

Erection of Eight Dwellinghouses

KEY INFORMATION

Ward West End

Address

Land West of 404-494 and
North of Riverside Drive
Dundee

Applicant

H & H Properties UK Ltd

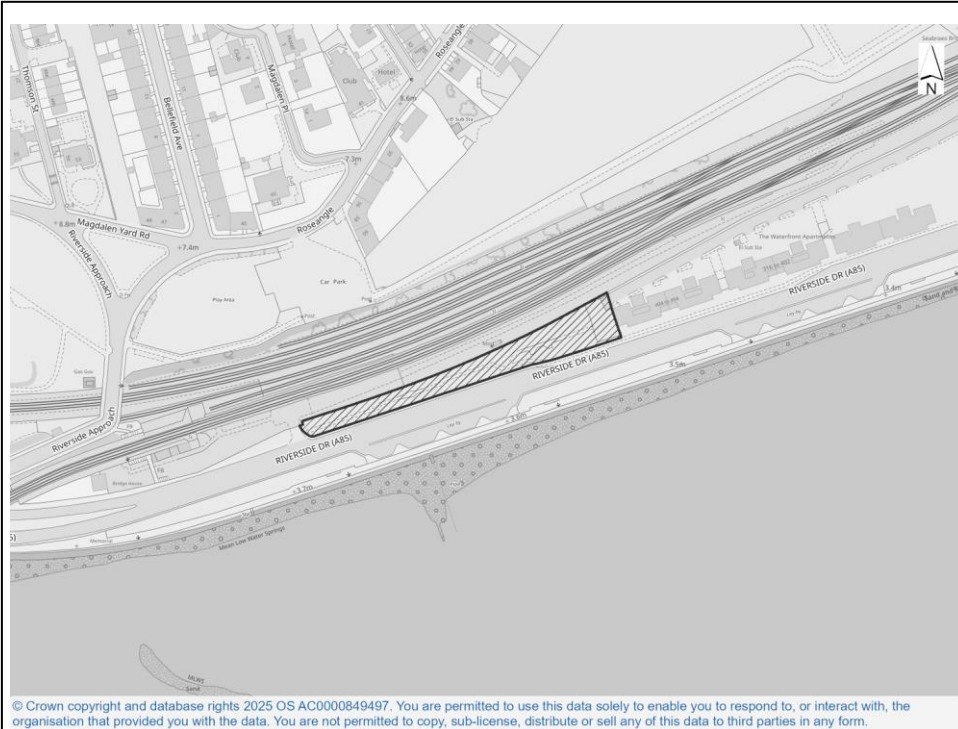
Agent

Tony Thomas APT
Planning & Development

Validated 28 July 2022

**Report by Head of Planning
& Economic Development**

Contact: Craig Swankie



SUMMARY OF REPORT

- This application seeks planning permission for the erection of eight townhouses at Riverside Drive.
- The proposed development would be associated with a flatted development immediately to the east of the site, reflecting the layout and materials of the occupied flats on Riverside Drive.
- The application is not fully in accordance with the Development Plan.
- The statutory neighbour notification process was undertaken. Six objections were received raising concerns with the proposed development, including the impact of road and rail traffic on the amenity of residents. One neutral representation and one letter of support were received.
- Planning conditions are recommended to ensure residents are afforded with a high-quality amenity through the provision of noise mitigation measures.
- As this application received six objections, it is to be determined by the Planning Committee.
- More details can be found at [22/00463/FULL | Erection of 8 semi-detached houses and associated works | Land West Of 404-494 And North Of Riverside Drive Dundee](#)

RECOMMENDATION

The proposal fails to fully comply with the Development Plan. However, there are material considerations of sufficient weight to justify approval of planning permission. It is therefore recommended that planning permission be APPROVED subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission is sought for the erection of eight houses, comprising semi-detached dwellings with garden ground and associated access.
- 1.2 Within the western part of the site, four houses are proposed. The houses are three storeys in height with two bedrooms and study on the ground floor, lounge and kitchen on the first floor and two further bedrooms on the second floor.
- 1.3 Within the eastern part of the site, a further four semi-detached houses are proposed. These houses are four storeys in height, with two bedrooms and a study on the ground floor, a kitchen and lounge on the first floor, two bedrooms on the second floor and a gallery room on the third floor.
- 1.4 External finishes include brick, off white render and feature glazing in keeping with a residential development to the east of the site. Each house is served by garden ground to the side and a car parking space.
- 1.5 An access road is proposed along the site boundary to the north of the houses, which would lead into the neighbouring residential development and thereafter Riverside Drive. It is proposed to define the site's south boundary with a wall, which is to feature an acoustic barrier above. At the west of the site, an area of landscaping is to be retained and enhanced.
- 1.6 The applicant has submitted the following in support of the application:
 - Planning Statement
 - Noise Impact Assessment
 - Phase 1 Risk Assessment

