

Mixed Housing Development

KEY INFORMATION

Ward West End

Address

51 Magdalen Yard Road
Dundee
DD1 4LQ

Applicant

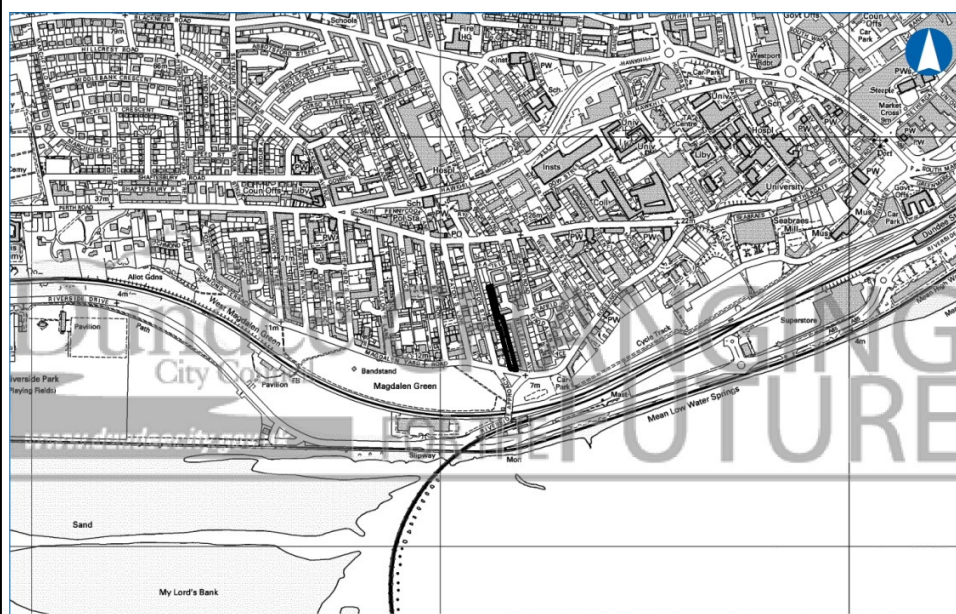
Rowarth Ventures Ltd
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Registered 28 Aug 2014

Case Officer Eve Young



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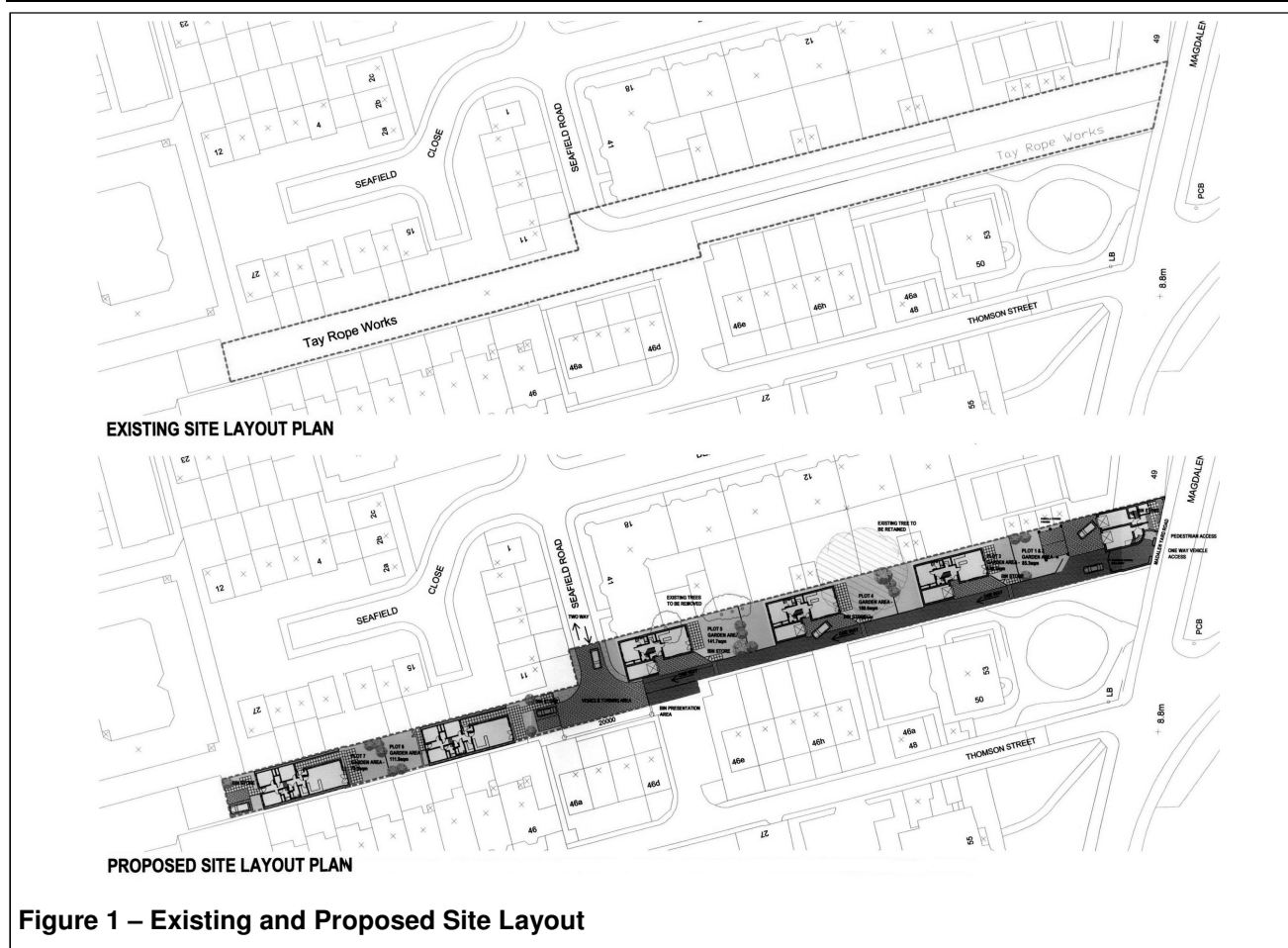
SUMMARY OF REPORT

