

Erection of 5 Houses and 2 Flats

KEY INFORMATION

Ward West End

Address

51 Magdalen Yard Road
Dundee DD1 4LQ

Applicant

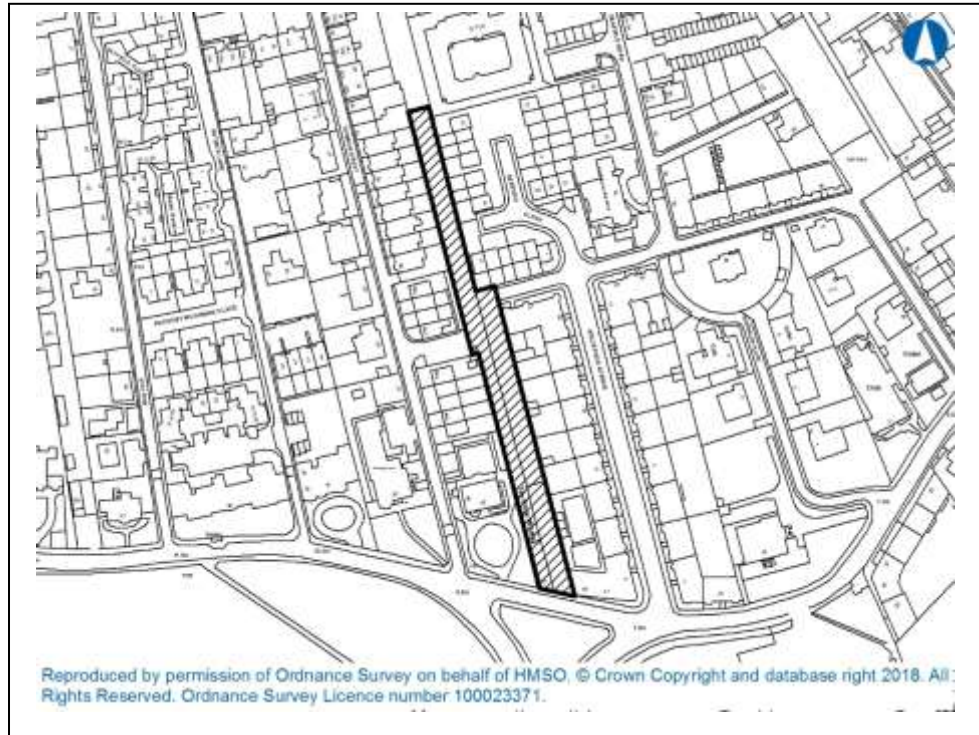
F & H Developments
55 Commissioner Street
Crieff PH7 3AY

Agent

Denholm Partnership
Architects
11 Dunira Street
Comrie PH6 2LJ

Registered 8 March 2018

Report by: Executive
Director of City Development



SUMMARY OF REPORT

- This application seeks planning permission for the development of 5, three bedroom houses and 2, three bedroom flats with associated parking, amenity space, new access and environmental improvements.
- The site of the former Tay Rope Works comprises two long narrow strips of land bounded by housing to the east and west. The site is predominantly vacant and derelict with a southern elevation to Magdalen Yard Road comprising the Category C Listed façade of the original Tay Rope Works building.
- There is a long history of planning applications for residential development on all or parts of the site dating back to 1993. The present proposal for 5 houses and 2 flats was originally granted planning permission under 11/00110/FULL in September 2011. This permission was later renewed under 14/00616/FULL in March 2015. The present application 18/00127/FULL effectively seeks a further renewal of the proposals granted planning permission in 2011 and 2015.
- The proposal site is within the West End Lanes Conservation Area.
- The Council has carried out the statutory neighbour notification procedure detailed in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Eight objections were received from neighbours on grounds of noise, parking, design, overshadowing and impact on privacy.
- The application is referred to the Planning Committee for determination as more than 6 valid objections have been received and the application requires a legal obligation in respect of HMO occupation.