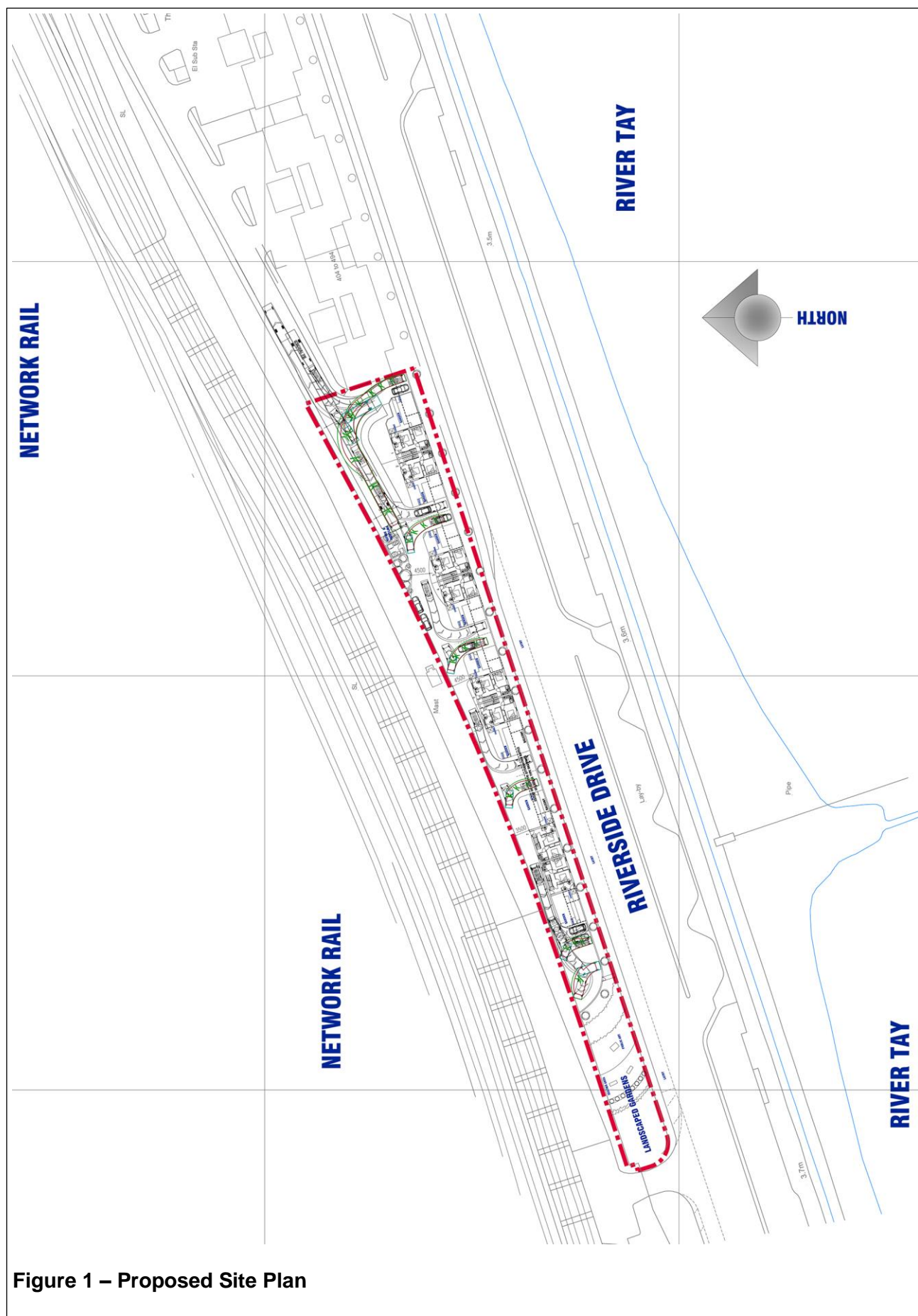


Figure 1 – Proposed Site Plan



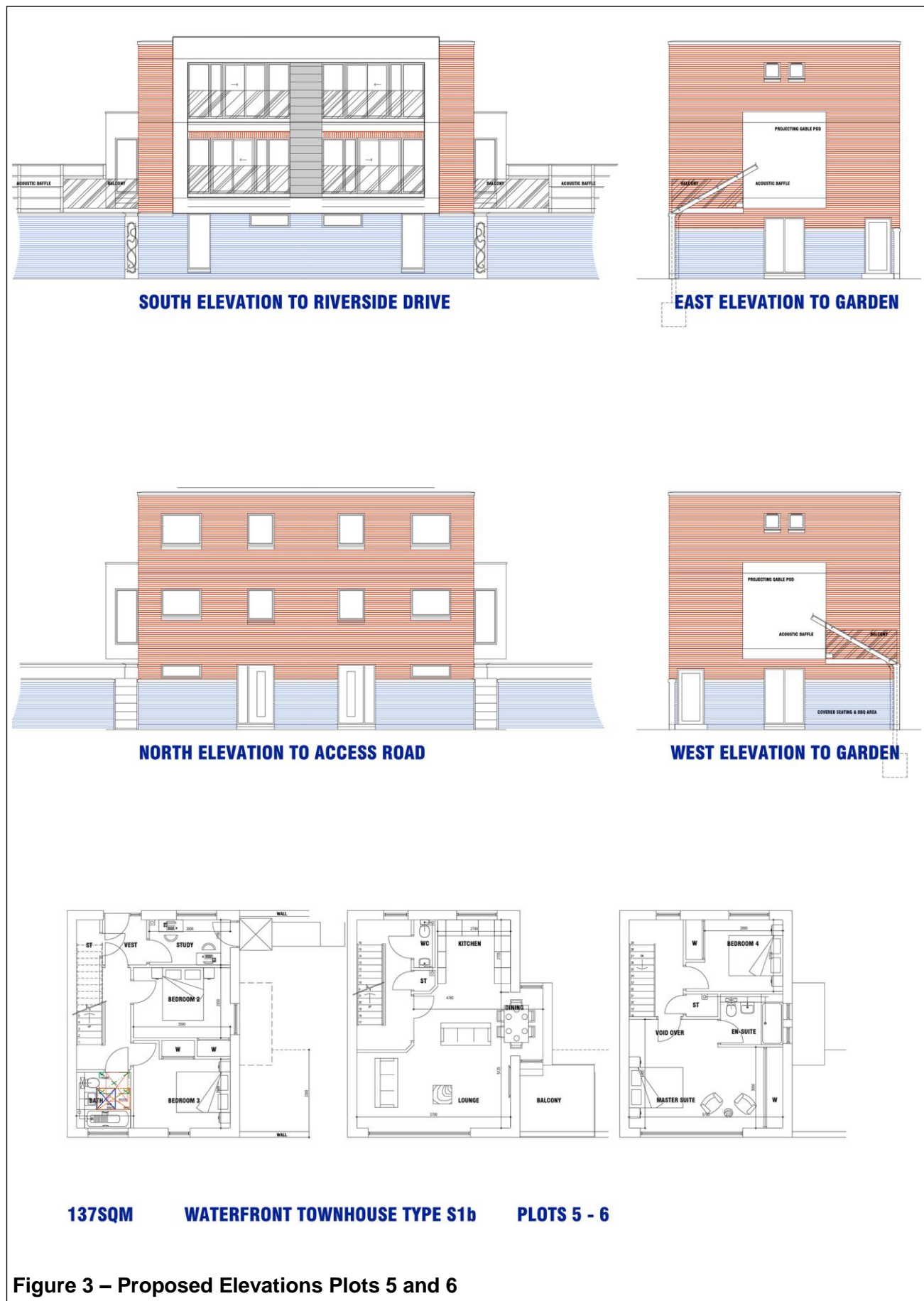


Figure 3 – Proposed Elevations Plots 5 and 6

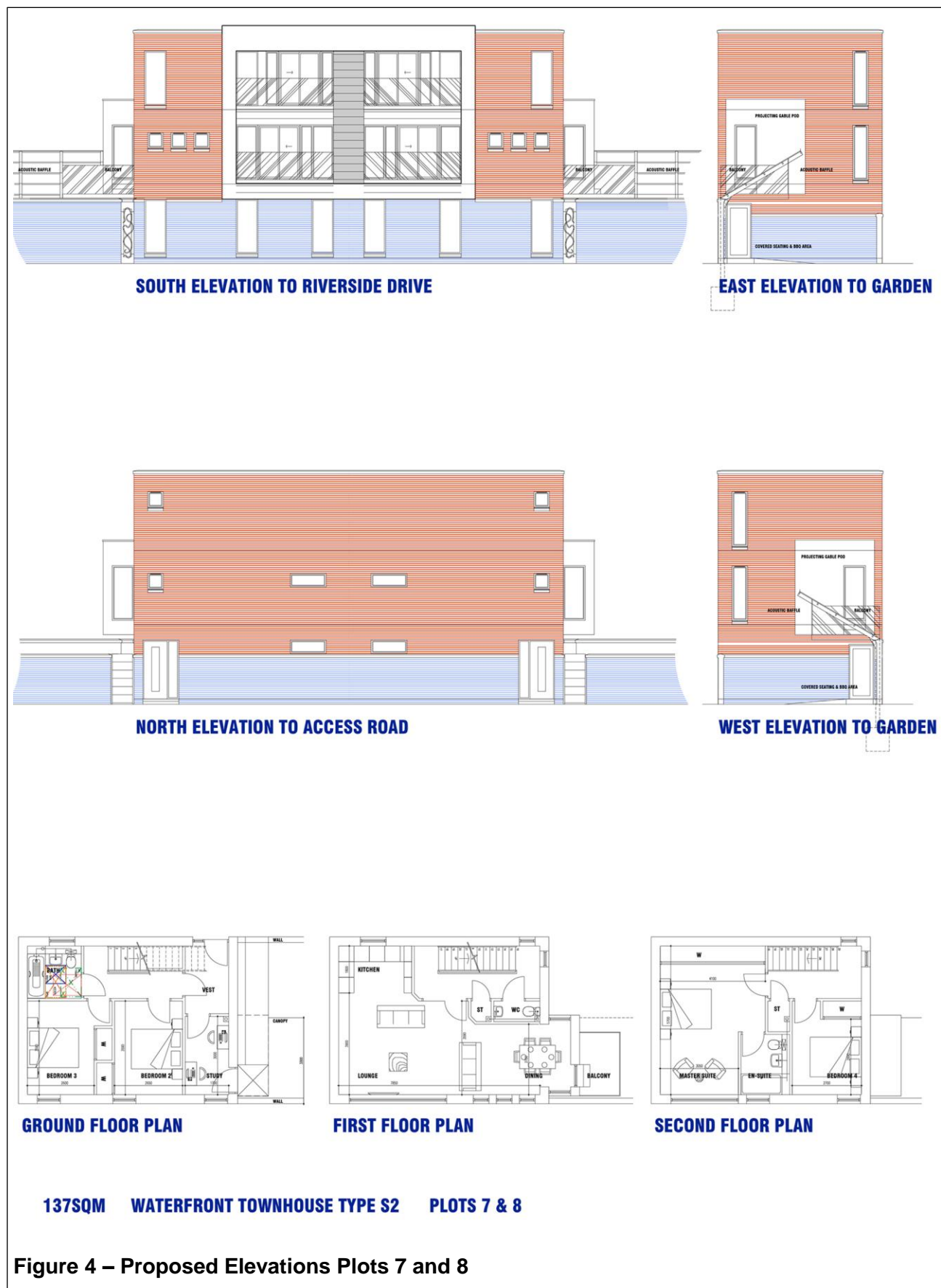




Figure 5 – Image of Proposed Houses

2 SITE DESCRIPTION

- 2.1 The application site relates to an area of land to the north of Riverside Drive, and south of the approach to the Tay Rail Bridge. The site is narrow in form and presently contains areas of lawn and trees with a footpath through the centre. The site measures 200 metres long and between 29 metres and 11 metres wide. The land was historically railway yards.
- 2.2 To the east of the site is a development of flats with a supermarket beyond, and to the west is Tay Rail Bridge. To the north of the site is the Dundee to Perth and Dundee to Edinburgh railway lines with residential developments beyond on Roseangle. To the south is Riverside Drive with River Tay beyond.



Figure 6: View of Site From Riverside Drive



Figure 7: View of Site From Riverside Drive

3 POLICY BACKGROUND

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

NATIONAL PLANNING FRAMEWORK 4

Policy 1: Tackling the Climate and Nature Crises
Policy 2: Climate Mitigation and Adaptation
Policy 3: Biodiversity
Policy 9: Brownfield, Vacant and Derelict Land
Policy 12: Zero Waste
Policy 13: Sustainable Transport
Policy 14: Design, Quality and Place
Policy 15: Local Living and 20 Minute Neighbourhoods
Policy 16: Quality Homes
Policy 19: Heating and cooling
Policy 22: Flood Risk and Water Management
Policy 23: Health and Safety

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking
Policy 2: Public Art Contribution
Policy 9: Housing Land Release
Policy 10: Design of New Housing
Policy 30: Green Infrastructure Maintenance
Policy 37: Sustainable Drainage Systems
Policy 39: Environmental Protection
Policy 41: Land Contamination
Policy 44: Waste Management Requirements for Development
Policy 48: Low and Zero Carbon Technology in New Development
Policy 54: Safe and Sustainable Transport
Policy 56: Parking

- 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 Planning application 05/00770/FUL for the erection of 202 apartments and provision of 239 car parking spaces was approved in June 2007. As development has commenced on the flatted development, this planning permission is extant.
- 4.2 Planning application 16/00628/FULL for the construction of a temporary access to construction site and environmental improvements was approved in October 2016.
- 4.3 Planning application 21/00221/FULL for the erection of 8 semi-detached townhouses and associated works was withdrawn in August 2021.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken.

- 5.2 Six letters of objection were received, raising the following concerns:
- a the site is within proximity to noise sources including Riverside Drive and railway lines. The provision of noise mitigation measures such as mechanical ventilation is not appropriate for a residential development. The proposed houses are of a siting and design which would fail to ensure residents would be provided with an acceptable level of residential amenity.
 - b due to the proximity of the railway to the north, views will be afforded from passing trains to the detriment of privacy. The erection of eight houses within this narrow site is considered overdevelopment.
 - c the proposed houses are contrary to the requirements of the Development Plan with regard to siting, would not address any existing demand for housing in this location and would result in the loss of public open space.
 - d there is existing planning permission for a flatted development. The applicant's justification for the proposed change from a flatted development to the proposed townhouses due to changing market conditions and economic factors is not accepted.
- 5.3 One neutral representation was received. The representation did not raise concern with the principle of houses in this location but noted the development would result in the loss of trees and landscaping. It was also considered the proposed houses would be cramped due to the site's location between Riverside Drive and railway line.
- 5.4 One letter of support was received, which considered the proposed houses would be a positive addition to the Waterfront Apartments site. It was also raised that works to complete roads and renew planting within the Waterfront Apartments development be progressed.
- 5.5 The matters raised in representations are considered within the main body of this report.

6 CONSULTATIONS

- 6.1 The following consultee comments were received:
- a Highlands and Island Airports Limited – the proposed development would not infringe the safeguarding criteria for Dundee Airport. Therefore, there is no objection to the proposed development. However, as the site is within the vicinity of the take-off and approach to Dundee Airport, the use of lifting equipment/cranes during construction will require to be safeguarded by HIAL.
 - b Network Rail – has no objection to the proposed development, subject to recommended conditions requiring full details of landscaping and boundary treatments being agreed; and a noise impact assessment being provided that demonstrates the development would not be subject to noise nuisance from the railway. Advisory notes are also recommended in relation drainage and construction matters.
 - c Scottish Water - has no objection to the proposed development.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended 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 National Planning Framework 4 relevant to the determination of this application are specified in the Policy Background section above.

