

# Alterations and Extension to Listed Building

## KEY INFORMATION

**Ward** Maryfield

### Address

5 Bank Street  
Dundee DD1 1RL

### Applicant

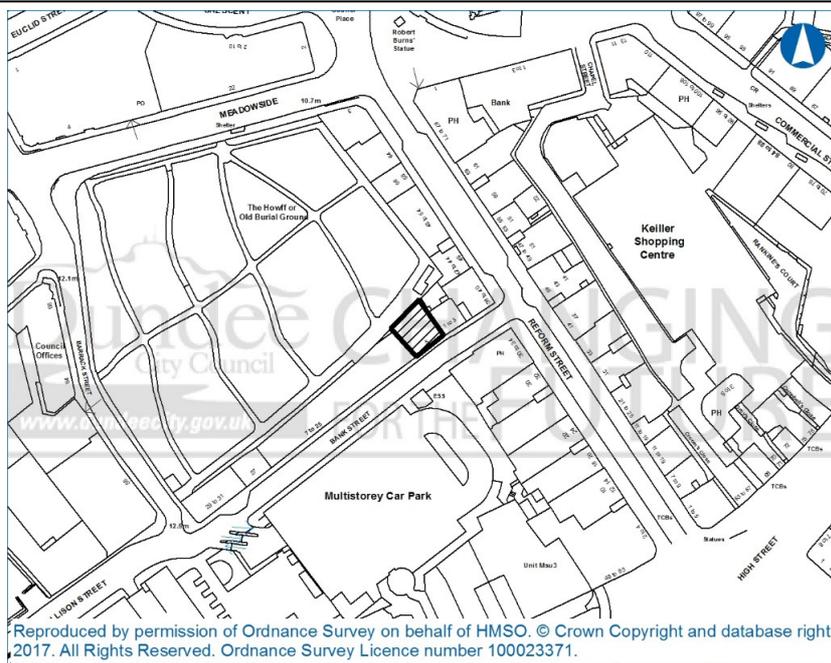
Mr L Chadwick  
12 Blinshall Street  
Dundee DD1 5DS