- This application seeks planning permission for the development of 5, three bedroom houses and 2, three bedroom flats with associated infrastructure, effectively renewing a previous permission.
- The site of the former Tay Rope Works comprises two long narrow strips of land bounded by housing to the east and west. It is predominantly vacant and derelict with a southern elevation to Magdalen Yard Road comprising the listed façade of the original building.
- There is a long history of planning applications for residential development on all or parts of the site since 1993 with two public inquiries resulting in the refusal of appeals in 2007 and 2009. Planning permission was granted for the development, the subject of this renewal application, in September 2011.
- Three objections were received from neighbours on grounds of noise, traffic, loss of trees and design.
- The application is referred to the Development Management Committee for determination at the direction of the Director of City Development as the application requires a legal obligation in respect of HMO occupation.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=NB00NNGC05Q00> for application 14/00616/FULL. However, the full plans and supporting information are in file ref 11/00110/FULL which can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=LHU9B2GC04Q00>.

RECOMMENDATION

The proposal does not comply with the Dundee Local Development Plan 2014 but there are strong material considerations which support the granting of planning permission subject to conditions following the recording of an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997, between the Council and parties with appropriate interests in the land. This obligation will relate to the prohibition of any of the dwellings hereby approved becoming a house in multiple occupation in accordance with the Local Development Plan. The application is therefore recommended for APPROVAL subject to conditions.

1 DESCRIPTION OF PROPOSAL



1.1 This is a Further Application as defined by Part 2 Section 11 of the Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2013 for the renewal of the planning permission reference 11/00110/FULL, granted on 1 September 2011, for: "Erection of 5 Houses and 2 Flats with Associated Parking, Amenity Space, New Access and Environmental Improvements".

1.2 A further application is an application for planning permission where certain procedural requirements are waived. The application was submitted prior to the expiry of the time limit on the above application and under the terms of the legislation, the applicant is not required to submit copies of the drawings. The application should be treated as if it were a fresh application.

1.3 Planning permission is sought for the following developments within this site:

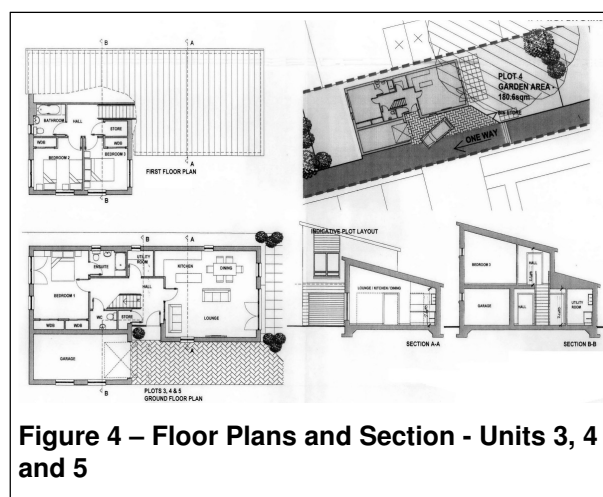
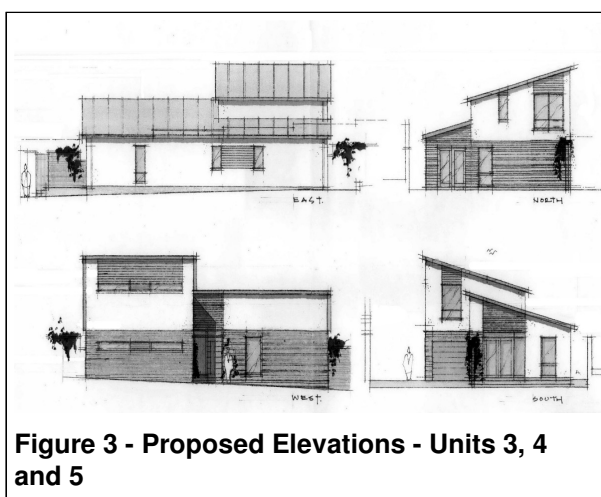
- 1 Erection of a 3 storey block of 2, three bedroom apartments each comprising a separate ground floor garage with direct access into separate private entrances. There is a shared bin store on the ground floor. As part of one of the units lies over part of the



ground floor of the adjacent unit, these are flats under the terms of the relevant planning legislation but have the appearance of houses. They have a shared vehicle access to the garages, a further parking space each and shared private garden ground of 85.3m². The building will incorporate the rebuilt facade of the former Rope Works to provide a pend entrance to a one way access through the site to the north. The units will be finished predominantly in stone with complementary buff render to the rear and a grey painted finish to the rebuilt facade. The roof will be slate and the windows, timber.