Principle of Development

- 7.2 The site does not have any land use allocation within the Dundee LDP. It currently forms an area of landscaped open space. The eastern part of the application site benefits from planning permission for residential development.
- 7.3 **NPF Policy 9a: Brownfield, vacant and derelict land and empty buildings** - states development proposals that will result in the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account. LDP Policy 9: Housing Land Release - states housing land release on brownfield sites, in addition to the allocations set out in Appendix 3, 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.
- 7.4 The site is presently landscaped ground between the Tay Rail Bridge and Riverside Drive and was formerly occupied by railway yards. It is therefore brownfield land. The site adjoins an area of land which is being developed for housing. The redevelopment of the site for housing would provide a positive use for the land. The site has become partially overgrown and does not hold significant biodiversity value due to its enclosure by built development, Riverside Drive and railway lines. The proposal includes an area of landscaped amenity space which would contribute to the amenity of the site and provide biodiversity enhancement.
- 7.5 The proposed houses relate to the development of flats immediately to the east. The addition of eight town houses of a similar design to the flatted development will ensure the proposal complements the existing development and is of an appropriate scale and design. The applicant has submitted a statement providing financial and commercial justification for the proposal to develop houses on the site rather than flats, noting market conditions and demand. The development of houses would contribute to the mix of residential property available within the City.
- 7.6 **The proposal complies with NPF4 Policy 9a and LDP Policy 9.**
- 7.1 **NPF4 Policy 16e: Quality Homes** - states that development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where:
- i a higher contribution is justified by evidence of need, or

- ii a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes.

The contribution is to be provided in accordance with local policy or guidance.

- 7.2 The Dundee Local Development Plan 2019 Developer Contributions Supplementary Guidance was prepared and adopted in parallel to the LDP. It is a statutory document adopted in parallel to the LDP. It offers guidance to landowners and developers about the likely level and nature of developer contributions that may be required.
- 7.3 There is no requirement within the Dundee Local Development Plan 2019 or Developer Contributions Supplementary Guidance for housing developments in Dundee to make provision for affordable homes. The approach to the provision of affordable housing in Dundee is through the Council working in partnership with Registered Social Landlords and the Scottish Government to deliver affordable housing through the allocation of grant funding (the Affordable Housing Supply Programme). The approach has enabled the delivery of affordable housing in the city.
- 7.4 As there is no requirement in the Dundee Local Development Plan 2019 or the Supplementary Guidance for housing developments to provide or contribute towards the provision of affordable homes it is not necessary in this case to require this development to include any element of affordable homes or contribute towards provision.
- 7.5 **The proposal is in accordance with Policy 16e of NPF4.**
- 7.7 **NPF4 Policy 16f: Quality homes** - sets out that development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:
- i the proposal is supported by an agreed timescale for build-out; and
 - ii the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;
 - iii and either:
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or
 - the proposal is consistent with policy on rural homes; or
 - the proposal is for smaller scale opportunities within an existing settlement boundary; or
 - the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.
- 7.8 The proposal is for a development of eight houses within a site which is not allocated for housing.

- 7.9 The applicant proposes development of the site between 2025 and 2028. This timescale for build out seems reasonable for a development of this scale. Accordingly, the development would meet criteria i.
- 7.10 The proposal would see the redevelopment of a brownfield site in a location which has access to shops, services and public transport connections via existing footpaths. The proposal would therefore support local living and 20-minute neighbourhoods. The principle of development is therefore broadly consistent with the Local Development Plan Strategy 2019-2029 and would meet criteria ii.
- 7.11 With regard to criteria iii, the proposal comprises a total of eight houses which are associated with a flatted development at Riverside Drive. The addition of eight houses within the site of the flatted development, where three blocks are presently constructed and a fourth is to be progressed, would not result in any significant addition of residents or footfall in the area. The proposal for eight townhouses is a smaller scale development opportunity within an existing settlement boundary. The proposal meets sub-criteria ii.
- 7.12 **The proposal complies with NPF4 Policy 16f.**
- 7.13 **NPF 4 Policy 15a: Local living and 20-minute neighbourhoods** - states that development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods. To establish this, consideration will be given to existing settlement pattern, and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to:
- sustainable modes of transport including local public transport and safe, high quality walking, wheeling and cycling networks;
 - employment;
 - shopping;
 - health and social care facilities;
 - childcare, schools and lifelong learning opportunities;
 - playgrounds and informal play opportunities, parks, green streets and spaces, community gardens, opportunities for food growth and allotments, sport and recreation facilities;
 - publicly accessible toilets; and
 - affordable and accessible housing options, ability to age in place and housing diversity.
- 7.14 The proposed development is in an accessible location within walking distance of a range of shops, services and amenities on Perth Road and within the city centre. There is also a supermarket to the east of the site.
- 7.15 The site is connected by public footpaths to open spaces such as Magdalen Green and Riverside Park for play, sports and recreation purposes. Furthermore, the site is 35 metres from Dundee Green Circular which runs along the south side of Riverside Drive.
- 7.16 Overall, the proposed development is well connected to surrounding facilities and services by existing footpaths and roads. Residents of the proposed development would have access to range of shops, services and amenities, supporting local living.

7.17 **The proposal complies with NPF4 Policy 15a.**

Design

- 7.18 **NPF Policy 14b: Design, quality and place** - states development proposals will be supported where they are consistent with the 6 qualities of successful places: Healthy, Pleasant, Connected, Distinctive, Sustainable and Adaptable.
- 7.19 **LDP Policy 1: High Quality Design and Placemaking** - states all development proposals should follow a design-led approach to sustainable, high quality placemaking. Development should contribute positively to the quality of the surrounding built and natural environment and should be planned and designed with reference to climate change mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, create a sense of community and identity, enhance connectivity and incorporate creative approaches to urban design, landscaping and green infrastructure, appropriate to the local context and the scale and nature of the development. New development will be required to meet the six qualities of successful place in accordance with the guidance provided in Appendix 1.
- 7.20 The proposal comprises the erection of eight townhouses. The dwellings would be contained within four buildings, each of which are to contain two semi-detached houses.
- 7.21 Four town houses within the east of the site at plots 1-4 are four stories high, and four town houses within the west of the site at plots 5-8 are three stories high. To the side of each dwelling, private garden ground and car parking is proposed.
- 7.22 The main access road into the site will be to the north of the proposed houses, linking the development to Riverside Drive via the existing flatted development to the east. The proposed site boundary comprises stone walls to reflect existing boundaries walls to the east, with acoustic baffles above. To the west of the proposed houses an enhanced area of public open space is to be formed.
- 7.23 The proposed houses reflect the general finishes and appearance of the flatted dwellings to the east, with brick to external walls and large windows towards the south (principal) elevation. The surrounding area contains residential developments to the east on Riverside Drive and to the north towards Magdalen Green and Roseangle. The site is bound to the south Riverside Drive with River Tay beyond, and to the north-west by the railway lines.
- 7.24 The proposal includes house types which would integrate with the character of the associated residential development. The existing brownfield site, which was formerly a rail yard, is presently an area of open space. However, the open space it is not of a high quality with areas in an unkempt condition. The proximity of Riverside Drive and railway lines results in the site being of no significant biodiversity value.
- 7.25 Planning permission was approved for a six storey flatted development within the application site, with open space to the west. The current proposal is for eight townhouses, with open space to the site's west boundary. The proposed elevation drawings demonstrate that the mix and design of the proposed house types would contribute positively to the residential character of the area. The proposed houses would be finished in a mixture of brick, render and glazing in keeping with the flats to the east. The finishing of the properties would be a simple and coherent palette of high-quality materials throughout the development proposal. The proposed building height, materials, scale, massing and finishes would complement the surrounding residential development and contribute positively to the local streetscape.