RECOMMENDATION

The application fails to fully comply with Policy 9 (Design of Housing) in relation to amenity space provision. There are material considerations which weigh in support of the application. It is therefore recommended that the application be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of 5 detached houses and 2 flats.
- 1.2 The flatted development comprises 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. Due to the form of the units, which partially cover the access road and adjoin an adjacent building, the proposal has the appearance of houses. They have a shared vehicle access to 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.
- 1.3 Towards the centre of the site 3, three bedroom detached houses are proposed. 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 each have between 136 and 180m² of private garden ground.
- 1.4 Within the north of the site 2, three bedroom houses are proposed. 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 overlook properties on either side. The houses have two parking spaces each and private garden ground of 78 and 111m².
- 1.5 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 one house at the north of the site will gain access via Seafield Lane. The roads within the site will remain private and will not be adopted by the City Council.
- 1.6 The existing boundary walls will be retained and repaired.



Figure 1 – Proposed Site Plan

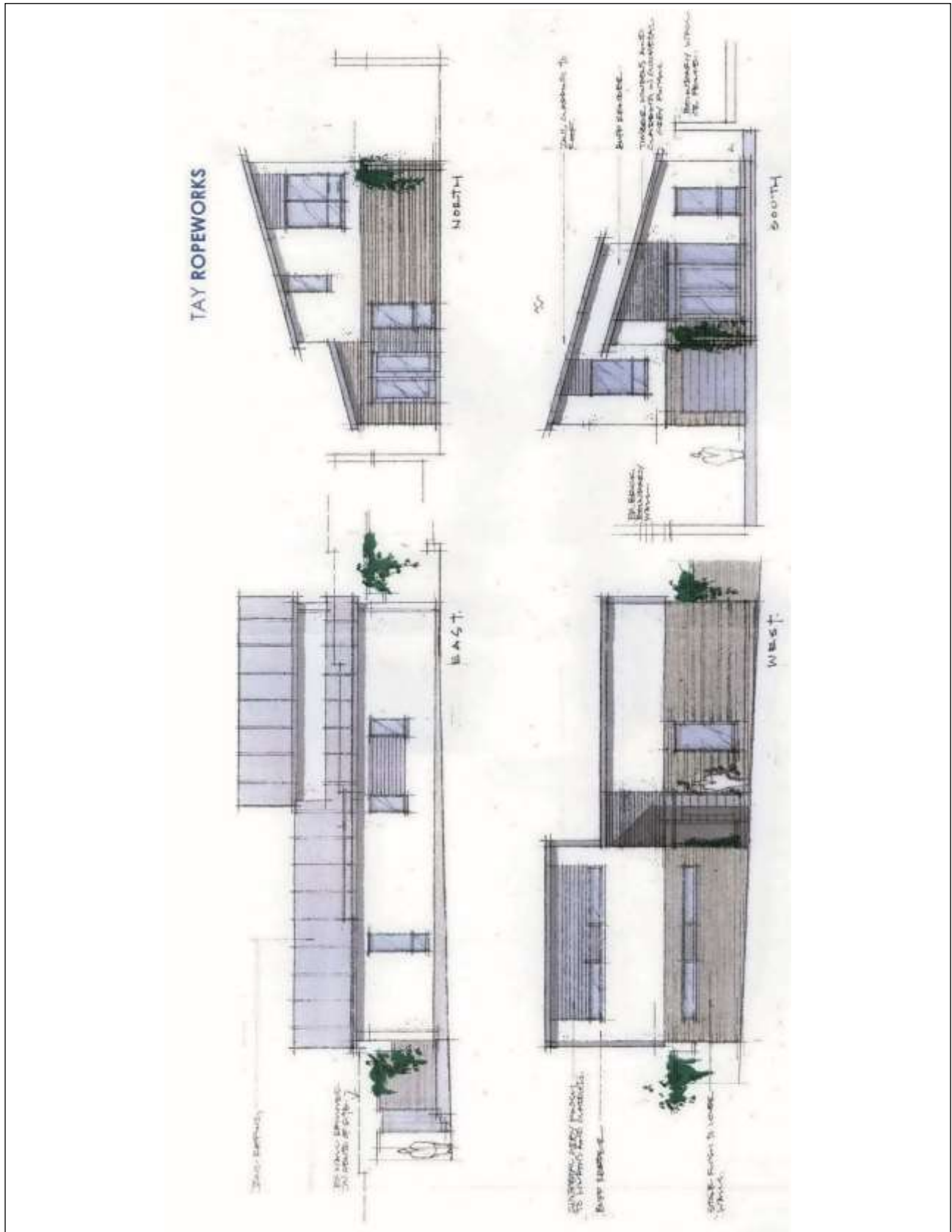


Figure 2 – Proposed Elevations

2 SITE DESCRIPTION

- 2.1 The site was originally occupied by the Tay Rope Works which dated from the mid 19th Century. The site, as required by the manufacture of rope, is extremely long and narrow, the southern part being predominantly 12 metres wide by 130 metres long and the northern section being generally 8 metres wide by 80 metres long. 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 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 sills.
- 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.



Figure 3 – Site Photo

3 POLICY BACKGROUND

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

DUNDEE LOCAL DEVELOPMENT PLAN 2014

Policy 7: High Quality Design

Policy 8: Housing Land Release

Policy 9: Design of New Housing

Policy 15: Houses in Multiple Occupation

Policy 29: Low and Zero Carbon Technology in New Development

Policy 35: Protected Species

Policy 38: Trees and Urban Woodland

Policy 42: Sustainable Drainage Systems

Policy 45: Land Contamination

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

Policy 50: Development In Conservation Areas

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN

Policy 1: High Quality Design and Placemaking

Policy 9: Housing Land Release

Policy 10: Design of New Housing and Appendix 4 Standards

Policy 16: Houses in Multiple Occupation