- 2 Erection of 3, three bedroom houses in the central part of the site. They will be L shaped with a smaller upper floor providing 2 bedrooms and a large open plan lounge/kitchen/diner with a master bedroom and garage on the ground floor. Each house has an additional parking space. The slope of the mono pitch roofs is towards the flats to the east in Bellfield Avenue. The windows on the west elevation are high level to minimise any overlooking. The houses have between 136m and 180m of private garden ground.
- 3 Erection of 2, three bedroom houses at the northern part of the site. They are single storey with flat roofs designed to be set between the existing flanking walls of the former rope works buildings. This ensures that there are no windows to over look properties on either side. The houses have two parking spaces each and private garden ground of 78 and 111m².
- 4 The access at Magdalen Yard Road is one way due to the restricted visibility resulting from the rebuilding of the listed frontage as part of the new building. Bin stores are provided to minimise the need for access by refuse vehicles. Seafield Road will be two way with a turning area for vehicles and will be the exit point for the one way system. Only the one house at the north of the site will gain access via Seafield Road. The northmost house will gain access from the car park off Seafield Lane. The roads within the site will remain private and will not be adopted by the City Council.

1.4 The existing boundary walls will be retained and repaired.



2 SITE DESCRIPTION

- 2.1 The site was originally occupied by the Tay Rope Works which dated from mid 19th Century. The site, as required by the manufacture of rope, is extremely long and narrow, the southern part being predominantly 12m wide by 130m and the northern section being generally 8m wide by 80m. It slopes down from north to south between the rear gardens of the residential

properties which front on to Thomson Street to the west and Bellfield Avenue and Seafield Close to the east. There are 3 access points at Magdalen Green to the south, Thomson Street and Seafield Road at the mid point. The northern end of the site abuts the car park off Seafield Lane.

- 2.2 The southern elevation on to Magdalen Green includes the ground floor gateway of the original building with a later stone facade at upper level. The entablature at the facade is dated 1885. The original building was partly destroyed by fire in 1986. The remaining buildings have been used for an architectural antique business for approximately 10 years. The original red brick building in the north part of the site has also been removed but the walls remain with the distinctive arched details with some traces of upper storey window cills. This site has been used for open storage.
- 2.3 The walls vary in character and quality with red brick to the west and a partially demolished sandstone wall to the east with areas of fencing infill. There is an oak tree located part way up the site which will be retained. The site is very overgrown with self sown trees of varied species and ages which will be removed. The area accessed off Seafield Road has been subject to fly tipping. The site is in poor condition in stark contrast to the surrounding residential properties. The buildings to the south are in a poor state of repair and comprise a mixture of rubble sandstone, red brick and steel with corrugated sheeting and slate roofs.

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN

Policy: 7 - High Quality Design

Policy: 9 - Design of New Housing

Policy: 15 - Houses in Multiple Occupation

Policy: 45 - Land Contamination

Policy: 49 - Demolition of Listed Buildings and Buildings in Conservation Areas

Policy: 50 - Development In Conservation Areas

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

4 SITE HISTORY

- 4.1 The following applications are of relevance.
- 4.2 The site has previously been in two ownerships and has been the subject of separate planning applications, north and south of the Seafield Road access.
- 4.3 North Site

04/00918/FUL - Planning application for the erection of 2 houses was refused by Committee on 29/08/05 and was then the subject of an appeal. The Reporter granted planning permission for the northern house, gaining access from the car park to the north but refused permission for the southern house, gaining access from Thomson Street. The date of the appeal decision was 22/02/06.

4.4 South Site

- 1 In 1985 and 1986 there were applications to change the site into a car showroom and a bathroom showroom.
- 2 D18355/93 - Outline application for residential development was withdrawn by applicant 25/06/93.
- 3 D19023/93 - Rebuilding of workshop and erection of two dwelling houses on part of Former Tay Rope Works. Planning permission was refused by the council on 21/02/94. The application went to appeal and was dismissed on 11/04/95.
- 4 D20182/94 - Change of use from workshop to house was approved.
- 5 D/22932/97 - Change of use from picture framing to architectural antiques retailing was approved.
- 6 05/01078/FUL - Planning application for the erection of two blocks of flats and 2 single storey houses. The application was withdrawn by the applicant on 19/07/06 in order to submit an application which combined the two parts of the former Rope Works site as detailed above.