- 7.26 The proposal would bring the site into active use in a manner that would contribute to the visual amenity of the area. The proposed development would not appear out of character with the surrounding building sizes, designs and materials. The development would therefore not diminish the character or appearance of the surrounding area. The design of the proposed dwellings is considered to be acceptable.
- 7.27 Within the proposed development appropriate spaces are provided for vehicle parking, private amenity space and waste storage. An area of public open space is to be provided within the west of the site, with landscaping and a footpath. The overall design and layout of the proposed development would contribute positively to the character of the wider area and would provide a safe and attractive housing development which is well connected to the surrounding area.
- 7.28 In this case, site topography, neighbouring development and skylines are respected in the proposed design, and there is appropriate access onto public roads. The site is connected to surrounding streets and footpaths and there are active travel links to the site. The proposed scale, massing and finish would be in keeping with residential development in the surrounding area. The proposal demonstrates compliance with the six qualities of successful place in accordance with Appendix 1.
- 7.29 **The proposal complies with NPF 4 Policy 14b and LDP Policy 1.**
- 7.30 **LDP Policy 10: Design of New Housing** - requires new housing to be of a high quality and contribute to creating places that enhance the character and identity of different parts of the city. All new housing developments are required to conform to the guidance on the Design of New Housing set out in Appendix 4. The following standards from Appendix 4 (Inner City Standards) of the Local Development Plan are required for houses.
- 7.31 **House type** – all houses to have a minimum of 2 bedrooms. In addition, 65% to have 3 or more bedrooms or a minimum gross internal floor area of living accommodation of 100 sqm.
- 7.32 **Response** - all houses will have 4 bedrooms.
- 7.33 **Car parking** - all car parking should be located within the curtilage of each house. All tenures should have at least one space. In addition, 40% of private houses should have two spaces.
- 7.34 **Response** - all of the houses would be served by two in-curtilage parking spaces.
- 7.35 **Cycle provision** - one secure, covered space per house must be provided unless a suitable garage or other secure area is provided within the curtilage of the house.
- 7.36 **Response** - the applicant proposes an external cycle store within each garden. Full details can be secured by condition.
- 7.37 **Amenity/garden ground** - a minimum private useable garden ground of 50 sqm should be provided for all houses. In addition, 30% should have garden ground of more than 75 sqm.
- 7.38 **Response** - each dwelling would be served by a minimum of 50 sqm of garden ground and 30% provide more than 75sqm.
- 7.39 **Privacy** - a minimum of 18 metres between the facing windows of habitable rooms will be provided. Living room windows and balconies should not unacceptably overlook private gardens of houses.

- 7.40 **Response** - a minimum of 18 metres separation between windows would be achieved. The dwellings include external decks towards the side elevations, affording views towards the River Tay. The proposal would not introduce any overlooking of existing garden ground. However, there would be views afforded towards garden ground at neighbouring properties between plots 2-7. The level of overlooking is not significant, with views restricted by proposed garden boundary treatments and acoustic screening to the side of each balcony.
- 7.41 **General** - provision for waste and recycling should be provided in accordance with the Council's waste management strategy. Parking areas should include provision for electric car charging points.
- 7.42 **Response** - there is space within each site for bin storage, and electric vehicle charging points can be provided within proximity to the parking spaces.
- 7.43 **The proposal complies with LDP Policy 10, including Appendix 4.**
- 7.44 **LDP Policy 2: Public Art Contribution** - states all developments in Dundee with construction costs of £1 million or over will be required to allocate at least 1% of construction costs for the inclusion of art projects in a publicly accessible/visible place or places within the development.
- 7.45 The proposals will require to provide public art as part of the development. The applicant has provided initial proposals with public art to be located within open space to the west of the proposed houses. Full details of the public art provision can be secured by condition.
- 7.46 **The proposal complies with LDP Policy 2, subject to a condition.**
- 7.47 **LDP Policy 30: Green Infrastructure Maintenance** - states the Council will apply planning conditions or Section 75 obligations to planning permissions to make suitable provision for the long-term maintenance of green infrastructure (including open space and landscaping associated with Sustainable Drainage Systems) in new housing developments, based on the following options:
- 1 green infrastructure will be adopted by the Council, subject to appropriate agreements with the developer over the landscaping scheme and annual maintenance, including payment of a commuted sum to cover annual maintenance costs; or
 - 2 a developer may lay out the green infrastructure, transfer the land to a suitable third party, and either i) pay a commuted sum to cover maintenance costs; or ii) hand over the maintenance costs to residents of the new development.
- 7.48 This latter option should be clearly set out in the sale agreement, so residents agree to effectively share the cost of maintaining green infrastructure on an annual basis.
- 7.49 Surface water from the proposed development would be conveyed to drainage infrastructure within the site, before being conveyed to existing drainage infrastructure within the residential development to the east. The provision of full details of the proposed drainage system serving the proposed houses, and its long-term maintenance are to be controlled by condition.
- 7.50 Other areas within the site including landscaping and open spaces would be privately maintained by a factor. To secure this, it is recommended that a condition is attached should the Committee approve the application.
- 7.51 **The proposal complies with LDP Policy 30, subject to a condition.**

Noise

- 7.52 **NPF4 Policy 23e: Health and Safety** - states development proposals that are likely to raise unacceptable noise issues will not be supported. The agent of change principle applies to noise sensitive development. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.
- 7.53 **LDP Policy 39: Environmental Protection** - states all new development or an extension to an existing development that would generate noise, vibration, odour, emissions to air, dust or light pollution will be required to demonstrate that it can be accommodated without an unsatisfactory level of disturbance on the surrounding area. New development or an extension to an existing development in close proximity to existing sources of noise, vibration, odour, emissions to air, dust or light pollution will need to demonstrate that it can achieve a satisfactory level of amenity without impacting on viability of existing businesses or uses.
- 7.54 The site is contained within an area of land which is bound by Riverside Drive to the south and railway lines to the north. Road and rail traffic will generate noise which could impact upon residential amenity within the proposed dwellings and associated garden ground.
- 7.55 The applicant has submitted a Noise Impact Assessment (NIA). The NIA considers noise sources from the surrounding area including road and rail traffic.
- 7.56 To achieve target noise levels within the proposed dwellings and associated garden ground, the submitted NIA identifies a requirement for mitigation measures to be provided. These measures include incorporation of suitable glazing and mechanical ventilation within the proposed houses and erecting acoustic screening to the site's southern boundary. The applicant has confirmed the required noise mitigation measures can be implemented and has provided initial details of acoustic screening.
- 7.57 A planning condition is recommended to secure the implementation of noise mitigation measures and ensure residents of the development would be afforded an acceptable level of amenity.
- 7.58 **The proposal complies with NPF4 Policy 23e and LDP Policy 39, subject to a condition.**

Climate Change

- 7.59 **NPF4 Policy 1: Tackling the climate and nature crises** - states when considering all development proposals significant weight will be given to the global climate and nature crises. **NPF4 Policy 2: Climate mitigation and adaptation** states development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and will be sited and designed to adapt to current and future risks from climate change
- 7.60 **LDP Policy 48: Low and Zero Carbon Technology in New Development** and the associated Supplementary Guidance require proposals for all new buildings to demonstrate that a proportion of the carbon emissions reduction standard set by Scottish Building Standards will be met through the installation and operation of low and zero carbon generating technologies. The relevant Building Standards and percentage contribution required is set out in supplementary guidance. A statement will be required to be submitted with an application for planning permission to demonstrate compliance with this requirement
- 7.61 The Planning Statement submitted as part of the application explains that the building will be constructed from modern materials and will include insulation and sustainability measures as required by current Building Standards. It is highlighted the dwellings are south facing and will therefore benefit from solar gain, and solar panels could be installed. However, an energy strategy for the proposed houses has not been confirmed at this stage. The provision of a detailed energy statement can be controlled by condition.