### Agent

Jackie Stephen  
95 Dundee Street  
Carnoustie DD7 7EW

**Registered** 21 Feb 2017

**Case Officer** Claire Myles



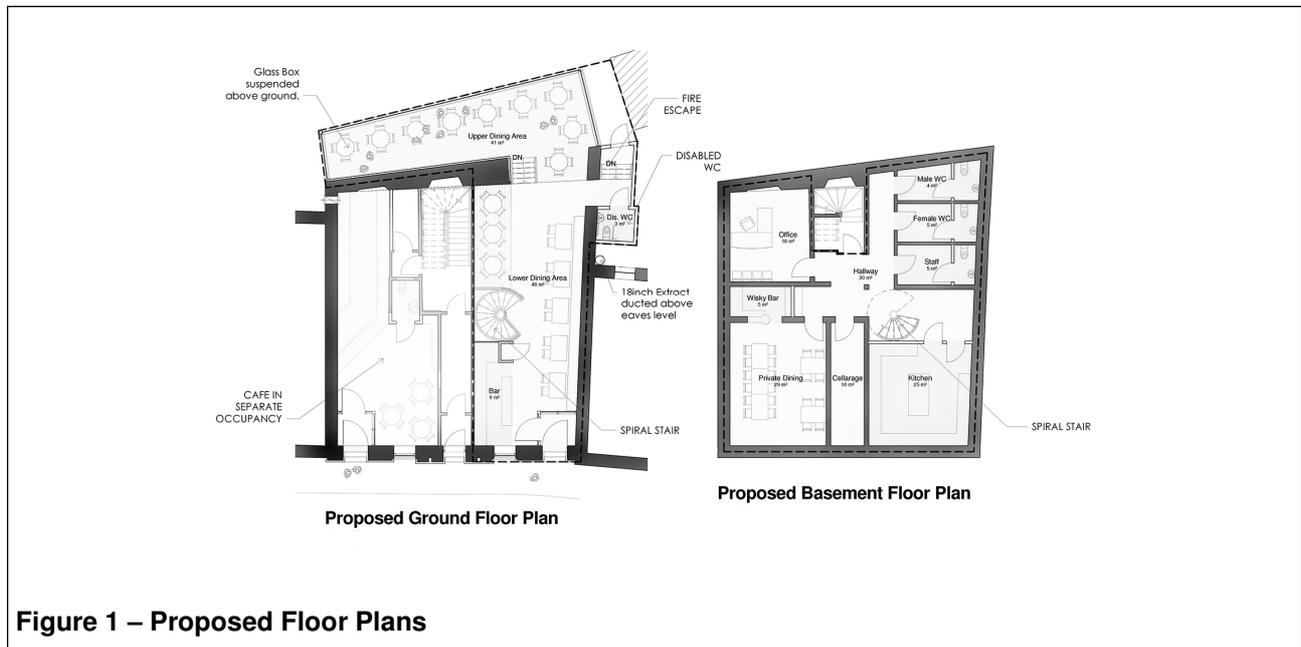
## SUMMARY OF REPORT

- The application proposes alterations associated with a change of use from offices to a licensed restaurant. The alterations include a contemporary glass single storey rear extension designed to suspend above ground within the A-listed The Howff located to the rear of the application site.
- The application site is a four storey and basement B-Listed building located in the Central Conservation Area. The property currently comprises vacant commercial use on the ground floor and basement and residential use on the upper floors.
- The application was the subject of neighbour notification and eight letters of objection have been received which raise issues in relation to the impact on the architectural and historic character of the B-Listed building, adverse effect on the conservation area and the insensitive encroachment on the A-Listed burial ground within The Howff.
- Historic Environment Scotland has been consulted and commented that the proposed alterations to the front of the building would not have a detrimental impact on the B-Listed building. However, they consider the proposed rear extension will have an adverse impact along the southern edge of the A-Listed The Howff and will detract from the appreciation of the burial ground at this more immediate location and impact on the important character of the space.
- The application is being referred to the Development Management Committee at the request of an Elected Member.
- More details can be found at <http://idoxwam.dundee.gov.uk/idoxpa-web/simpleSearchResults.do?action=firstPage>.

## RECOMMENDATION

The application fails to comply with national planning guidance with regard to development affecting a conservation area or the setting of a listed building. The application fails to satisfy the requirements of the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and by refusing the application the Council would be discharging its statutory duties in an appropriate manner. There are no material considerations that would justify approval of listed building consent. The application is therefore recommended for REFUSAL.

## 1 DESCRIPTION OF PROPOSAL



**Figure 1 – Proposed Floor Plans**

- 1.1 The application proposes alterations and an extension to a listed building associated with a change of use from commercial offices to a licensed restaurant for 60 covers.
- 1.2 The alterations proposed on the ground floor include a rear extension of a contemporary glass box design which will be suspended above ground level to provide an upper dining area overlooking The Howff which is located to the rear of the building. A 3 storey steel and chequered metal fire escape is proposed to be removed from the rear, north-east elevation. Alterations also include removing an existing timber sash and case window on the front elevation of the B-Listed building to create a new larger opening for a separate entrance door to the restaurant.
- 1.3 At basement level a Whisky Bar is proposed together with a private dining area, cellar, kitchen, office and toilets. A spiral stair is proposed to connect the basement level with the ground floor.
- 1.4 There are no internal features of architectural or historic interest within the ground floor and basement of the B-Listed building which will be impacted by the proposal. Existing cornicing has been retained under new ceilings required through building regulations as part of the conversion of the upper levels of the building into residential flats.
- 1.5 There is a related planning application reference for the change of use from offices to a licensed restaurant 17/00087/FULL.

## 2 SITE DESCRIPTION

- 2.1 The application site is a four storey and basement B-Listed building located on the north side of Bank Street in the City Centre. The B-Listed property is a classically-detailed commercial building and was formerly the offices of the solicitors Shiell and Small, and forms a stylistically similar continuous frontage with 7-25 Bank Street which is also B-Listed.

- 2.2 The rear elevation of the building faces The Howff which is A-Listed.
- 2.3 The building was converted two years ago to form ground floor and basement commercial office space with residential above. The commercial office space is currently vacant. The whole building is in the ownership of the applicant.