4.5 Combined North and South Sites

- 1 06/00703/FUL - Planning application for the erection of 11 flats in 2 blocks of 7 and 4 units, the erection of 4 single storey houses, access road and environmental improvements to boundary walls. The application was refused by the Development Quality Committee on 30 October 2006. The applicant lodged an appeal and the application was considered at a Public Inquiry on 26 - 27 June 2007. The appeal was dismissed on 19 July 2007.
- 2 06/00019/LBC - Partial demolition of facade and redevelopment within frontage of proposed residential flats. This listed building application dealt solely with the proposed alterations to the Category C(s) listed frontage to the former Rope Works. The application was approved by the Development Quality Committee on 30 October 2006.
- 3 08/00292/FUL - Planning application for the erection of 11 flats in 2 blocks of 7 and 4 units, the erection of 3 houses, access road and environmental improvements to boundary walls. The application was refused by the Development Quality Committee on 16 June 2008.
- 4 08/00293/LBC - Partial demolition of facade and redevelopment within frontage of proposed residential flats. The application was refused by the Development Quality Committee on 16 June 2008.
- 5 The applicant lodged an appeal against these 2 refusals and the applications were considered at a Public Inquiry on 13 January 2009. The applications were refused on 31 March 2009.
- 6 11/00110/FULL for the erection of the residential development which is the subject of this further application was approved, subject to conditions on 1 September 2011. The application was subject to the statutory time limit of 3 years which was imposed as a direction to the permission.

- 7 1/00111/LBC, the associated Listed Building application for the dismantling and rebuilding of the facade to be incorporated into the new development approved under 11/00110/FULL was also approved subject to conditions on 6 June 2011.
- 8 14/00617/LBC is the current Listed Building application for the dismantling and rebuilding of the facade to be incorporated into the new development which is the subject of this further application. Historic Scotland has confirmed that it has no comments on the works proposed to the Listed Building and the City Council can proceed to determine this application.

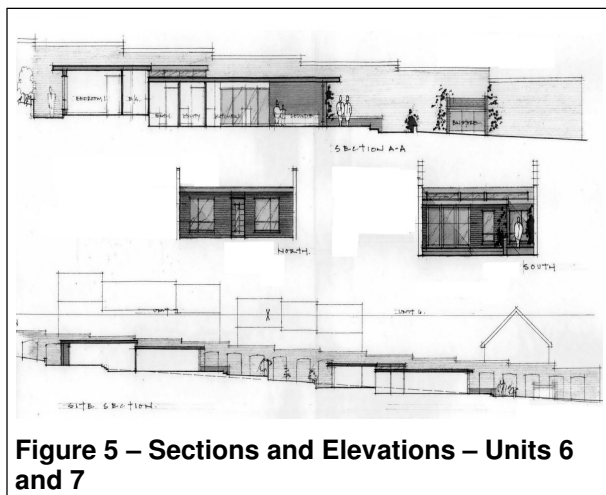


Figure 5 – Sections and Elevations – Units 6 and 7

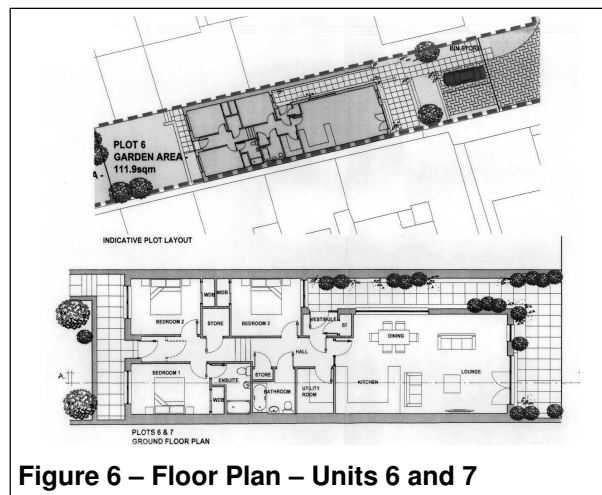


Figure 6 – Floor Plan – Units 6 and 7

5 PUBLIC PARTICIPATION

- 5.1 The application was notified to 164 neighbouring properties and was also the subject of statutory notices. Three objections were received.

6 CONSULTATIONS

- 6.1 **The Head of Environment** – seeks the same conditions with regard to contaminated land as were applied to the previous planning permission in order to ensure that the site is suitable for residential use.

