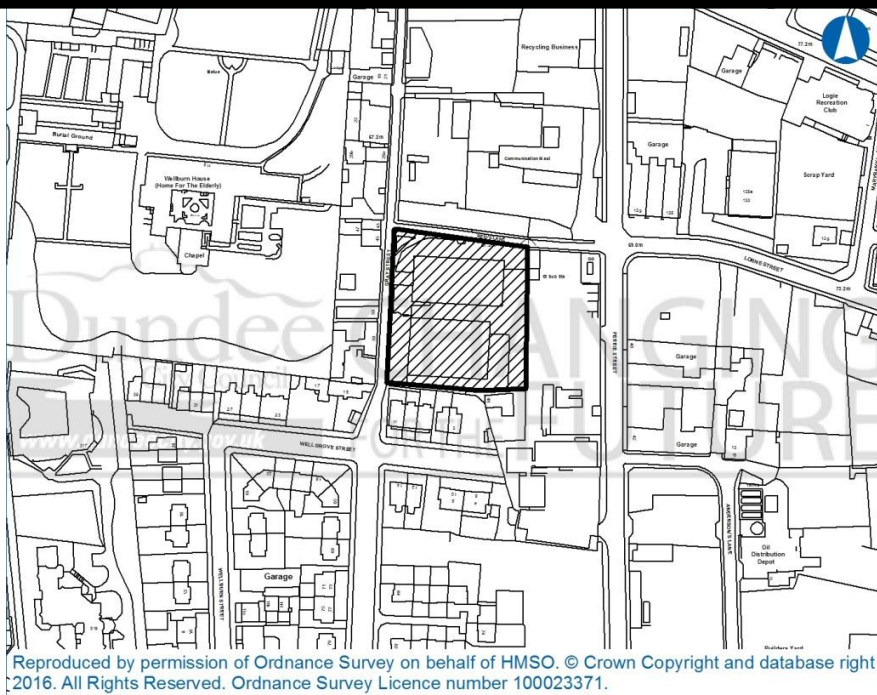


Housing Development

KEY INFORMATION

Ward Lochee
Address
 44 Gray Street
 Dundee
 DD2 2QU
Applicant
 Deanscourt Ltd
 31 Hawkhill
 Dundee DD1 5DH
Agent
 Peter Inglis
 Prospect III
 Gemini Crescent
 Dundee DD2 1SW
Registered 21 April 2016
Case Officer David Gray



SUMMARY OF REPORT

- The application seeks planning permission to demolish the existing warehouses on the site and erect 14 new dwellings on the site.
- The site is located on a site within the Lochee General Economic Development Area and is allocated for Use Classes 4 (business), 5 (general industrial) and 6 (storage and distribution). The site is identified for industrial uses in the approved Lochee Physical Regeneration Framework.
- The principle of housing on the site is contrary to Policy 3 (General Economic Development Areas) and Policy 8 of the Dundee Local Development Plan.
- The proposed layout does not meet the requirements of Appendix 3 of the Dundee Local Development Plan, is contrary to Policy 7 (High Quality Design) and Policy 9 (Design of New Housing).
- The application requires to be determined by the Development Management Committee at the request of a local member.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=O5W0MSGCM5900>.

RECOMMENDATION

The proposal fails to satisfy the requirements of the Development Plan. There are no material considerations that would justify approval of planning permission. Therefore, the application is recommended for REFUSAL.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of 14 houses on the site comprising 8, 2 storey, semi-detached properties and 6 single storey detached houses. 10 of the houses would have 3 bedrooms and 4 would have 2 bedrooms.
- 1.2 The site would be accessed via a single access point from Gray Street which would lead eastwards to a turning head. 24 parking spaces are proposed within the site.
- 1.3 The rear gardens to the southern houses would be enclosed by a 1.8 metre high brick wall and the rear gardens to the northern houses, which would back on to Reids Lane would be enclosed by a 1.8 metre close boarded timber fence. The boundary to the east is formed by an existing stone wall which would be retained. The west boundary to Gray Street would comprise also comprise a 1.8m high timber fence.

