or an extension to an existing development in close proximity to existing sources of noise, vibration or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses. The Head of Environmental Protection is satisfied that the proposed development will not be affected by noise and disturbance from the adjoining scaffolding yard providing that the recommendations of the submitted noise impact assessment are implemented. This matter will be controlled by condition should the Committee be minded to approve planning permission.

The proposals satisfy the requirements of the Proposed Dundee Local Development Plan.

d Views of Objectors

Letters of objection have been received from the occupiers of 3 neighbouring dwellings. The concerns raised relate to:

- Access, Increased Traffic, Insufficient Parking and Road Safety

The objectors are concerned that the proposed development will lead to an increase in on-street parking due to the loss of the existing lock up garages and car parking area that is currently utilised by neighbouring properties surrounding the application site.

The objectors are also concerned that the proposed development will not provide sufficient visitor parking and therefore visitors to the proposed flats will be forced to park on surrounding streets generating instances of traffic congestion.

The objectors are concerned that the proposed development by virtue of an increase in traffic and on-street parking will adversely affect the level of road

and pedestrian safety in the surrounding area.

In terms of parking provision the proposed development satisfies the requirements of Appendix 1 of the adopted Local Plan. However, it is acknowledged that the proposed development may generate up to 30 vehicles which equates to an additional 10 parking spaces taking account of the 20 parking spaces formed within the application site as part of the proposed development. The additional 10 spaces would require to be found within the surrounding street network. There are available public car parking facilities in close proximity to the application site (Castle Green car park) that have capacity to accommodate any additional vehicles associated with the proposed development. In this instance the concerns of the objectors are not supported.

- The design and finish of the proposed flats is not suitable

The objectors are concerned that the proposed flats are of an unsympathetic design that is not suited to this area of Broughty Ferry.

The design of the proposed buildings has been assessed against the requirements of the Development Plan in the Observations section of this report. It has been concluded that by virtue of scale, massing, design and finish the proposals present a sensitive redevelopment of the application site. However, to ensure that the finish of the flatted buildings is of the standard proposed a condition will be incorporated into the grant of planning permission controlling the finishing materials of the buildings should the Committee be minded to grant planning permission.

- Overlooking

The objectors are concerned that the proposed flats will overlook the private gardens and windows of neighbouring properties.

These concerns have been addressed in the assessment of the proposals above. It has been concluded that the proposed flats will generate instances of overlooking of neighbouring properties on East Links Place and Churchill Place to the detriment of residential amenity.

- Overshadowing

The objectors are concerned that the proposed development will overshadow neighbouring residential properties.

The proposals by virtue of scale, massing and location will not cast significant shadows over neighbouring residential properties to the south, north or north west of the application site.

- Overdevelopment of the application site

The objectors are concerned that the proposed development will overdevelop the application site.

The proposals by virtue of scale, design and massing will not overdevelop the application site. This is mainly because the scale of development currently proposed is significantly less than the development approved by planning application ref: 11/00629/FULL and will therefore have a smaller footprint.

- Contrary to the Dundee Local Plan Review 2005

The objectors have stated that the proposed development is contrary to the Dundee Local Plan Review 2005. It has been concluded from the assessment of the proposals against the requirements of the Development Plan above that the proposals are contrary to the requirements of Policy 4 of the adopted Local Plan due to the provision of window openings within 18m of facing windows of neighbouring properties. This matter has been addressed in the assessment of material considerations above where it has been concluded that the level of overlooking is not sufficient to warrant the recommendation of refusal of planning permission.

- Over-bearing impact on neighbouring properties

The objectors are concerned that the proposed buildings by virtue of their scale, massing and location will have an overbearing impact on the neighbouring properties to the south of the application site. It has been concluded in the assessment of the proposals against the requirements of the Development Plan that the proposed buildings are of a sensitive scale, massing and position on the application site so as not to have an overbearing impact on neighbouring properties.

- Poor quality amenity space

The objectors are concerned that the proposed flats will be afforded poor quality amenity space. Although the majority of the 381square metre of communal open space will be located to the north of the proposed buildings, more than 150square metre will be located to the south of the proposed buildings. The proposed flats will therefore be afforded a sufficient amount communal open space in compliance with the requirements of the Development Plan that will not be overshadowed and will be readily accessible.