Policy 34: Protected Species

Policy 35: Trees and Urban Woodland

Policy 37: Sustainable Drainage Systems

Policy 41: Land Contamination

Policy 48: Low and Zero Carbon Technology In New Buildings

Policy 50: Demolition of Listed Buildings and Buildings in Conservation Areas

Policy 51: 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:

- 11/00110/FULL for the erection of the residential development which is the subject of this further application was approved, subject to a Section 75 Agreement and conditions in September 2011;
- 11/00111/LBC for 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 approved subject to conditions in June 2011;
- 14/00616/FULL sought to renew planning permission for the erection of the residential development as approved under 11/00110/FULL. 14/00616/FULL was approved subject to a Section 75 Agreement and conditions in March 2015;
- 14/00617/LBC sought to renew listed building consent 11/00111/LBC for the dismantling and rebuilding of the façade of the former Tay Rope Works. 14/00617/LBC was approved subject to conditions in April 2015; and

- 18/00146/LBC is the current Listed Building Consent application for the dismantling and rebuilding of the facade to be incorporated into the new development which is the subject of this further application. 18/00146/LBC is to be determined by the Planning Committee.

5 PUBLIC PARTICIPATION

- 5.1 Eight letters of objection have been received. The detailed concerns raised by the objectors relate to the following issues:
- the proposed development would have a detrimental impact on privacy and security through overlooking and alteration of boundary walls;
 - the proposed development would have a detrimental impact on residential amenity through overshadowing, increased noise and odours from bin stores;
 - the proposed parking and access arrangements would have a detrimental impact on parking provision and road safety in the surrounding area;
 - the density of development proposed and felling of trees would have a detrimental impact on the character of the West End Lanes Conservation Area: and
 - the use of the proposed residential properties as HMOs would have a detrimental impact on the surrounding area.
- 5.2 Members will have had access to these letters and the issues raised are considered in the Observations section below.

6 CONSULTATIONS

- 6.1 **The Head of Community Safety and Protection** – notes the site is within a smoke control area and has requested a Preliminary Risk Assessment is submitted. It is recommended that the submission of a Preliminary Risk Assessment and any associated remediation works are subject of planning conditions and an informative relating to the burning of fuels is attached to any consent should members be minded to grant planning permission.

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.