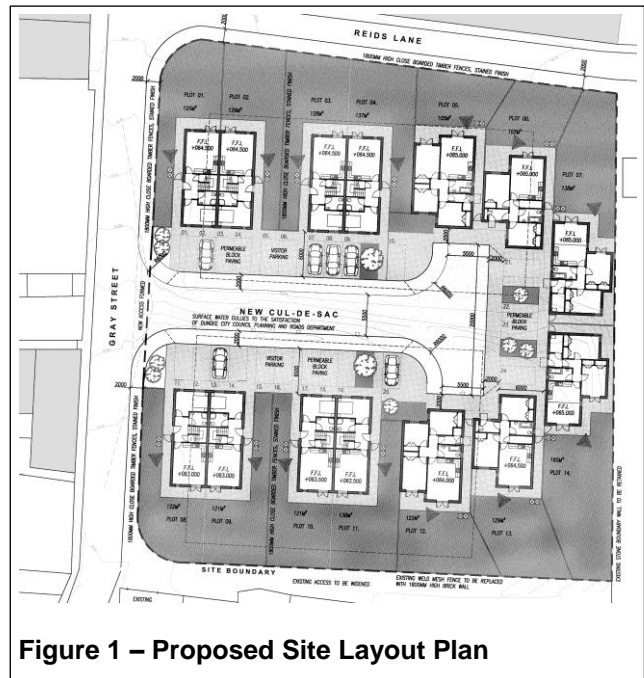


Figure 1 – Proposed Site Layout Plan



Figure 2 – Photo of Site Frontage to Gray Street



Figure 3 – Photo of Rear of Site and 48 Gray Street

2 SITE DESCRIPTION

- 2.1 The site is located on the east side of Gray Street, south of Reids Lane. It is currently occupied by two vacant industrial buildings with a concrete hardstanding yard to Gray Street.
- 2.2 Gray Street is a narrow road sloping down from Liff Road to South Road which widens out to the south of the application site. Reids Lane is a narrow road accessing Perrie Street to the east. There is a high stone wall increasing from 1.8 to 2.5 metres forming the east boundary.

- 2.3 Land to the south and west is residential with mainly traditional stone cottages to the west and terraced housing to the south. A detached house south east of the site gains pedestrian access along the southern boundary of the site. Land to the north and east is industrial with a mixture of yards including scrap yards. The ground level to the east and southeast is higher than the application site.