- Proximity of the proposed development to the adjacent scaffolding yard

The objectors are concerned that the proposed flats will be afforded a poor level of environmental quality due to the proximity of Block B to the adjoining scaffolding yard. The hours of operation of the adjoining scaffolding yard are restricted to daytime business hours only and therefore the potential for instances of significant noise disturbance are limited. However, issues of noise disturbance from the scaffolding yard can be mitigated through implementing the recommendations of the submitted noise impact assessment. This matter will be controlled by condition should the Committee be minded to approve planning permission.

The impact of the scaffolding yard on visual amenity and the outlook of the flats located in the eastern sector of Block B has been addressed by ensuring that none of the habitable rooms in these flats have east facing windows overlooking the scaffolding yard.

The concerns of the objectors are partly supported.

e National Housing Trust

The applicant has applied to the National Housing Trust to obtain funding for the proposed development that is the subject of this report.

The National Housing Trust initiative (NHT) is a tool to help make more new affordable homes available for below intermediate rent in areas where there is not enough affordable housing to meet current demand.

New build homes are procured from developers, and when a bid from a

developer is accepted onto the initiative the developer will complete the homes on their site to agreed standards and timescales. Limited Liability Partnerships (LLPs) are being set up to oversee progress on each developer's site within a Council area - these are companies which won't have any staff, but have a board of management involving the relevant developer and Council and a representative of the SFT. Once the homes are completed, the LLP will buy them by paying between 65 and 70 per cent of an agreed purchase price to the developer upfront. This contribution is funded by participating Councils who will provide loans to the LLPs in their area - Councils are likely to fund this by borrowing from the Public Works Loan Board. The remaining 30 to 35 per cent is contributed by the developer as a mixture of loan funding and equity investment.

The homes are expected to be available to tenants for affordable intermediate rent for 5 to 10 years and the developer will oversee an agent who will manage the homes and carry out maintenance and repairs to agreed customer service standards. The managing agents will allocate homes to tenants based on criteria agreed with the Council.

Each LLP's income from tenants' rents will be used to pay interest to the Council so it can finance its own borrowing for the initiative and will also pay interest on the loan from the developer and pay for agents responsible for managing and maintaining the homes. The Scottish Government will provide a guarantee to participating Councils that it will step in if there is a problem and the LLP is unable to pay what it owes to the Council.

The funding of this development by the National Housing Trust will secure the provision of new build homes for intermediate rent in Broughty Ferry for a period between 5 and 10 years. Once this period has expired the properties will be sold privately by the LLP to payback the finance obtained from the Council and developer. If for any reason the LLP has difficulty in renting the units it is contractually bound to sell the units in order to secure repayment of the loan back to the Council and Developer should the void levels become so high as to breach any of the default trigger levels.

It is the intention of this particular NHT model that the proposed flats will be sold to tenants who have lived in the properties during the NHT agreement. This model works on the premise that the tenants have been paying intermediate rent during the 5/10 year period to allow them to save for a deposit for a mortgage to purchase the property that they have been renting.

f The Provision of New Build Dwellings for Intermediate Rent

The Council's Housing Department has demonstrated that there is a significant shortage of properties available for intermediate rent in Broughty Ferry. The Council has had aspirations for many years to introduce affordable housing into Broughty Ferry but there has never been the opportunity to do so due to inflated land values and a very buoyant local housing market. Given the current economic climate and its depressive impact on land values and the housing market the current proposals aided by the prospect of NHT funding present the Council with the opportunity to secure the provision of affordable housing within Broughty Ferry for a temporary period of 5/10 years.

The applicant is agreeable to the proposed flats being secured for intermediate rent in accordance with the terms and conditions of the National Housing Trust through the completion of a Section 75 Planning Obligation should the Committee be minded to grant planning permission.

g Planning application ref: 12/00423/FULL

In response to the reasons for refusal of planning application ref: 12/00423/FULL the applicant has made material changes to the position and form of the window openings in Blocks A and B of the proposed development. It has been concluded from the assessment of material considerations and in particular the revised window report submitted in support of the current proposals that the extent of overlooking generated by the proposed development is not of a significant level to warrant refusal of planning permission.