THE DEVELOPMENT PLAN

- 7.2 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.
- 7.3 The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.
- 7.4 **Policy 7: High Quality Design** - requires that 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. Proposals should incorporate new landscape and planting works appropriate to the local context and the scale and nature of the development.
- 7.5 Proposals should also:
- consider and respect site topography and any surrounding landmarks, views or skylines;
 - contribute to a sense of identity by developing a coherent structure of streets, spaces, and buildings that are accessible and respect the existing building lines;
 - the design should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours;
 - all buildings, streets and spaces should create safe accessible inclusive places for people which are easily navigable particularly on foot, bicycle and public transport and designed with future adaptability in mind; and
 - existing buildings, structures and natural features that contribute to the local townscape should be retained and sensitively integrated into proposals.
- 7.6 The proposal for five houses and two flats incorporates different house types with a mixture of in curtilage parking and integrated garages. The applicant states that the finishing materials of the proposed houses and flats would generally comprise of stone and buff render with sections of timber cladding. The proposed boundary treatments would generally comprise of existing walls and fencing which is to be repaired. The design and form of the proposed residential development is of a high quality and would result in an attractive development. To ensure the streetscape is of a high quality, it is recommended boundary treatments and full landscaping details are controlled by condition should Planning Committee be minded to grant planning permission.
- 7.7 The proposed development is of high quality design which creates a new lane incorporating and enhancing the architectural and historic features of the former Rope Works whilst complementing and respecting the surrounding buildings. The proposed lane through the application site would be private and provide access to the proposed dwellings only. As Plot 7 within the north of the site takes access through a private car park to the north, as previous application 14/00616/FULL a planning condition is recommended to ensure no development commences until confirmation is submitted to the Council that access is agreed with the relevant land owners.
- 7.8 The proposed residential development respects the sites topography, views and skylines. The proposed houses would have no impact on surrounding landmarks and the dwellings are of a height, massing and finish which is in keeping with the residential character of the surrounding area.

- 7.9 Overall, the proposed development will make a positive contribution to the character and amenity of the area and bring a vacant site into use.
- 7.10 **The proposal satisfies Policy 7.**
- 7.11 **Policy 8: Housing Land Release** - seeks to ensure that there is a five year effective supply of housing land maintained over the plan period. Housing land release on brownfield sites, in addition to the allocations set out in Appendix 2, 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 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. The site has been subject of planning permission for residential development since 2011.
- 7.13 It is considered that the proposed development will make a positive contribution to the quality and choice of residential development within the local area through 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.
- 7.14 The principle of re-developing this brownfield site for residential development is considered to be in accordance with requirements of Policy 8.
- 7.15 **The proposal satisfies Policy 8.**
- 7.16 **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.
- 7.17 The proposed development would be of high quality for the reasons explained above in the context of Policy 7.
- 7.18 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.
- 7.19 The site lies within the Inner City. The relevant Appendix 3 standards require proposed houses to provide a minimum of 2 bedrooms, at least 1 parking space, garden ground of at least 50m² and a minimum window separation distance of 18 metres. The proposed houses meet the requirements of appendix 3.
- 7.20 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".
- 7.21 The applicant originally 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.

- 7.22 The provision of 3 bedroom flats, each with an individual entrance, garage and parking space meet other criteria in Appendix 3. 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.
- 7.23 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.
- 7.24 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.
- 7.25 **The proposal fails to satisfy Policy 9.**
- 7.26 **Policy 15: Houses in Multiple Occupation** - states that the occupation of new mainstream residential developments as HMOs will be prevented in certain circumstances, in certain areas of the City. 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. 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.
- 7.27 As the proposals include houses with 3 bedrooms it would be appropriate in this instance to restrict the use of the houses as HMO's. Such a restriction should be by means of a legal obligation as was the case with planning permissions 11/00110/FULL and 14/00616/FULL. The existing Section 75 legal obligation relates only to 14/00616/FULL, therefore a new section 75 agreement will be required in relation to the present application 18/00127/FULL should members be minded to grant planning permission.
- 7.28 **The proposal satisfies Policy 15, subject to a Section 75 agreement.**
- 7.29 **Policy 29: Low and Zero Carbon Technology in New Development** - states proposals for all new buildings will be required to demonstrate that at least 10% of the carbon emissions reduction standard set by Scottish Building Standards (2007) will be met through the installation and operation of zero-carbon generating technologies. This percentage will increase to 15% from the beginning of 2016 and will be reviewed in 2018.
- 7.30 A statement will be required to be submitted demonstrating compliance with this requirement. In the interests of reducing carbon emissions associated with the proposed development, should members be minded to grant planning permission, it is recommended that a condition is attached to any consent granted to request a sustainability statement.
- 7.31 **The proposal would satisfy Policy 29 subject to a condition being attached.**
- 7.32 **Policy 35: Protected Species** - states that proposals likely to have a significant effect on a European protected species will not be supported unless there are no satisfactory alternatives and the development is required for preserving public health or safety or for other imperative reasons of overriding public interest or which have beneficial consequences of primary importance for the environment.