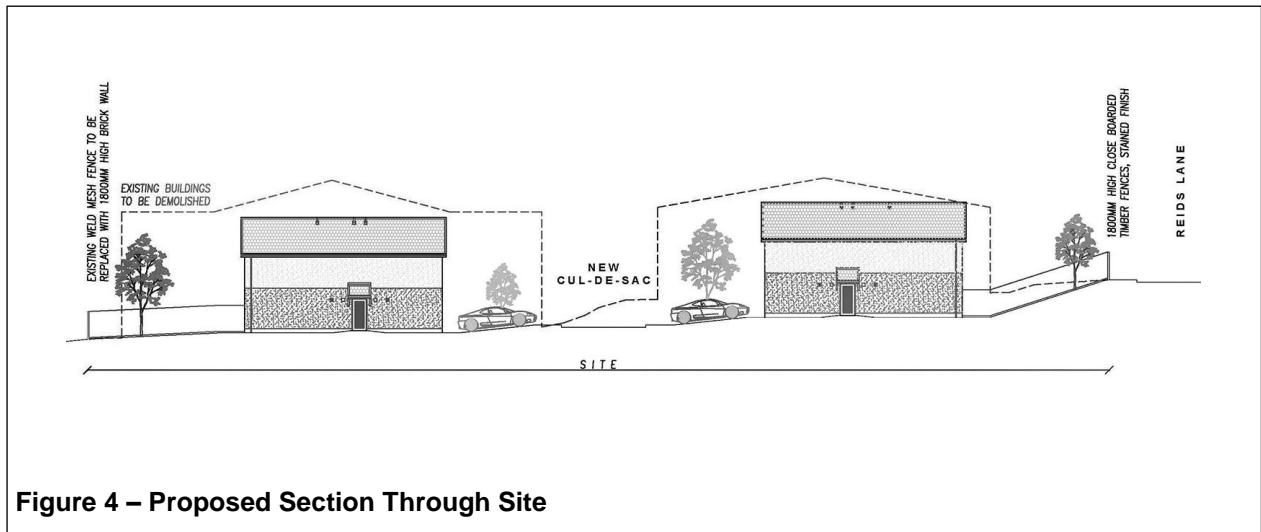


Figure 4 – Proposed Section Through Site

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN

Policy 3: General Economic Development Areas
 Policy 7: High Quality Design
 Policy 8: Housing Land Release
 Policy 9: Design of New Housing
 Policy 42: Sustainable Urban Drainage Systems
 Policy 45: Land Contamination
 Policy 47: Environmental Protection

NON STATUTORY STATEMENTS OF COUNCIL POLICY

The Lochee Physical Regeneration Framework was approved by the Planning and Transportation Committee on the 10 December 2007 and by the Development Quality Committee on 4 December 2006 as a material consideration in the determination of planning applications.

- 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 05/00107/FUL - Erection of 20 houses, application withdrawn prior to its determination.
- 4.2 05/00428/FUL - erection of 18 houses, refused by Development Quality Committee on 24 April 2006.

- 4.3 07/00694/FUL - erection of 18 houses, withdrawn prior to its determination.
- 4.4 08/00124/FUL - erection of 18 houses, approved subject to conditions, approved by Development Quality Committee on 16 June 2008.
- 4.5 10/00133/FULL - application under Section 42 Town & Country Planning (Scotland) Act 1997 as amended to vary Condition 1 of 08/00124/FUL and extend the period to 30 June 2012, refused by Development Quality Committee on 17 May 2010. A subsequent appeal of the refusal was upheld on 15 September 2010.

5 PUBLIC PARTICIPATION

- 5.1 The Council carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. This application was also advertised in the Dundee Evening Telegraph.
- 5.2 No valid letters of representation were received.

6 CONSULTATIONS

- 6.1 **The Head of Community Safety and Protection** – has no objection in relation to air quality subject to an informative being included on any decision notice regarding fuel burning. Regarding noise impact, the Head of Community Safety and Protection has no objection subject to all proposed houses within 20m of the east boundary of the site being single storey. In terms of land contamination, The Head of Community Safety and Protection states that an updated Preliminary Risk Assessment and remediation are necessary, and that these could be secured by condition
- 6.2 **Scottish Environment Protection Agency** – has no objection to the application, but states that the proposal is located within 100m of a waste management facility (an End-of-Life Vehicle Yard) and there is potential for noise and odour nuisance.

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

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 3: General Economic Development Areas** - supports proposals for Class 4, 5 and 6 developments. It also states that other uses of an industrial nature may be permitted if there is no detrimental impact on neighbouring uses and local residential amenity or traffic impact and the scale of the scale of development is appropriate to the size and location of the site. It states that other uses within these areas will not be supported.

7.3 The site is located within an area designated as a General Economic Development Area. The proposal is solely for housing which is not a use that falls within Classes 4, 5 or 6. The policy clearly states that "other uses within these areas will not be supported" and the application is contrary to the policy.

7.4 **The proposal contravenes Policy 3.**

7.5 **Policy 7: High Quality Design** - requires all new development proposals to have a high quality design that positively contributes to the surrounding built and natural environment, with designs complimenting their surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.