- 7.62 The proposed houses can accommodate low carbon technologies and would have no significant impact on the global climate and nature crises. The development would satisfy the policy requirements.
- 7.63 **The proposal complies with NPF Policies 1, 2 and LDP Policy 48, subject to a condition.**
- 7.64 **NPF4 Policy 19f: Heat and Cooling** - states that development proposals for buildings that will be occupied by people will be supported where they are designed to promote sustainable temperature management, for example by prioritising natural or passive solutions such as siting, orientation, and materials.
- 7.65 The site layout ensures all dwellings have a south facing principal elevation which maximises solar gain. Furthermore, all dwellings will require to comply with current building regulations, demonstrating low CO2 emissions and high energy efficiency.
- 7.66 **The proposal is in accordance with NPF4 Policy 19f.**
- 7.67 **NPF Policy 12 a: Zero Waste** - states development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy. **LDP Policy 12c: Zero Waste** - states development proposals that are likely to generate waste when operational, including residential, commercial, and industrial properties, will set out how much waste the proposal is expected to generate and how it will be managed. **LDP Policy 44: Waste Management Requirements for Development** - states development proposals should demonstrate that they adequately address the Scottish Government's Zero Waste Policy and that sufficient provisions are made to maximise opportunities for waste reduction and waste separation at source and enable the separate collection of recyclable material as outlined in the Waste (Scotland) Regulations 2012.
- 7.68 The development has been designed to allow for safe access by refuse, emergency and delivery vehicles. Each dwelling will be served by a shared bin storage area within the north-east of the site, accessed from the adjacent road and path. The proposed bin store is of a size and form that can accommodate bins as required by Dundee City Council's waste strategy and would support waste separation, recycling and reduction in line with the waste hierarchy.
- 7.69 **The proposal complies with NPF4 Policy 12a and 12c and LDP Policy 44.**

Biodiversity and Protected Species

- 7.70 **NPF4 Policy 3a: Biodiversity** - states that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. Furthermore, part (c) sets out that proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.
- 7.71 The site, which formerly contained railway yards, is currently an area of open space with lawn, footpath and trees. Trees within the site contribute to the visual amenity of the greenspace. However, the areas of lawn and footpath are unkempt. The site is bound by built development to all sides with limited connectivity to habitats in the surrounding area. Therefore, it does not have a high biodiversity value at present.
- 7.72 The proposals include retention and enhancement of a proportion of the existing greenspace within the west of the site. Furthermore, there is scope for the proposed development to include provision of soft planting and measures such as bird boxes to provide biodiversity gain.

It is considered that the application could suitably address the expectations of Policy 3 through a condition to secure further detail on biodiversity improvements.

7.73 The proposal complies with NPF 4 Policies 3, subject to a condition.

Sustainable Transport and Parking

7.74 NPF4 Policy 13 b: Sustainable Transport - states development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- i provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation;
- ii will be accessible by public transport, ideally supporting the use of existing services;
- iii integrate transport modes;
- iv provide low or zero-emission vehicle and cycle charging points in safe and convenient locations, in alignment with building standards;
- v supply safe, secure and convenient cycle parking to meet the needs of users and which is more conveniently located than car parking;
- vi are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles;
- vii have taken into account, at the earliest stage of design, the transport needs of diverse groups including users with protected characteristics to ensure the safety, ease and needs of all users; and
- viii adequately mitigate any impact on local public access routes.

7.75 Criterion i – the development proposal includes direct connections to existing footpaths and streets which would provide safe and convenient access to local facilities, including connections to the city centre and surrounding area. Dundee Green Circular is located adjacent to the site on Riverside Drive and residents would have access to secure bicycle storage.

7.76 Criteria ii and iii – there are bus stops on Perth Road which are served by frequent bus services. However, these bus stops are 750 metres from the site, failing to fully comply with criteria ii. There are closer bus stops, including those on Magdalen Yard Road. However, these are not served by buses at present. With regard to criterion iii. this is related to larger scale development, and it would not be expected that this scale of development delivers integration of transport modes.

7.77 Criteria iv – the proposed development would include in-curtilage parking provision at each house, where electric vehicle charging infrastructure can be provided as required by building standards. The houses will include cycle storage and are served by connections to the surrounding footpath and active travel network including Dundee Green Circular which runs along Riverside Drive 30 metres to the south of the site.

7.78 Criterion v – cycle storage provision will be provided at each dwelling in line with the requirements of the Dundee Local Plan. This can be secured by condition.

- 7.79 **Criterion vi** – the proposal would utilise existing footpaths within the residential development to the east, with direct access on surrounding streets including Riverside Drive and Seabraes Footbridge. The proposed development demonstrates existing footpaths and road crossing will provide safe and adequate provision for walking, cycling and road vehicles including delivery and refuse vehicles. No alterations are proposed to surrounding public roads.
- 7.80 **Criterion vii** – Pedestrian access locations are towards the east of the site into the existing flatted development, with connections onto Riverside Drive and Seabraes. The access would be level in nature ensuring the development is accessible to all users/residents.
- 7.81 **Criterion viii** – the proposals include direct pedestrian access onto surrounding public footpaths. The proposed vehicle accesses will utilise the existing access road into the site. The development would have no impact on public access routes or road capacity.
- 7.82 **LDP Policy 54: Safe and Sustainable Transport** - sets out similar criteria to NPF4 Policy 13. Due to the distance from a public transport network the proposal does not fully comply with Criterion 3 of LDP Policy 54.
- 7.83 **The proposal does not fully comply with NPF4 Policy 13bii) or LDP Policy 54 3) as the site is not served by public transport nor is it located within 400m of a public transport network.**
- 7.84 **LDP Policy 56: Parking** - sets out that all new developments shall be required to comply with Dundee City Council's adopted guidance on road standards; with the national maximum parking standards; and the national minimum disabled parking standards. Residential developments should include infrastructure to provide electric car charging points and cycle parking.
- 7.85 The application site is deemed accessible in terms of both active and sustainable travel. It is located within the inner-city area and is well served in terms of pedestrian and cycle connections. There are public transport connections including bus stops served by regular services within a 20 minute walk of the site.
- 7.86 A total of 18 car parking spaces would be provided - two spaces per dwelling and two visitor spaces. The parking spaces at each dwelling can be equipped with an EV charging point, and secure and covered cycle storage for bikes is to be located within private garden ground. The provision of full details of the proposed cycle storage provision and its implementation prior to occupation can be controlled by condition.
- 7.87 **The proposal complies with LDP Policy 56, subject to a condition.**

Drainage

- 7.88 **NPF Policy 22c: Flood Risk and Water Management** - states development proposals will:
- i not increase the risk of surface water flooding to others, or itself be at risk;
 - ii manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; and
 - iii seek to minimise the area of impermeable surface.