Figure 2 – Existing Front Elevation



Figure 3 – Existing Rear Elevation

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### 3 POLICY BACKGROUND

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

**DUNDEE LOCAL DEVELOPMENT PLAN**

Policy 48: Listed Buildings

Policy 50: Development in Conservation Areas

**SCOTTISH PLANNING POLICY, PLANNING ADVICE NOTES AND CIRCULARS**

Scottish Planning Policy (2014)

Historic Environment Scotland Policy Statement (2016)

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

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### 4 SITE HISTORY

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- 4.1 Planning application 14/00159/FULL was approved with conditions in May 2014 for a change of use to the upper 3 floors from offices to 3 flats and 2 HMOs with alterations and the installation of roof lights. The accompanying listed building consent, reference 14/00300/LBC was permitted for the associated internal alterations and installation of roof lights in July 2014.
- 4.2 Listed building consent 16/00105/LBC was approved on 18 March 2016 for alterations associated with a change of use from Class 2 offices to form 1 residential flat and 3 HMOs within the upper three floors of a property.

- 4.3 Planning application 17/00085/FULL and an associated application for listed building consent 17/00083/LBC are pending consideration for a change of use on the west side of the ground floor at 5 Bank Street from offices to a café and associated alterations.

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## 5 PUBLIC PARTICIPATION

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- 5.1 The application was the subject of neighbour notification and eight letters of objection have been received which raise issues in relation to the impact on the architectural and historic character of the B-Listed building, adverse effect on the conservation area and the insensitive encroachment on the A-Listed burial ground within The Howff.
- 5.2 Members will already have access to the letters of objection and the issues raised are considered in the Observations section below.

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## 6 CONSULTATIONS

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- 6.1 **Historic Environment Scotland** - were consulted and commented that the proposed alterations to the front of the building would not have a detrimental impact on the B-Listed building. However, they consider the proposed rear extension will have an adverse impact along the southern edge of the A-Listed The Howff and will detract from the appreciation of the burial ground at this more immediate location and impact on the important character of the space. They advise that the Council should be mindful of the sensitivities of approving a scheme that introduces a commercial activity into the burial ground which has a calm and sedate atmosphere.

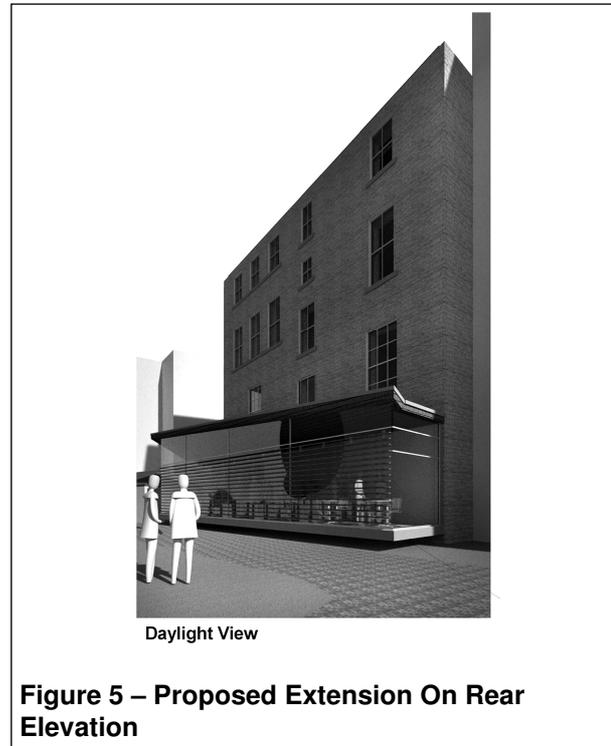
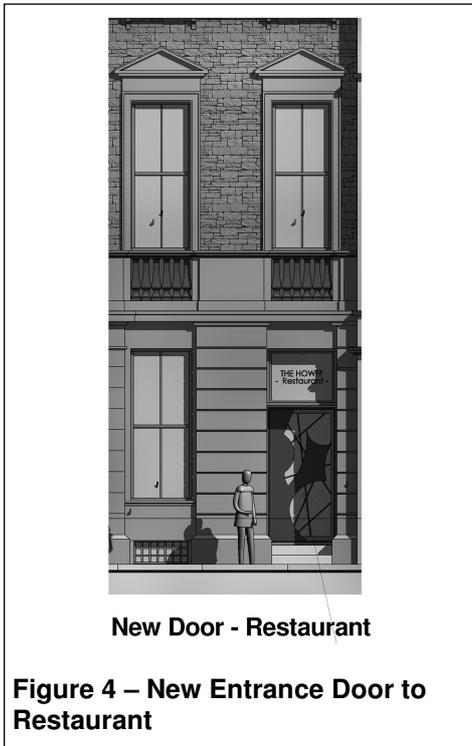
## 7 DETERMINING ISSUES