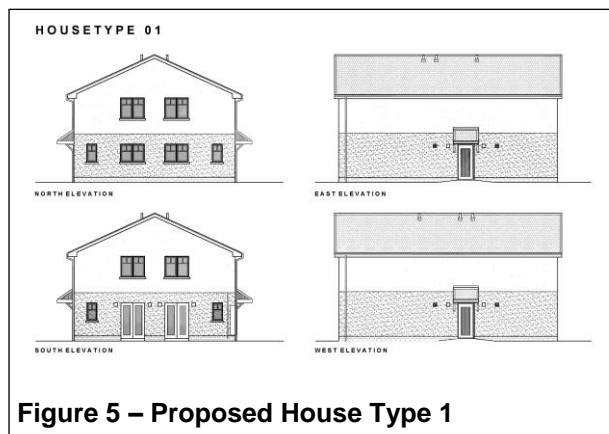


Figure 5 – Proposed House Type 1

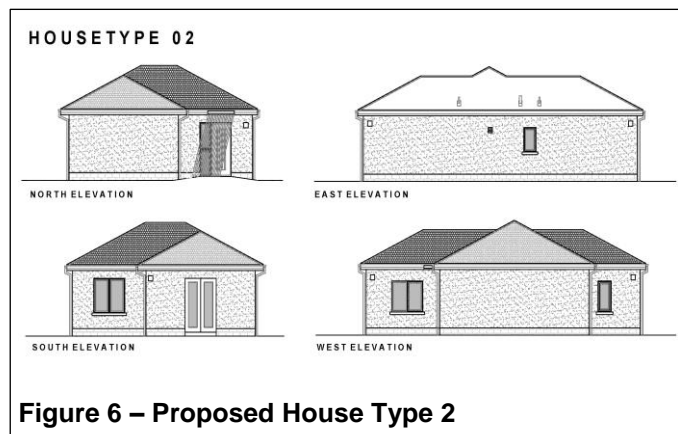


Figure 6 – Proposed House Type 2

7.6 The proposed development would comprise 14 new houses set to the north and south of a new cul-de-sac running through the centre of the site. The larger, 2 storey houses would be located on the western part of the site, with the smaller single storey houses on the eastern part. The smaller houses to the east appear squeezed into the development with less space around them than the larger houses. The proposed houses on plots 7 and 14 would be located immediately adjacent to the high stone wall which separates the site from the surrounding industrial land. The house on plot 7 is located so close to the stone wall that it would likely be impossible to build or maintain the exterior of the east facing wall. The other boundaries to the site consist entirely of 1.8m high brick walls or fencing and this would result in a rather oppressive environment to live in.

7.7 The two storey houses adjacent to Gray Street contain no features other than a single door which would be obscured by the aforementioned 1.8m high fence. This manner of addressing the street is poor and would fail to enhance the existing street scape.

7.8 None of the proposed houses have their entrance door on the elevation that fronts the street. Most of the front elevations are fairly blank, without habitable rooms, and the houses on plots 6 and 7 have no south facing windows other than a corner bedroom window on plot 7 which directly faces the boundary with plot 8 and the high stone wall to the east. This is a particular issue on the eastern portion of the site where the proposed houses are crammed in close to one and other, and the existing boundaries.

7.9 The layout would not provide any active street frontage onto Gray Street and the site would be surrounded by high boundary walls and fences on all four sides. Such a design would result in a fairly poor residential development, would have an adverse visual impact on the street scape and would not relate to the wider area, create a permeable or inclusive place or contribute positively to the surrounding built environment as required by Policy 7.