7 DETERMINING ISSUES

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

THE DEVELOPMENT PLAN

Since the previous application was approved the Dundee Local Development Plan 2014 (DLDP) has been adopted as the Development Plan for the City. This site lies within the Inner City and has no specific allocation within the Plan

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

DUNDEE LOCAL DEVELOPMENT PLAN

- 7.2 **Policy 8: Housing Land Release** – this site is not identified as a brownfield housing site and therefore falls to be considered under the terms of Policy 8 with regard to the principle of the use of the site for residential development. It is considered that the development will make a positive contribution to quality and choice with the provision of 5 new 3 bedroom houses and 2 modern 3 bedroom flats, all with off street parking. The development will also contribute to the regeneration of the area by removing a long standing derelict site.
- 7.3 **The proposals satisfy the requirements of Policy 8.**
- 7.4 **Policy 9: Design of New Housing** – the explanatory text to Policy 9 details the Council's intention to promote and encourage good quality new housing developments.
- 7.5 The development of the site for residential use is acceptable as the site lies within a residential area of the city. The design and layout of the proposed housing development seeks to minimise the impact on the adjoining properties by the limited scale of the southern block and the configuration of windows. The houses are low profile and designed to minimise any impact on adjacent dwellings by overshadowing or overlooking.
- 7.6 The site lies within the Inner City and the required criteria in Appendix 3 are met by the 5 houses.
- 7.7 **Accordingly, it is considered that the houses as proposed satisfy the requirements of Policy 9.**
- 7.8 With regard to the proposed flats, Appendix 3 states that flats will only be permitted under certain specific criteria. One of the criteria is that "site specific circumstances demand a flatted solution".
- 7.9 The applicant has sought to create two separate houses on the site. However the ground floor arrangements, which include the rebuilding of the listed façade, result in a development which must legally be defined as flats in terms of the planning legislation, although the internal layout is not typical of flats. It is concluded that the site specific circumstances support the particular flatted solution proposed.
- 7.10 The provision of 3 bedroom flats, each with an individual entrance, garage and parking space meet other criteria in Appendix 3.
- 7.11 As noted in the Design Statement, the 85m² of amenity space provided does not meet the minimum requirement of 100m² as defined by Appendix 3.
- 7.12 The principle of the form of the southern block is addressed in the supporting Design Statement. It notes that the site in its physical linear form is extremely challenging. The adjoining tenement property to the east, facing Magdalen Yard Road, is an imposing 5 storey stone building. The adjacent property to the west is a large villa of 3 storeys. The development provides a transition between the two.
- 7.13 **It is considered that the proposal fails to comply with the requirements of Appendix 3 to Policy 9 in respect of the provision of sufficient amenity space for the 2 flats.**
- 7.14 **Policy 49: Demolition of Listed Buildings** - the Policy states "Applications for the demolition of a listed building or an unlisted building that is worthy of retention in a conservation area must be fully supported by reports on the condition and marketing history

of the building along with a feasibility study which explores the viability of retaining the building in active use. Applications for demolition shall be required to be in accordance with Historic Scotland's "Scottish Historic Environment Policy".

- 7.15 Where the demolition of a building is acceptable, applications must be supported by acceptable proposals for the redevelopment or treatment of the cleared site."
- 7.16 The facade is the only part of the building which is listed Category C.
- 7.17 As the planning history indicates, listed building consent has been granted on two occasions for the demolition and rebuilding of this façade as part of redevelopment proposals for this site. In these circumstances, the principle of the demolition has been established; was approved by Historic Scotland and there are no changes to the particular circumstances which would alter this support.
- 7.18 The facade cannot be retained in its current form as the access is too narrow for safe access by modern vehicles and the buildings to the rear are in poor condition. However the proposal is to dismantle the facade and rebuild it, incorporating it into the new development. This is technically demolition of the facade which will diminish the architectural integrity of the structure as it will no longer be totally original.
- 7.19 However, the Supporting Statement indicates that a detailed Method Statement will be submitted to detail the careful demolition of the facade, the retention of the materials and their re-instatement within the new building. The development will preserve and enhance the fabric and allow the development of the rest of the site.
- 7.20 Part of the importance of the rope works site is its linear form and the original boundary walls. It is considered that the rebuilding of the facade will preserve and enhance the historic character of the site. The works to the facade are the subject of a separate Listed Building application.
- 7.21 **It is considered that the proposals satisfy the requirements of Policy 49 for the reasons given.**
- 7.22 **Policy 50: Development in Conservation Areas** – the policy requires that developments preserve or enhance the character of the area and retain features which contribute to its character. The unique character of the Perth Road Lanes Conservation Area is described in its title. The street patterns and narrow lanes with the architectural character all combine to create the environment enjoyed by residents and visitors. The area is densely developed and characterised by tenements or terraces dwelling with large villas in generous grounds.
- 7.23 There were historically 2 rope works in this part of the city. One between Union Place and Step Row has left little imprint on the current landforms as the site has been incorporated into new developments, gardens and open space and is now lost. The Tay Rope Works site is now a unique but virtually unseen and unappreciated feature which by the nature of the rope making technique, required long narrow buildings. The footprint and the red brick boundary walls remain as an important part of the city's industrial heritage.
- 7.24 The site at present is semi-derelict in parts, the boundary walls are in varying states of repair, the site is overgrown and does not provide a secure boundary to adjacent residential properties. It is considered that for these reasons, the proposed development would improve the environmental quality of the Conservation Area.
- 7.25 The proposed development incorporates the original frontage into the new building, retains and repairs the original brick walls, retains the elongated form of part of the former Rope

Works and creates a new lane similar to the many lanes which are a characteristic of the Perth Road Lanes Conservation Area.