- 7.33 The proposal seeks to demolish the façade and an existing building within the south of the site and remove a number of trees and bushes. A previous Bat Survey which was undertaken in 2006 and concluded that there was no direct evidence of any former or current bat presence at the site but further investigation is required.
- 7.34 As there have been no significant changes to the application site and the existing buildings provided limited roosting potential a further bat survey is not required. As with planning application 14/00616/FULL, it is recommended further investigation of potential roosting sites prior to demolition of any derelict buildings or felling of trees will be controlled by condition should members be minded to grant planning permission.
- 7.35 **Subject to a condition, the proposal would comply with Policy 35.**
- 7.36 **Policy 38: Trees and Urban Woodland** - requires that new development must ensure the survival of existing healthy mature trees through sensitive site layout both during and after construction. Where appropriate, development proposals must be accompanied by a tree planting and landscape scheme.
- 7.37 The application site contains a number of trees including a mature Oak Tree and younger self seeded trees. The proposed development would result in the loss of the majority of the self seeded trees and areas of shrubbery.
- 7.38 To mitigate the impact of the proposed development on the character of the site the applicant proposes to retain the mature Oak Tree and to undertake landscaping works. The retention of the mature Oak tree and appropriate landscaping including compensatory planting would ensure the proposal has no detrimental impact on mature planting within the site and maintains the character of the site and surrounding area.
- 7.39 It is recommended that Members agree to condition these matters should they be minded to approve the application.
- 7.40 **Subject to conditions, the proposal would comply with Policy 38.**
- 7.41 **Policy 42: Sustainable Drainage Systems** - states that surface water from new development must be treated by a Sustainable Urban Drainage System (SUDS), which should be designed so that in a 1 in 200 year rainstorm event, flooding will not be higher than 300mm below floor level. Proposals are encouraged to adopt an ecological approach.
- 7.42 Surface water from residential developments is required to 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 is required to demonstrate how surface water and road water will be dealt with prior to the commencement of any development. As planning permission has previously been granted on the site and this application is for the same proposals as previously approved, it would be 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.
- 7.43 **The proposal would satisfy Policy 42 with the addition of appropriate planning conditions.**
- 7.44 **Policy 45 Land Contamination** - requires that development of potentially contaminated land will be considered where a site investigation has been submitted and establishes the nature and extent of the contamination, and where remediation is proposed that it would adequately address contamination risks and be suitable for the planned use.

- 7.45 Due to the industrial history of the site, the Head of Community Safety and Protection has requested a Preliminary Risk Assessment is submitted.
- 7.46 As the present proposals are as those previously approved under 11/00110/FULL and 14/00616/FULL, it is reasonable to apply 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.
- 7.47 **The proposal would satisfy Policy 45 with the addition of appropriate planning conditions.**
- 7.48 **Policy 49: Demolition of Listed Buildings** - 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'. Where the demolition of a building is acceptable, applications must be supported by acceptable proposals for the redevelopment or treatment of the cleared site.
- 7.49 The facade is the only part of the building which is listed category C. It is not possible to retain the facade in its current form as the access is too narrow for safe access by modern vehicles including emergency vehicles and the buildings to the rear are in poor condition. The application therefore proposes 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 original.
- 7.50 As planning permission was previously granted for the demolition of the façade under applications 11/00110/FULL and 14/00616/FULL, the principal of demolishing and rebuilding the façade is established. The applicants supporting statement outlines the benefits of demolishing and rebuilding the façade, including retention of the character of the listed building and re-use of historic materials. The proposal would allow for the redevelopment of the application site whilst securing the buildings long term future and bringing a vacant site into use.
- 7.51 The applicant has not provided a detailed report on the condition of the façade. However, the supporting statement confirms that a 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. It is recommended the provision of an appropriate Method Statement is controlled by condition to ensure the resulting development will preserve and enhance the fabric and allow the development of the rest of the site.
- 7.52 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 18/00146/LBC which is to be determined by Planning Committee.
- 7.53 **The proposal would satisfy Policy 49 with the addition of appropriate planning conditions.**
- 7.54 **Policy 50: Development in Conservation Areas** - requires developments to preserve or enhance the character of the area and retain features which contribute to its character.
- 7.55 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. 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. The proposed development would therefore improve the environmental quality of the Conservation Area.