- 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.**

### **Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997**

- 7.2 Section 14 of the above Act 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 it possesses.
- 7.3 Similarly, Section 64 of the above Act requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving and enhancing the character and appearance of the area.
- 7.4 There are no internal features of architectural or historic interest within the ground floor and basement of the B-Listed building which will be impacted by the proposal. The external alterations associated with a proposed change of use to a licensed restaurant include the creation of new doorway on the front elevation of the B-Listed building. This aspect of the proposal is sensitive in design to the listed building and has been created to provide a separate entrance to the restaurant and avoid any potential conflict with the existing residential uses on the upper three storeys of the property. It will not diminish the architectural integrity of the building or its historic interest.

- 7.5 Should members be minded to grant listed building consent, it is recommended that a condition is attached to any consent granted to request full details of the design, materials, finish and a method statement for the works proposed to create a separate entrance to the restaurant.



- 7.6 A justification statement submitted with the application outlines that the design of the proposed rear extension takes cognisance of the fact that there may be human remains in the immediate vicinity of the extension. For this reason the design does not require any traditional foundation work and will “float” above the surface of The Howff and will be attached by steelwork to the stone surface of the listed building. No further detail of this design has been supplied. This has the potential to impact the fabric of the listed building.
- 7.7 The proposed rear extension fails to respect the existing north building line of the B-Listed buildings on Bank Street. The north building line is an important historical boundary between the precinct of the medieval Greyfriars Monastery, cleared from the site in 1560 and the burial site which was granted for use in Greyfriars Yards in 1564. At present there is a clear separation from the commercial buildings and The Howff with no projecting outbuildings or extensions. The proposal will interrupt this relationship and fails to respect the historical significance of this existing building line.
- 7.8 The proposal for a suspended contemporary glass box extension to serve as a dining area overlooking The Howff fails to consider and respect the character and setting of The Howff which is an A-Listed important landmark in the City Centre. Historic Environment Scotland has highlighted that the proposed rear extension introduces commercial activity by virtue of a licensed restaurant into a calm and sedate burial ground. Further they consider the proposed rear extension will have an adverse impact along the southern edge of the A-Listed The Howff and will detract from the appreciation of the burial ground at this more immediate location and impact on the important character of the space.
- 7.9 The Head of Community Safety and Protection has advised that the discharge point of the proposed flue is proposed to be just above eaves level and that this is directly in front of the attic dormer windows of the adjacent building at 3 Bank Street which they advise would be

insufficient in regards to odour dispersion. They have requested that the flue be extended further up to be at the height of the pots of the chimney stack. This, however, would have a detrimental impact on the character and setting of the listed building.

- 7.10 Overall, the proposal will diminish the architectural integrity and the historic interest of the listed buildings.
- 7.11 The proposal site lies within the Central Conservation Area. The Central Conservation Area Appraisal highlights the unique setting of The Howff whereby the adjacent buildings and the boundary wall create an enclosure which provides a restricted and quiet character with limited pedestrian movement. The area is characterised by a variety of trees and shrubs which add to the sheltered, tranquil and pleasant area of open space in the City Centre.
- 7.12 The proposed extension to the rear of the property will have a detrimental impact on the tranquil character of The Howff recognised in the conservation area appraisal.
- 7.13 The proposal fails to satisfy the requirements of the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- 7.14 **It is concluded from the above assessment that by refusing the application the Council would be discharging its statutory duties in an appropriate manner.**



Figure 6 – Existing Rear Elevation

## OTHER MATERIAL CONSIDERATIONS

### A - DUNDEE LOCAL DEVELOPMENT PLAN 2014

- 7.15 The provisions of the development plan relevant to the determination of this application are specified in the Policy Background section above.
- 7.16 The requirements of Policy 48 (Listed Buildings) and Policy 50 (Development in Conservation Areas) of the Local Development Plan are satisfied by the discharge of the statutory duties outlined by Sections 14 and 64 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- 7.17 **The proposal fails to comply with the provisions of the development plan.**