- 7.26 The development removes an area of dereliction which has been partly vacant for many years and of little benefit to the character of the Conservation Area.
- 7.27 The new development is of good design and proportions. The scale of the south most block relates well to the taller adjoining tenement on Magdalen Yard Road and the detached villa to the west.
- 7.28 The proposed materials include stone and slate on the public elevation to the south but more modern materials in the inner part of the site. This provides an acceptable contrast to the traditional buildings and the more modern houses on Thomson Street and Seafield Close.
- 7.29 **It is considered that for these reasons, the proposed development satisfies the requirements of Policy 50.**
- 7.30 **Policy 7: Urban Design** – part of the policy states: “The design and siting of development should respect the character and amenity of the place and should create and improve links within the site and into the surrounding area beyond the site. “
- 7.31 As detailed above, it is considered that the proposed development is of high quality design which creates a new public lane incorporating and enhancing the architectural and historic features of the former Rope Works whilst complementing and respecting the surrounding buildings. It is considered that the development will make a positive contribution to the character and amenity of the area.
- 7.32 **The proposals satisfy the requirements of Policy 7.**
- 7.33 **Policy 45: Land Contamination** – the policy requires that the development of potentially contaminated brownfield land will be considered where appropriate site investigations are carried out to demonstrate that the site can be successfully remediated for the use proposed. As planning permission has been granted on the site and this is a further application, it is reasonable to apply the same planning conditions with respect to this former industrial site to ensure that site investigations are carried out and remediation proposals approved before any development can commence.
- 7.34 **The proposals satisfy the requirements of Policy 45.**
- 7.35 **Policy 42: Sustainable Urban Drainage Systems** – the policy requires that surface water from new developments be treated by a Sustainable Urban Drainage System (SUDS). Given the location of the site in the Inner City and relatively close to the river, use of SUDs may not be appropriate. However, the developer must demonstrate how surface water and road water will be dealt with prior to the commencement of any development. As planning permission has been granted on the site and this is a further application, it is reasonable to apply the same planning conditions with respect to this former industrial site to ensure that the drainage is approved before any development can commence.
- 7.36 **The proposals satisfy the requirements of Policy 42.**
- 7.37 **Policy 15: Houses in Multiple Occupation** - the policy provides criteria for new HMO development but also states that the occupation of new mainstream residential developments as HMOs will be prevented in certain circumstances, in certain areas of the city. This guidance has been successfully applied in the determination of a number of new developments to limit the concentration of HMOs. This part of the city lies close to the

University of Dundee and has traditionally contained a high percentage of HMOs in flats and houses.

- 7.38 The policy states that where appropriate, the occupation of dwellings in new residential developments by 3 or more unrelated persons will be prevented through the use of Section 75 Agreements. The proposed houses have 3 bedrooms.
- 7.39 It is therefore considered that it would be appropriate in this instance to restrict the use of the houses as HMO's. Such a restriction by means of a legal obligation applied to the previous planning permission which this application seeks to renew.
- 7.40 **It is concluded from the foregoing that the proposal fails to comply with one element of Policy 9 of the Dundee Local Development Plan 2014 and thus does not comply with the provisions of the Development Plan.**

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997

- 7.41 Section 59 of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the planning authority shall have special regard to the desirability of preserving the building or its setting. It is considered, for the reasons set out above, that the proposed development complies with this requirement. It is also concluded from the foregoing that the statutory duty set out in Section 64 of the Act, to preserve or enhance the character or appearance of the Conservation Area would be satisfied by the approval of this proposal.

OTHER MATERIAL CONSIDERATIONS

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

A – APPEAL DECISIONS

- 7.42 As noted earlier in this report, this application follows two Public Inquiries at which appeals against refusals of earlier applications for redevelopment of the site were dismissed. The previous developments, for 11 flats and 4 houses in 2006 and 11 flats and 3 houses in 2008 proposed much more dense development compared to these proposals for 5 houses and 2 flats.
- 7.43 The revised development which was approved in 2011 sought to address the concerns raised by the Reporters who identified the shortcomings of the 2006 and 2008 developments as density; high levels of car parking; lack of communal or private open space and design; particularly the materials. The 2011 development proposed a reduction by 50% in the numbers of units to be developed and amended the scale, design and materials, in order to address these points.
- 7.44 This is a further application and no changes are proposed to the plans which were approved.

B – VIEWS OF OBJECTORS

- 7.45 Previous applications generated a high level of response from the public, both immediate neighbours and other interested parties. The application in 2006 attracted 46 objections and 24 letters of support. The 2008 application had 50 objections and 2 letters of support.
- 7.46 This application was the subject of statutory Neighbour Notification to 157 neighbouring properties and was advertised as an application contrary to the Development Plan and also

affecting the setting of a Conservation Area and a Listed Building. Objections have been received from 3 neighbours on the following valid grounds:

1 Increased Noise

The development will introduce vehicles to a site which has been vacant for several years in respect of the southern part of the site and for many years in respect of the northern part. The site will accommodate only 7 units with different access patterns. The site is narrow and is restricted to one way traffic over half of its length. The site also lies within the Inner City which has a high density of buildings and where there is existing noise from traffic in surrounding streets. It is considered that the increased noise from traffic and new houses is not sufficient to justify refusal of the application to redevelop this derelict site.