The remaining reasons for refusal of planning application ref: 12/00423/FULL are historic and relate in part of planning application ref: 11/00629/FULL which was originally

reported to the Development Management Committee in January 2012 with a negative recommendation. The changes to the density of development proposed by the current application and planning application ref: 12/00423/FULL significantly reduce the scale and massing of the development originally proposed by planning application ref: 11/00629/FULL to the extent that a whole block of flats was omitted from the development. This has meant that previous concerns of overdevelopment, overbearing impact and impact on the setting of adjacent listed buildings have been satisfied. This is reflected by the current proposal's compliance with Policy 55 (Urban Design) of the adopted Local Plan detailed above.

Changes to the window positions on the eastern elevation of Block B, the content and proposed mitigation measures detailed in the submitted noise impact assessment and the existing restrictions of the operating hours of the adjoining scaffolding yard are all factors which have led to the Head of Environmental Protection concluding that the level of amenity afforded to the flats in Block B will be safeguarded from instances of significant noise disturbance.

It is therefore considered that the development proposed by the current application satisfies all 5 of the reasons for refusal of planning application ref: 12/00423/FULL.

It is concluded from the foregoing that sufficient weight can be accorded to the material considerations detailed above such as to justify the grant of planning permission.

DESIGN

The proposed development is of a scale, design, massing and finish that will sensitively redevelop the application site while also maintaining the level of amenity afforded to neighbouring properties.

CONCLUSION

The proposals fail to satisfy the requirements of the Development Plan. However, there are material considerations relating to the position of facing windows and the provision of affordable housing in Broughty Ferry that justify approval of planning permission. Therefore it is recommended that this application is

approved subject to conditions and the completion of a Section 75 Planning Obligation.

RECOMMENDATION

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 as amended between the Council and parties with appropriate interests in the land has been recorded. This agreement will relate to the provision of properties for intermediate rent in accordance with the terms and conditions of the National Housing Trust.

Recommendation 2

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

- 1 Prior to the commencement of work on site, details of the proposed finishing materials and boundary treatments shall be submitted to the Council for written approval. Thereafter, the proposed flats shall be finished in accordance with the details approved by this condition.
- 2 Development shall not begin until an investigation and risk assessment related to the submitted Stage I Desk Study are completed and, if necessary; a remediation strategy to deal with contamination risks at the site has been submitted to and approved in writing by the planning authority. The strategy shall contain proposals to deal with contamination to include:
 - i the nature, extent and type(s) of contamination on the site;
 - ii measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
 - iii measures to deal with contamination during construction works; and
 - iv verification of the condition of the site on completion of decontamination measures.

- 3 Before any unit is occupied the remediation strategy shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation strategy have been achieved shall be submitted to and approved by the planning authority.
- 4 Prior to the occupation of any of the flats hereby approved, the recommendations of the NOISE IMPACT ASSESSMENT: Proposed Flatted Development at East Links Place, Broughty Ferry, Dundee by the Charlton Smith Partnership dated 16 August 2012 shall be fully implemented.
- 5 Prior to the commencement of development, a scheme of landscaping shall be submitted to and approved by the Council, and it shall include indications of all existing trees and hedgerows on this land and adjoining the application site, and details of any to be retained, together with measures for their protection in the course of development in accordance with BS5837:2005. Full details of new planting and landscaping shall also be submitted to and approved by the planning authority prior to the commencement of development. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted in terms of this condition.
- 6 Any existing site accesses that are no longer required as part of the proposed development must be made good to Dundee City Council specifications. Details of these alterations must be agreed in writing by the Council prior to any works on site.
- 7 Details of the proposed vehicle access/tie-in with the adopted road ex adverso the site must be agreed in writing by the Council prior to any works on site and the access/tie-in must be formed and constructed to Dundee City Council standards and specifications.

Reasons

- 1 In the interests of safeguarding visual amenity.
- 2 To ensure that the application site can be developed in a manner fit for the proposed residential use.
- 3 To ensure that the application site can be developed in a manner fit for the proposed residential use.
- 4 In the interests of residential amenity
- 5 In the interests of enhancing and maintaining the level of amenity and environmental quality in the surrounding area.
- 6 In the interests of road safety.
- 7 In the interests of road safety.