7.10 **The proposal contravenes Policy 7.**

- 7.11 **Policy 8: Housing Land Release** - gives priority to the development of the allocated brownfield and greenfield sites and states that the sites allocated in Appendix 2 shall not be developed for uses other than housing. It states that housing land release on brownfield sites in addition to the allocations may be acceptable where it can be demonstrated that it will improve the tenure mix in an area where existing choice is limited and would make a positive contribution to the regeneration objectives of the area.
- 7.12 The site is not allocated in Appendix 2. Whilst the site is brownfield, there is no evidence to demonstrate that the proposal would improve the tenure mix where existing choice is limited. For this reason, the application is contrary to Policy 8.
- 7.13 **The proposal contravenes Policy 8.**
- 7.14 **Policy 9: Design of New Housing** - states that the design and layout of all new housing in Dundee should be of high quality and contribute to creating places that build on and enhance the distinct character and identity of the City. In seeking to achieve this, the policy requires proposals to comply with the requirements of Appendix 3 of the Local Development Plan.
- 7.15 The site is located within the Inner City area as defined in the Local Development Plan. The standards in Appendix 3 for such sites requires all houses to have a minimum of 2 bedrooms, and 65% to have 3 or more bedrooms or a gross internal floor areas of 100sq. 10 of the proposed houses have 3 bedrooms and four houses would have 2 bedrooms. The proposal meets the relevant standards in that respect.
- 7.16 In terms of parking, all tenures should have at least one space within the curtilage of each house, with 40% of the private houses having 2 spaces. Whilst 24 spaces are proposed within the development, the spaces are not all located within the curtilages of the proposed houses and this would not meet the standards of Appendix 3. The applicant submitted a revised site plan to amend the parking layout, but it is still not clear whether the spaces to be provided would be within the relevant curtilages. This is a particular issue for Plots 6, 7, 13 and 14 as it is not clear where the proposed plot curtilage boundaries would be. The situation would result in the spaces for Plots 6 and 13 being located directly in front of the houses on Plots 7 and 14 respectively. It is also noted that the majority of the parking provision is located within the west of the site, with little provided around the turning head. This situation is likely to lead to parking within the turning head which would not be acceptable.
- 7.17 A minimum of 50m² of private, useable garden ground should also be provided, with 30% requiring more than 75m². The proposed site plan indicates that rear garden areas of 103m² to 195m² would be provided. However, the garden areas adjacent to the north boundary of the site would be on a slope, rising to Reids Lane. Those in the northwest corner (plots 5, 6 and 7) are likely to overlook each other due to the land level rising to the north and the splayed boundaries between houses.
- 7.18 Regarding privacy, a minimum of 18m between the facing windows of habitable rooms is required. The proposed houses would meet this standard in relation to each other, and the other houses in the surrounding area with the exception of the existing house at 48 Gray Street which would directly face the lounge window of plot 14. However, the applicant states that a 1.8m high timber fence would be provided on the boundary and that this would resolve that privacy issue.
- 7.19 The proposal fails to meet the requirements of Appendix 3 and the layout would not be of a high quality.

- 7.20 **The proposal contravenes Policy 9.**
- 7.21 **Policy 42: Sustainable Urban Drainage Systems** - states that surface water from new development must be treated by SUDS except for single houses or where discharge is to coastal waters.
- 7.22 The applicant states on the application form that provision has been made for SUDS. However, no details of this has been provided, other than a statement on the proposed site layout that some parking areas would comprise permeable block paving, and that surface water gullies shall be to the satisfaction of the Council. As it has not demonstrated that surface water from the development can be adequately drained by SUDS, the application is contrary to this policy.
- 7.23 **The proposal contravenes Policy 42.**
- 7.24 **Policy 45: Land Contamination** - states that development of potentially contaminated land will be considered where a site investigation is submitted establishing the nature and extent of contamination and the Council is satisfied that remediation measures proposed adequately address the risks to all receptors.
- 7.25 The applicant submitted a Preliminary Risk Assessment which concluded that there was a source of diesel oil from a storage tank on site which requires ground investigations to be undertaken. The Head of Community Safety and Protection has considered the assessment and has no objection to the application subject to conditions in relation to land contamination.
- 7.26 **The proposal would satisfy Policy 45 subject to conditions.**
- 7.27 **Policy 47: Environmental Protection** - states that all new development which would generate noise, vibration or light pollution is required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance to the surrounding area. New 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 the viability of existing businesses or uses.
- 7.28 The site is located on General Economic Development land and bound by industrial land to the north and east. As such, there is significant potential for the proposed houses to be adversely affected by noise, odour and vibration. The applicant states that noise from nearby industrial sites was considered using the noise assessment study submitted with the previously approved application in 2008. The Head of Community Safety and Protection has considered the amended layout in the context of the previous Noise Impact Assessment and has no objection provided that the houses within 20m of the east boundary are single storey.
- 7.29 However, this particular industrial area operates as a hub for many heavy industries, including scrap yards, auto breakers, builders yards and industrial fabrication units. Siting additional housing amongst such uses is likely to result in a poor amenity for the house occupiers, not just in terms of noise, but also vibration and odour. Further, introducing residential uses into an industrial estate characterised by such heavy industries may prevent further investment and development of these industry sectors, as well as impact on the operations and viability of the existing businesses. As such, the application is contrary to Policy 47.
- 7.30 **The proposal contravenes Policy 47.**