### B - NATIONAL POLICY AND GUIDANCE

- 7.18 Scottish Planning Policy (2014) and the Historic Environment Scotland Policy Statement (2016) should be taken into account when determining applications for listed building consent. Scottish Planning Policy (Historic Environment) advises that change to a listed building should be managed to protect its special interest while enabling it to remain in active use; development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and its setting. The Historic Environment Scotland Policy Statement seeks to identify the key characteristics of the historic environment and establish the boundaries within which change can continue so that it enhances rather than diminishes historic character; the historic environment should be valued as an asset, rather than thought of as a barrier to development.

- 7.19 **It is therefore concluded that the proposed works fail to comply with national planning guidance with regard to development affecting a listed building.**

#### **C - VIEWS OF OBJECTORS**

- 7.20 Objections to the proposals are in relation to the detrimental impact on the character and setting of the conservation area and listed buildings; the encroachment of the extension into burial ground; the insensitive nature of the proposal in relation to the historical significance and the character and setting of The Howff; the impact on any future archaeological work to be undertaken on the site and that the historical integrity of The Howff would be comprised for the profit of private individuals.
- 7.21 **The planning concerns of the objectors are supported for the reasons explained in the report above.**

#### **D - DUNDEE HOWFF CONSERVATION GROUP – HISTORICAL INFORMATION**

- 7.22 In their representation to the planning application, the Dundee Howff Conservation Group outlined that The Howff was formally the lands of the Greyfriars and it is believed that the Monastery is located in the area of the southwest corner of the site. The site was granted to the Burgh of Dundee by Mary Queen of Scots in 1564, to be used as a place of burial and has a long history linked to the Nine Trades of Dundee. In April 1567, Mary Queen of Scots granted all monastic buildings and property into the ownership of the Town Council and all profits from this to go towards the hospital for the poor.
- 7.23 The Conservation Group have reviewed archived records and the Register of Deeds Volume 6 page 496 to 498 dated 1868, Minutes of Agreement between Messr Leng & Co (proprietors of the land directly south of the Howff on Bank Street) and The Magistrates and Town Council of Dundee and Trustees and patrons of the Hospital Fund of Dundee. The minutes refer to the removal of the Howff wall to allow a tenement to be built upon that land. It further states that the land owners and their successors are in future to have no access to the burial ground and shall renounce and discharge all rights of access to The Howff. It adds that windows in the tenement at the ground floor level will have in, all time coming, substantial Iron Stanchions not exceeding six inches apart.
- 7.24 The Conservation Group state that these documents show that the town Council at the time made it clear that the owners of the tenements on the south side of The Howff and their successors were not to encroach into The Howff at any time. Also that the Iron Stanchions must remain in place and are not be removed.
- 7.25 During the late 19th century The Howff became a hub for large meetings which included illegal gambling and antisocial behaviour. As a response to this The Howff was locked daily and only opened on a Sunday. The Iron Stanchions mentioned above were deemed necessary to prevent individuals or groups breaking into The Howff for illegal purposes from the tenement blocks. It is the view of the group that these Iron Stanchions, even though attached to the B-Listed building have a direct link with the history of The Howff and therefore should be protected from interference, damage or removal at all times.
- 7.26 **The historical significance of the application site and its relationship with The Howff is illustrated in the information provided by Dundee Howff Conservation Group.**
- 7.27 **It is concluded from the foregoing that there are no material considerations that would justify approval of listed building consent.**

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## **8 CONCLUSION**

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- 8.1 The proposal fails to satisfy the requirements of the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal fails to comply with national planning guidance with regard to development affecting a listed building. It is concluded from the above assessment that by refusing the application the Council would be discharging its statutory duties in an appropriate manner.

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## **9 RECOMMENDATION**

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- 9.1 It is recommended that application for Listed Building Consent be REFUSED.

### **REASON**

- 1 The proposal would have a significant adverse impact on the fabric, character and setting of the listed building. The proposal fails to satisfy the requirements of the relevant provisions of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposal fails to comply with national planning guidance with regard to development affecting a listed building. There are no material considerations that would justify approval of listed building consent.