2 Traffic Congestion

The proposal is for 7 units with three access points. It is considered that there will be a minimal increase in traffic congestion resulting from the occupants of these dwellings.

3 Loss of Trees

The site is overgrown and has some limited ecological value. The one main tree will be retained and the loss of self seeded scrub vegetation is not a sufficiently strong reason to refuse the development of this derelict site.

4 Possible HMO Use

This matter has been discharged elsewhere in the report and will be the subject of a legal obligation with the site owners if Members are minded to approve the application.

5 Design Out of Character

The site is bounded by traditional stone tenements, stone terraced houses and later modern housing of brick and render. The new development addresses the frontage to Magdalen Yard Road and will retain and reuse the facade of the former Rope Works which is current a vacant building at risk from further deterioration. The other houses are single storey and designed to fit into the narrow site of the former rope works, without affecting the privacy of the surrounding properties. It is considered that the design respects the character of the existing surrounding development.

Residents also raised issues of noise during construction, rebuilding of boundary walls and the formation of an access on to Thomson Street. As the plans indicate, there is no access to Thomson Street. The development will involve the retention and repair, including rebuilding if necessary, of the existing boundary walls. Construction is always disruptive in the short term but is controlled by legislation and is not a justification to refuse planning permission for development.

7.47 The concerns of the objectors are not supported.

C – RENEWAL OF PLANNING PERMISSION

- 7.48 Scottish Government advice on the renewal of planning permissions in Circular 4/1998: The Use of Conditions in Planning Permissions suggested that, as a general rule, applications for the renewal of permissions should only be refused where any one of three criteria are met. Whilst this application does not seek to modify a time condition, it is considered reasonable,

lacking alternative specific guidance or case law, that the following tests continue to be used to assess whether a further permission should be granted:

“(a) there has been some material change in planning circumstances since the original permission was granted”.

- 7.49 The Dundee Local Development Plan 2014 has been adopted since 11/00110/FULL was approved. This report demonstrates that it does not contain any changes to policy which would substantially affect the determination of this application.

“(b) there is likely to be continued failure to begin the development and this will contribute unacceptably to uncertainty about the future pattern of development in the area”.

- 7.50 Planning application ref: 11/00110/FULL was approved before any confidence had begun to return to the development market. In common with many other development sites in the City, this development has not commenced within the timescale set down by the planning permission. Given that economic circumstances are still uncertain and this is a challenging site, it is considered that a further extension of time to allow the development to commence is reasonable.

“(c) the application is premature because the permission still has a reasonable time to run.”

- 7.51 This is not relevant as the current permission expired on 1 September 2014 but this application was submitted prior to that expiry in accordance with the regulations.
- 7.52 As the proposal does not meet any of the criteria, it is reasonable to conclude that there are no material planning reasons to refuse the application.

D – ASSESSMENT OF MATERIAL CONSIDERATIONS

- 7.53 This is a difficult site and, as its planning history demonstrates, it has been the subject of unsuccessful development proposals in the past. The scale and nature of the previous proposals raised strong views in the local community, the majority of which were opposed to the developments. The site remains vacant and semi-derelict and does not make a positive contribution to the character of the Conservation Area. It bounds a high number of residential properties with varying impact on their amenity and security. It is a site which demands an innovative and creative design in order to provide a high quality development. The proposals fail to comply with the Policy 9 in the Dundee Local Development Plan 2014 as the amenity space for the 2 flats is 15m² less than the minimum in Appendix 3 of the Plan.
- 7.54 The site lies close to Magdalen Green which provides high quality open space. It is considered that the design of the layout and the buildings complies with the Council's declared objectives to support good urban design and creates a new lane within the Conservation Area which reflects an important element of the City's industrial heritage. The retention and re-use of the fabric of the Listed Building will enhance the setting of the Conservation Area. These are sufficiently strong material considerations to off set the small deficiency in amenity space within one part of the development. The objections are not supported for the reasons given.
- 7.55 **It is concluded from the foregoing that the material considerations support the approval of planning permission.**

8 CONCLUSION

8.1 Recommendation 1

This planning permission shall not be issued unless and until an obligation 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 obligation will relate to the prohibition of any of the dwellings hereby approved becoming a house in multiple occupation in accordance with the Development Plan.