- 7.89 **LDP Policy 37: Sustainable Drainage Systems** - states surface water discharging to the water environment from new development must be treated by a Sustainable Drainage System (SuDS) except for single houses or where discharge is to coastal waters. SuDS should be designed so that the water level during a 1:200 year rainstorm event plus allowances for climate change and future urban expansion is at least 600mm below finished floor levels. This incorporates an allowance for the effect of climate change. In addition, proposals will be encouraged to adopt an ecological approach to surface water management, ensure an appropriate level of treatment and exploit opportunities for the system to form an integral part of the Dundee Green Network through habitat creation or enhancement through measures such as the formulation of wetlands or ponds. Proposals should have no detrimental impact on the ecological quality of the water environment.
- 7.90 The applicant has submitted a proposed drainage plan with the application. Following the formation of flood defences along the River Tay, and provision of drainage infrastructure related to the existing flatted development, there is no significant flood risk at the site.
- 7.91 The submitted drainage plans propose surface water from roofs and parking areas be conveyed to underground storage within the site. It is then conveyed to a surface water sewer system which serves the existing flatted developments on Riverside Drive before out-falling to the River Tay at a controlled rate. The proposal to provide on-site water storage which then utilises existing surface water infrastructure is acceptable in principle, subject to full details being confirmed. The provision of detailed drainage proposals can be controlled by condition. Subject to the provision of on-site drainage infrastructure as proposed, the development would not increase flood risk.
- 7.92 **The proposal complies with NPF 4 Policy 20b and LDP Policy 37, subject to conditions.**

Contaminated Land

- 7.93 **NPF4 Policy 9c: Brownfield, Vacant and Derelict Land and Empty Buildings** - states where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use. **LDP Policy 41: Land Contamination** - states development of potentially contaminated or statutorily identified contaminated land will be considered where:
- 1 a site investigation is submitted establishing the nature and extent of contamination; and
 - 2 the Council is satisfied that remediation measures proposed for the development, adequately address contamination risks to all receptors, such that the land demonstrably does not meet the statutory definition of contaminated land and is suitable for the planned use.
- 7.94 A Stage 1 Geotechnical Investigation has been submitted as part of the application. The Investigation concludes there is a reasonable possibility of contamination within the site and recommends intrusive investigations. There is also a requirement for basic radon protection measures to be implemented as part of the proposed developments.
- 7.95 Planning conditions are recommended in relation to the completion of an intrusive investigation and provision of a remediation strategy to ensure any contamination within the site is addressed prior to any construction works.
- 7.96 Through the implementation of any recommended remediation measures identified within the intrusive investigation, and provision of radon protection measures such as a membrane, the proposed houses would ensure any contamination risks are addressed.

- 7.97 **The proposal is in accordance with NPF4 Policy 9c and LDP Policy 41, subject to conditions.**
- 7.98 **It is concluded that the proposal is not fully in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

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

A – LETTERS OF REPRESENTATION

Letters of Objection

- 7.100 Six letters of objection were received raising the following valid material grounds:
- 7.101 **Objection** - the site is within close proximity to noise sources including Riverside Drive and railway lines. The provision of noise mitigation measures such as mechanical ventilation is not appropriate for a residential development. The proposed houses are of a siting and design which would fail to ensure residents would be provided with an acceptable level of residential amenity.
- 7.102 **Response** – the applicant has submitted a noise impact assessment with the planning application. This demonstrates that through the provision of noise mitigation measures, target internal and external noise levels would be met and residents would be provided with an acceptable standard of residential amenity. The provision of the required noise mitigation measures, including acoustic screening and mechanical ventilation, can be controlled by condition. The site layout responds to the narrow form of the site in a manner which ensures all proposed houses meet the minimum requirements of the Development Plan with regard to matters including bedroom numbers, parking and garden ground provision. Overall, subject to noise mitigation measures residents would be afforded an acceptable level of amenity.
- 7.103 **Objection** - due to the proximity of the railway to the north, views will be afforded from passing trains to the detriment of privacy, and the erection of eight houses within this narrow site is considered overdevelopment.
- 7.104 **Response** - the proposed houses will include windows of habitable rooms on the north elevation towards the Dundee – Edinburgh railway line. The proximity of the windows to the nearest railway line varies between 16 metres at the westmost dwelling to 26 metres at the east most dwelling due to the curved nature of the site's north boundary. Whilst views towards the houses would be afforded from the railway these would be limited in nature and would not result in any significant impact on privacy within habitable rooms of the houses.
- 7.105 **Objection** - the proposed houses are contrary to the requirements of the Development Plan with regard to siting, would not address any existing demand for housing in this location and would result in the loss of public open space.
- 7.106 **Response** – The proposal relates to a brownfield site which benefits from planning permission for a flatted residential development. The site does currently contain an area of open space, but it is of no significant visual or biodiversity value. The previously approved development included the retention of an area of public open space 130 metres long. The proposed development would reduce this to an area 45 metres in length. However, the development would ensure a maintained area of accessible open space and planting are provided within this section of Riverside Drive. The loss of part of the existing open space would have no significant impact on the surrounding area with several open spaces within walking distance,

including Magdalen Green and public parks on Riverside Drive to the west of the Tay Rail Bridge.

- 7.107 Objection - There is existing planning permission for a flatted development. The applicants provided justification for the proposed change from a flatted development to the proposed townhouses being in relation to changing market conditions and economic factors are not accepted.
- 7.108 Response: The applicant has submitted a supporting statement which provides justification for the change from a flatted development to townhouses within the site. The statement highlights factors which have impacted the flatted development which is currently under construction, including increased funding costs and reduced demand for the flatted dwellings. The developer considers the proposed townhouses will meet a sector of the market experiencing stronger demand. Overall, the proposed change is considered necessary to ensure the viability of the Riverside Drive development.
- 7.109 The factors outlined in the supporting statement are acknowledged. Whilst matters related to funding are not a material planning consideration, the submitted proposals demonstrate a residential development of eight houses can be provided within the site. The proposed plans ensure elements including open space and planting will be provided and are of a design and character which integrates with the existing flatted development.

Neutral Representation

- 7.110 One neutral representation was received. The representation did not raise concern with the principle of houses in this location but notes the development would result in the loss of trees and landscaping. It also considered the proposed houses would be cramped due to the site's location between Riverside Drive and the railway line.
- 7.111 **Response:** as noted above, the proposal would reduce the area of open space on Riverside Drive. However, the site is brownfield land, and an area of accessible public open space is to be retained within the west of the site. Through the provision of new planting and measures to enhance biodiversity, the proposals would contribute to the local streetscape. The site is narrow in form. However, the submitted plans demonstrate a residential development can be provided which meets the housing design standards of the Local Development Plan.
- 7.112 The existing open space is unkempt and of no significant biodiversity value. The site retains an area of open space within the west of the development which will be enhanced.

Letter of Support

- 7.113 One letter of support was received, which considered the proposed houses would be a positive addition to the Waterfront Apartments site. It was also raised that works to complete roads and renew planting within the Waterfront Apartments development be progressed.
- 7.114 There are no matters raised in the representations which are considered to be of sufficient weight to justify the refusal of planning permission.