- 7.56 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. The development would also remove a long standing area of dereliction which has been partly vacant for many years.
- 7.57 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. 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.
- 7.58 The West End Lanes Conservation Area is characterised by its street patterns and narrow lanes. The streets and character of residential development in the local area create a unique environment of densely developed residential tenements and terraces with large villas in generous grounds.
- 7.59 **The proposal satisfies Policy 50.**
- 7.60 **It is concluded from the foregoing that the proposal does not comply with the provisions of the development plan.**

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

- 7.61 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 – VIEWS OF OBJECTORS

Eight letters of objection were received, raising the following concerns:

- 7.62 **Objection** - the proposed development would have a detrimental impact on privacy and security through overlooking and alteration of boundary walls.
- 7.63 **Response** - windows of the proposed flats would afford views into the application site and onto Magdalen Yard Road to the south. The orientation of the windows ensures there is no significant overlooking of neighbouring property. The houses are low profile and designed to minimise any impact on adjacent dwellings by overshadowing or overlooking. The proposals would not result in any significant overlooking of neighbouring property and maintain the dense character of development in this locality.

- 7.64 The development will involve the retention and repair, including rebuilding if necessary, of the existing boundary walls. The repair of boundary walls and provision of residential accommodation within the site would likely result in a positive impact on security through the development of a vacant site which has been subject to vandalism.
- 7.65 **Objection** - the proposed development would have a detrimental impact on residential amenity through overshadowing, increased noise and odours from bin store.
- 7.66 **Response** - the scale and design of the proposed low profile houses ensures there is no significant overshadowing of neighbouring property. The proposed residential development is of a density and layout which would be appropriate to the surrounding area and result in noise levels which is in keeping with a residential area. The proposed position of bin stores is considered to be acceptable. It is recommended should members grant planning permission full finish details of the bin stores are subject of a planning condition.
- 7.67 **Objection** – the proposed parking and access arrangements would have a detrimental impact on parking provision and road safety in the surrounding area.
- 7.68 **Response** – the proposal is for 7 units with 3 access points. It is considered that there will be a minimal increase in traffic congestion resulting from the occupants of these dwellings. Each site access is to be formed to Dundee City Council specifications with appropriate visibility splays provided. The proposals would have no detrimental impact on parking provision or road safety.
- 7.69 **Objection** – the density of development proposed and felling of trees would have a detrimental impact on the character of the West End Lanes Conservation Area.
- 7.70 **Response** - 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.
- 7.71 **Objection** - the use of the proposed residential properties as HMOs would have a detrimental impact on the surrounding area.
- 7.72 **Response** - as the proposed houses are 3 bedroom properties it is appropriate to prohibit the use of the dwellings as HMO's by means of a legal obligation. It is recommended a Section 75 agreement be required should members be minded to grant planning permission.
- 7.73 **The views of the objectors are not of sufficient weight to justify refusal of the application.**

B - JUSTIFICATION FOR DEVELOPMENT

- 7.74 This is a unique application site in terms of form and layout, with a planning history of residential development.
- 7.75 This site has remained vacant and semi-derelict for a number of years and does not make a positive contribution to the character of the West End Lanes Conservation Area. It bounds a high number of residential properties with varying impact on their amenity and security. It is a site which requires a unique and innovative 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.

- 7.76 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 offset the small deficiency in amenity space within one part of the development.
- 7.77 These are material considerations of sufficient weight to justify approval of the application.