8.2 Recommendation 2

The proposal fails to satisfy the requirements of the Development Plan. However, there are strong material considerations that would justify approval of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

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

- 1 Development shall not begin until a Preliminary Risk Assessment is completed and, if required, an Intrusive Investigation and a scheme to deal with contamination at 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:
 - a assessment of the risks associated with contaminant sources, pathways and receptors specific to the proposed use of the site; and if necessary
 - b a Remediation Implementation Plan detailing measures to treat/remove contamination and mitigate risks to ensure the site is fit for the proposed use;
 - c measures to deal with contamination during construction works; and
 - d verification sampling, testing, certification and monitoring of the site to demonstrate suitability for the proposed use on completion of remediation measures.
- 2 Before any unit is occupied any measures to decontaminate the site required by compliance with Condition 01 shall be fully verified and approved in writing by the planning authority
- 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 Prior to the commencement of development, tree protection fencing in accordance with BS5837:2005 shall be erected around the tree which is to be retained, to the satisfaction of the City Council and such fencing shall be retained in place throughout the construction period. Relocation of any fencing to allow construction works to proceed shall be agreed with the Council prior to any movement of the fencing.

- 5 Prior to the commencement of development, a comprehensive landscaping scheme for hard and soft landscaping shall be submitted for approval and if approved, the works shall be carried out only in accordance with such approved details.
- 6 The landscaping scheme as detailed in condition 05 shall be fully implemented in accordance with the approved details within 6 months of the completion of the 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.

If the development is carried out in phases, the landscaping relevant to each phase shall be completed within 6 months of the completion of each phase.

- 7 Repairs to the boundary walls of the whole site shall be completed in accordance with details (including a timescale) which shall be submitted to the City Council for approval prior to the commencement of development. The works shall be carried out only in accordance with such approved details. For the avoidance of doubt, repairs shall be carried out using matching materials. If any section of the wall should require to be demolished for any reason, it shall be rebuilt using as much as possible of the original materials and all details, including a time scale for the completion of the works, shall be agreed in writing prior to the commencement of the rebuilding works.
- 8 The new road accesses at Magdalen Yard Road and Seafield Road must be constructed in accordance with details which have previously been submitted to and approved by Dundee City Council as Roads Authority and shall be completed in accordance with the approved details prior to the first occupation of any house which requires to use either access.
- 9 Vehicles entering from the Magdalen Yard Road access shall exit the site at the turning area off Seafield Road. Appropriate signs shall be installed to clearly identify this requirement.
- 10 Unless permission has been granted in writing by the City Council, the garages hereby approved shall be retained for the parking of a motor vehicle and shall not be converted to form additional living accommodation associated with the dwelling.
- 11 Before any of the residential units is first occupied the bin stores, car parking and manoeuvring areas indicated on the approved drawings shall be provided and thereafter kept available for use at all times.
- 12 In order to ensure that there are no bats roosting on the site, the demolition of the roof should be done by hand and tree felling should be carried out carefully in sections. In the event that bats are encountered during this process, work should stop immediately and Scottish Natural Heritage advised. A licensed bat worker should be employed on an on-call basis for this period and called to site immediately if bats are discovered.
- 13 Full details of the proposed garden boundary treatments shall be submitted for approval prior to the commencement of the development and if approved, the boundaries shall be completed in accordance with the approved details prior to the first occupation of the relevant dwellings.
- 14 No works in respect of the construction of the house on Plot 7, which gains access, both pedestrian and vehicle, from the car park off Seafield Lane, shall commence unless

there is a binding legal agreement to allow such access, in perpetuity, and the applicant has confirmed such details, to the Council, in writing.

- 15 Prior to the commencement of any development, full details of the proposed means to deal with surface water on this site shall be submitted to the Council for approval and if approved, the works shall be carried out only in accordance with such approved details. The full design details of the drainage system shall include appropriate calculations, written confirmation that the design is acceptable to Scottish Water and information on the future maintenance of the system.

REASONS

- 1 In the interests of the amenities of the future occupants of the residential accommodation.
- 2 In the interests of the amenities of the future occupants of the residential accommodation.
- 3 To ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.
- 4 To protect those trees which are of significant amenity value to the area and which would ensure an enhanced and satisfactory standard of appearance of the development.
- 5 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
- 6 To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.
- 7 In order to safeguard the visual amenity of the Conservation Area and to protect the amenities of neighbours.
- 8 To ensure the provision of a satisfactory access to serve the development in the interest of road safety.
- 9 The site is very restricted and in particular cannot provide access, servicing and manoeuvring space to the District Council's required standards. However permission is being granted as the development has a limited number of dwellings served by a one way traffic system designed to improve safety and minimise the impact of vehicle movements on the occupants and on surrounding residents.
- 10 In the interests of the safety of residents and in order to prevent access by unauthorised vehicles due to the restricted nature of the site and the access and exit points.
- 11 The site is very restricted, with a narrow, one way, private road serving the dwellings. Each unit must retain two parking spaces to ensure that there is sufficient "off street" parking for residents and visitors in the interests of the amenities of all residents. For the same reason, the bin stores will provide accommodation for bins at locations where they are accessible for emptying as the refuse vehicle will not access the private road.
- 12 To ensure that appropriate precautionary measures are undertaken in the event that bat habitats have become established on the site.

- 13 In order to safeguard the visual amenity of the Conservation Area.
- 14 In the interests of the amenities of the future occupants of the dwelling on Plot 7.
- 15 In order to ensure that surface water is dealt with in an acceptable manner in accordance with statutory requirements.