B – Justification for Development Plan Departure

- 7.115 The proposal does not fully comply with NPF4 Policy 13bii) or LDP Policy 54 3) as the site is not located within 400 metres walking distance of a public transport network. The site would adjoin an existing residential development which already generates vehicular movements through that use. The addition of eight houses would not result in any significant increase in footfall or transport demand compared to the existing situation.

- 7.116 While there is no immediately adjacent bus service at the site, there are very good bus services accessible on Perth Road. The site is approximately 750m from the nearest bus stops, which are connected to the site via existing footpaths. The location of the site adjacent to the Green Circular route provides good active travel connectivity by cycling/wheeling and walking. There are strong active travel linkages to the site. Cycle storage and vehicle charging facilities will support and encourage the use of sustainable transport.
- 7.117 Given the proposed houses would be associated within an established residential development, and the site has planning permission for further residential development, there would be no significant change in site circumstance or travel demand when compared to construction of the previously approved development. The site benefits from strong active travel linkages and measures to encourage active travel. A 350m shortfall in the distance to the nearest bus stop location would not be a reason to justify refusal of planning permission in these circumstances.
- 7.118 **It is concluded that there are material considerations of sufficient weight in this case to justify approval of planning permission.**

8 CONCLUSION

- 8.1 The application for eight houses does not fully in accordance with the Development Plan. There are material considerations of sufficient weight that justify approval of planning permission. Therefore, it is recommended that planning permission be granted subject to conditions.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be GRANTED subject to the following conditions:
- 1 **Condition** – the development hereby permitted shall be commenced within three years from the date of this permission.

Reason – to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.
 - 2 **Condition** – development shall not begin until the investigation and risk assessment proposed in the submitted Stage I Desk Study are completed and, if necessary; a remediation scheme to deal with any contamination at the site has been submitted to and approved in writing by the planning authority. The scheme shall contain proposals to deal with contamination to include:
 - 1 the nature, extent and type(s) of contamination on the site;
 - 2 measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
 - 3 demonstration of the durability and expected life-span of the remediation;
 - 4 measures to deal with contamination during construction works; and
 - 5 verification of the condition of the site on completion of decontamination measures.

Reason - in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

- 3 **Condition** – before any unit is occupied the remediation scheme shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation scheme have been achieved shall be submitted to and approved by the planning authority.

Reason – in order to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.

- 4 **Condition** – no development shall take place on site until such time as a scheme of landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include hard and soft landscaping works, boundary treatment(s), details of trees and other features which are to be retained, and a programme for the implementation/phasing of the landscaping in relation to the construction of the development. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail can provide details of planting recommendations for adjacent developments. All landscaping, including planting, seeding and hard landscaping shall be carried out only in full accordance with such approved details.

Reason - to support biodiversity, contribute to the appearance of the development and to control the impact of leaf fall on the operational railway.

- 5 **Condition** - the applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the Planning Authority for approval before development is commenced and the development shall be carried out only in full accordance with such approved details.

Reason - in the interests of public safety and the protection of Network Rail infrastructure.

- 6 **Condition** - prior to the occupation of any of the dwellings hereby approved, the noise mitigation measures in the Noise Impact Assessment "Report on Traffic, Railway and Commercial Sound for H&H Properties UK at Riverside Drive, Dundee, document 3868-36-R, prepared by Charlie Fleming Associates, dated 23rd September 2024" contained within Section 8.11 for the external garden areas, and in Table 10 of Section 10.1 for the minimum window glazing specifications requirements for habitable rooms on façades, shall be implemented in full. For avoidance of doubt, the townhouses will be provided with mechanical ventilation to remove the need for trickle ventilators, and the acoustic barrier for the private secured walled gardens for each of the eight houses shall comprise of the 2.5m high brickwork together with cantilevered steel cranked posts supporting split baffle canopy barriers 5.3m high relative to the road level with the gables of all barriers to be constructed in Cembrit panels on a supporting framework."

Reason - in the interest of providing residents with an acceptable level of residential amenity.

- 7 **Condition** – prior to the commencement of any construction works, details of a scheme of public art to be provided within the development hereby approved shall be submitted to the Council for written approval. This scheme shall include a programme for the

installation of the public art and the works shall be completed in accordance with the agreed programme.

Reason – in the interests of enhancing the visual amenity and environmental quality of the development.

- 8 **Condition** – an Energy Statement demonstrating the extent to which the new build elements of the development will meet the requirements of Policy 48 of the Dundee Local Development Plan shall be submitted for the approval of the planning authority and the works shall be completed in accordance with the approved Statement.

Reason - in the interests of reducing carbon emissions associated with the proposed development.

- 9 **Condition** – full details of the proposed external cycle storage provision, as illustrated on drawing 01B – Location Plan and Site Layout dated 07 November 2023, shall be submitted to the Council for written approval. Thereafter, the cycle storage provision approved by virtue of this condition shall be provided on site prior to first occupation of the associated dwellings.

Reason - in the interests of promoting sustainable transport.

- 10 **Condition** – prior to the commencement of any construction works, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, evidence of compliance with the Simple Index Approach as described in section 26.7.1 of the CIRIA SUDS Manual (C753), and where appropriate SEPA comments shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

Reason - in the interests of sustainable drainage provision and flood protection.

- 11 **Condition** – prior to the commencement of any construction works, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDS features shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.

Reason - in the interests of flood protection and visual amenity.

- 12 **Condition** – prior to the commencement of any work on site, maintenance responsibilities along with a maintenance schedule for all communal/shared areas shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.

Reason - to ensure that the proposed development has a satisfactory external appearance in the interests of the environmental quality and visual amenities of the area.

- 13 **Condition** – prior to the commencement of development, a scheme of features or measures to conserve, restore and enhance biodiversity, such as those set out in the NatureScot Developing with Nature guidance, shall be submitted to and agreed in writing by the Planning Authority. The approved details thereafter shall be implemented, retained and maintained for their designed purpose in accordance with the approved scheme.

Reason - to ensure that a satisfactory biodiversity enhancement scheme is proposed and implemented, mitigating the biodiversity impact that development has on the site.

Informatives

Boundary

Buildings should be situated at least 2 metres from Network Rail's boundary. The applicant must ensure that the construction and subsequent maintenance of proposed buildings can be carried out without adversely affecting the safety of, or encroaching upon, Network Rail's adjacent land.

Drainage

SUDS draining should be a minimum of 10 metres from Network Rail land and positive drainage falls should also lead away from Network Rail land.

Scaffolding

Any scaffolding which is to be constructed within 10 metres of Network Rail's boundary must be erected in such a manner that at no time will any poles over-sail the railway. Protective netting around such scaffold must be installed.

Vehicle Incursion Risk Assessment and Road Safety Audit

Network Rail request that a vehicle incursion risk assessment and road safety audit are undertaken as part of this development and appropriate vehicle mitigation design and installation is undertaken.

Construction

Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development. Any excavation, piling into track support zone will require track monitoring.

Details of any changes in ground levels, laying of foundations and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

HIAL

The location of the proposed site is in the vicinity of the take-off and approach to Dundee Airport and any use of lifting equipment, cranes, during construction is required to be safeguarded by this office. See Civil Aviation Publication CAP1096 for information.