C - DUNDEE LOCAL DEVELOPMENT PLAN 2

- 7.78 The Proposed Dundee Local Development Plan 2 was approved by the Council on 21 August 2017. It sets out the spatial strategy that will guide future development up to 2029.
- 7.79 The proposed Dundee Local Development Plan 2 will in time replace the Dundee Local Development Plan 2014. Approval of the Proposed Dundee Local Development Plan 2 represents the Planning Authority's settled view as to what the final adopted content of the Plan should be. Whilst the Dundee Local Development Plan 2014 (along with TAYplan) constitutes the statutory Development Plan, the Proposed Dundee Local Development Plan 2 has the status of a material planning consideration to be taken into account in the assessment of planning applications.
- 7.80 The provisions of the Proposed Dundee Local Development Plan 2 relevant to the determination of this application are specified in the Policy background section above.
- 7.81 There are no material changes to these policies which would affect the outcome of the present planning application.
- 7.82 **It is concluded from the foregoing that the material considerations support the approval of planning permission.**

8 CONCLUSION

- 8.1 The proposal fails to satisfy the requirements of the Policy 9 of the Local Development Plan in relation to the amenity space afforded to the proposed flats. However, the proposals would provide a high quality residential development which brings a derelict site within the West End Lanes Conservation Area into use. This is a material consideration of sufficient weight to justify approval of the application subject to conditions and the recording of a 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.

9 RECOMMENDATION

Recommendation 1

- 9.1 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.

Recommendation 2

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

1 **Condition** - 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:

- i assessment of the risks associated with contaminant sources, pathways and receptors specific to the proposed use of the site, and if necessary;
- ii a remediation Implementation Plan detailing measures to treat/remove contamination and mitigate risks to ensure the site is fit for the proposed use;
- iii measures to deal with contamination during construction works; and
- iv verification sampling, testing, certification and monitoring of the site to demonstrate suitability for the proposed use on completion of remediation measures.

Reason – in the interests of the amenities of the future occupants of the residential accommodation.

2 **Condition** - before any unit is occupied any measures to decontaminate the site required by compliance with Condition 1 shall be fully verified and approved in writing by the planning authority.

Reason - in the interests of the amenities of the future occupants of the residential accommodation.

3 **Condition** - 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.

Reason – to ensure that the proposed development has a satisfactory external appearance in the interests of the visual amenities of the area.

4 **Condition** - prior to the commencement of development, tree protection fencing in accordance with BS5837:2012 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.

Reason – 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 **Condition** - 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 details of any to be retained, together with measures for their protection in the course of development in accordance with

BS5837:2012. 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.

Reason – to ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area.

- 6 **Condition** - 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.

Reason - in order to safeguard the visual amenity of the Conservation Area and to protect the amenities of neighbours.

- 7 **Condition** - details of the proposed vehicle accesses must be agreed prior to any works on site and the accesses must be formed and constructed to Dundee City Council specifications.

Reason - in the interests of vehicle and pedestrian safety.

- 8 **Condition** - any existing accesses that are no longer required as part of the proposed development must be made good as footway to Dundee City Council specifications. Details of these alterations must be agreed prior to any works on site.

Reason - in the interests of vehicle and pedestrian safety.

- 9 **Condition** - a Street Lighting system must be provided by the applicant to Dundee City Council standards and specifications.

Reason - in the interests of vehicle and pedestrian safety.

- 10 **Condition** - the hard surface within the site should be made of porous materials or provision should be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

Reason - to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

- 11 **Condition** - 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.

Reason - 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.

- 12 **Condition** - before the 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.

Reason - 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.

- 13 **Condition** - 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.

Reason - in order to safeguard the visual amenity of the Conservation Area.

- 14 **Condition** - 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.

Reason - in the interests of the amenities of the future occupants of the dwelling on plot.

- 15 **Condition** - 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.

Reason - in order to ensure that surface water is dealt with in an acceptable manner in accordance with statutory requirements.

- 16 **Condition** - 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.

Reason - to ensure that appropriate precautionary measures are undertaken in the event that bat habitats have become established on the site.

- 17 **Condition** – prior to the commencement of development, full details for the safe removal, storage and subsequent reinstatement of the Tay Rope Works signage into the development hereby approved shall be submitted to the Council for written approval. For the avoidance of doubt, the information shall include a timetable and method statement for the reinstatement of the signage. Thereafter, the signage shall be finished in strict accordance with the details approved by this condition.

Reason - in order to safeguard the visual amenity of the Conservation Area.