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

OTHER MATERIAL CONSIDERATIONS

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

A - LOCHEE PHYSICAL REGENERATION FRAMEWORK

- 7.33 The Lochee Physical Regeneration Framework notes that there is pressure to release certain sites within Kirk Street Industrial Area, particularly housing, and concludes that this is inappropriate due to the value of sites to the supply of industrial land and the inevitable impact on existing industrial uses when new residents complain about noise, traffic, fumes, and odour. It states that demand for housing will be met from allocated housing sites which will provide for a better quality residential environment in keeping with the objective of providing the best quality of life for residents in the area.
- 7.34 The proposed development fails to meet the development guidance in the Framework and is therefore not acceptable by proposing housing on a site located within a designated as General Economic Development Area.
- 7.35 The Lochee Physical Regeneration Framework also identified a range of environmental improvements around the Kirk Street area, including the provision of landscape treatments to separate the industrial and residential areas and enhance the local residential amenity.

B - APPLICANT SUPPORTING INFORMATION

- 7.36 The applicant submitted a Design Statement in support of the application. This states that the proposal would widen Gray Street over the length of the development, and also improve the junction at Reids Lane and the access to 48 Gray Street.
- 7.37 It states that Gray Street is narrow and there is a weight restriction to the north which makes it unattractive to large commercial vehicles.
- 7.38 Regarding amenity, the applicant states that the proposed houses would enjoy a private garden ground of a size in excess of the Local Development Plan requirement which would not be overlooked. The orientation of the site means that dwellings follow the contours and benefit from a sunny, southerly exposure. It also states that curtilage parking will be available to all dwellings and 40% would have 2 spaces. However, this is not the case for the reasons explained above.
- 7.39 The applicant states that consultation and engagement with the local community took place and there was wholesale support for the removal of the sheds and the creation of new housing with associated road improvements. However, no details of this have been submitted.
- 7.40 Lastly, the applicant states that planning permission was granted for 18 dwellings on the site in 2008 and again, on appeal, in 2010. It is noted that the site is included on the Dundee Housing Land Audit 2015 as having a capacity for 18 units. The previous approvals are considered below and whilst the site was included in the 2015 Housing Land Audit, it is proposed to remove it in the 2016 Audit.
- 7.41 Whilst the access improvements would benefit the site, they would not justify the approval of housing contrary to the development plan. The layout, design and residential environment

that would be created are not acceptable for the reasons explained in the development plan assessment above.

- 7.42 The supporting information is not sufficient to justify approval of the application contrary to the relevant provisions of the development plan.

C - PREVIOUS APPROVALS ON SITE

- 7.43 As stated above, planning permission was granted by the Development Quality Committee, contrary to the recommendation, for 18 houses on the site in June 2008. The permission was subject to a condition requiring the development to commence within 2 years. The development did not progress within that time frame, and an application to extend the timescale by a further 2 years, to 30 June 2012 was submitted in 2010. That application was refused by the Development Quality Committee, but a subsequent appeal of the decision was upheld.
- 7.44 Whilst the decisions in 2008 and 2010 were granted planning permission contrary to the provisions of the development plan at that time, there has since been a change of development plan, and the fact that the development plan has changed since the expiration of the most recent (2010) permission on the site is a material consideration in itself. The current development plan reinforces the site as a General Economic Development site, not a housing site. It also goes further and strengthens the development plan policy that housing will not be supported on the site by categorically stating so. The previous approvals were made in the context of Policy 26: General Economic Development Areas of the superseded 2005 Dundee Local Plan. This stated "Residential development is generally not supported within General Economic Development Areas unless a satisfactory standard of residential amenity can be achieved; housing will not adversely impact on the ongoing operation of adjacent industrial areas; and evidence demonstrates that the site is no longer suitable for economic development purposes." The equivalent policy in the current Dundee Local Development Plan, Policy 3 as considered above, only supports Use Classes 4, 5, and 6 and clearly states that "other uses will not be supported"
- 7.45 The previous approvals were granted planning permission for relatively short time periods of two years. This was to enable the Council to manage the supply of housing land, and to encourage the removal of a derelict site that has an adverse impact on the environment. There has been no extant planning permission for housing on the site since 2012 and almost 8 years has passed since the original permission was granted. It is clear that there has now been significant delay in bringing this site forward for residential development. Whilst there was some Housing Association interest in the site at the time of the original approval, this is not the case now.
- 7.46 It is also relevant to note that whilst redeveloping the site could result in visual improvements to the area, this could be achieved by uses that comply with the development plan and/or by landscaping/screening as recommended by the Lochee Physical Regeneration Framework.
- 7.47 Further, the layout now proposed is of a lower design quality than the previously approved one, despite the current layout proposing less houses. Even if the previous approvals could be given sufficient weight to justify the approval of housing on the site in principle, they would not be of sufficient weight to justify the layout currently proposed. Not only has the policy position strengthened, but the proposed layout has deteriorated since the previous approvals.
- 7.48 As a result, the previous approvals as material considerations are not sufficient to justify approval of this application contrary to the development plan.

- 7.49 It is concluded from the foregoing that there are no material considerations that would support the approval of planning permission contrary to the Development Plan.

8 CONCLUSION

- 8.1 The proposal fails to satisfy the requirements of the Development Plan. There are no material considerations that would justify approval of planning permission. Therefore, it is recommended that this application be refused.

9 RECOMMENDATION

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

REASONS

- 1 The proposed housing development is contrary to Policy 3: General Economic Development Areas of the Dundee Local Development Plan 2014 as the proposed use does not fall within Use Classes 4, 5 or 6 and no other uses are supported. There are no material considerations that would justify approval of the application.
- 2 The proposed development is contrary to Policy 7: High Quality Design of the Dundee Local Development Plan 2014 as the layout would provide a poor residential amenity, would adversely impact on the street scape, would not relate well to the wider area, create a permeable or inclusive place or contribute positively to the surrounding built environment. There are no material considerations that would justify approval of the application.
- 3 The proposed development is contrary to Policy 8: Housing Land Supply of the Dundee Local Development Plan 2014 as the site is not allocated in Appendix 2 and the proposal would not improve the tenure mix in an area where choice is limited. There are no material considerations that would justify approval of the application.
- 4 The proposed development is contrary to Policy 9: Design of New Housing and Appendix 3 of the Dundee Local Development Plan 2014 as the layout and design fails to meet the standards of Appendix 3 in relation to curtilage parking and privacy. There are no material considerations that would justify approval of the application.
- 5 The proposed development is contrary to Policy 42: Sustainable Drainage Systems of the Dundee Local Development Plan 2014 as the application has failed to demonstrate that the development can satisfactorily be drained by a Sustainable Drainage System. There are no material considerations that would justify approval of the application.
- 6 The proposed development is contrary to Policy 47: Environmental Protection of the Dundee Local Development Plan 2014 as the application would impact on the viability of adjacent industries in the General Economic Development Area. There are no material considerations that would justify approval of the application.