

# Planning Development Management Committee

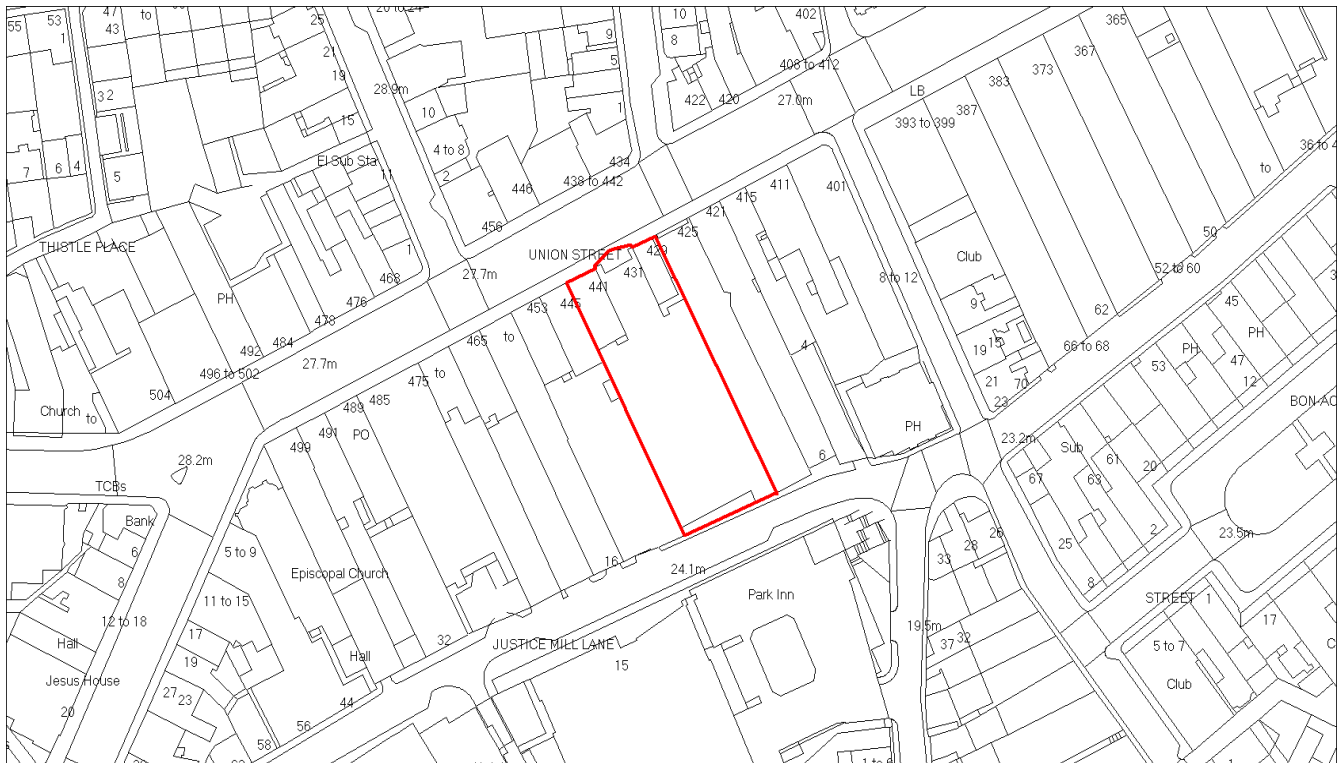
431 UNION STREET, ABERDEEN

CHANGE OF USE FROM BAR/NIGHTCLUB TO OFFICE SPACE AND ASSOCIATED CAR PARKING, INCLUDING ERECTION OF MULTI-STOREY DEVELOPMENT AND PARTIAL DEMOLITION OF EXISTING BUILDING

For: Knight Property Group/Prime Properties

Application Type : Detailed Planning Permission  
Application Ref. : P130615  
Application Date: 09/05/2013  
Officer: Lucy Greene  
Ward : Torry/Ferryhill (Y Allan/A Donnelly/J Kiddie/G Dickson)

Advert : Section 60/65 - Dev aff  
LB/CA  
Advertised on: 29/05/2013  
Committee Date: 26 September 2013  
Community Council : No comments



**RECOMMENDATION: Willingness to approve conditionally. Consent to be withheld until such time as a developer's contribution has been secured towards works to the local road network, core paths / public realm improvements in the area and Strategic Transport Fund.**

## **DESCRIPTION**

The application site (0.18 hectares) constitutes the vacant Category B listed building, constructed as (and formerly occupied by) the Capitol Cinema and latterly (until closure in 2009) by Jumpin Jaks/Chicago Rock Nightclub. The site is located at the western end of Union Street, on the south side, between the Chapel Street and Rose Street junctions. The building occupies the full depth of the block between Union Street and Justice Mill Lane between which there is a change of levels of approximately 3.5m. The art deco building dates from 1933 and consists of two main elements:

- (1) A granite built three storey frontage to Union Street with an ashlar granite art deco style façade surmounted by a simple pediment. The frontage incorporates two shop units (a property shop and a hot food takeaway) at ground level on either side of a bank of ornamental entrance doors and a projecting canopy. Internally, the original entrance foyer, staircase and former tea room at first floor level, also in art deco style, are still more or less intact.
- (2) To the rear the original massive unadorned slate roofed, red brick shell of the auditorium still exists; although punctured by high glazed windows/entrances on the gable facing Justice Mill Lane. Internally the space has been subdivided to form two nightclubs with the only remnants of the original auditorium being the proscenium arch, organ pipe casings organ console and associated equipment and instruments within a full height space in the ground floor bar towards the rear of the auditorium building. There is no evidence of the original upper circle seating, lower seating or the original ornate toilets.

The site also includes the shop unit to the east. The shop unit the west would remain in its current use.

Adjoining uses on Union Street are the Justice Mill public house to the immediate east and Bells Hotel and Lounge/Bar to the immediate west. Immediately opposite on Justice Mill Lane is the Park Inn Hotel and office complex.

## **RELEVANT HISTORY**

The Capitol Cinema, designed by renowned architects Marshal Mackenzie, opened in 1933. It was the first cinema in the UK to be designed from the outset to incorporate a full holophane lighting system in the auditorium which allowed up to 17,000 colour combinations to be projected in time to music from a Compton organ that rose from the orchestra pit. The cinema closed for regular film showings in the 1960s but was used for occasional rock concerts (including the Rolling Stones and Tina Turner) until 1998, when it was mothballed. In 2002 planning permission and listed building consent were granted for the conversion of the building to form two nightclubs involving the splitting of the main auditorium space horizontally to form two large bar/clubs. This involved the removal of most of the original features in the auditorium with the exception of the proscenium arch that originally framed the stage and the ornamental organ pipe screens which have been retained in a full height portion of the downstairs bar area. These give a hint of the original function of the building and the scale of the internal space. The organ itself has been retained under a hatch in the ground floor bar and the equipment and instruments that form an essential part of the organ remain, accommodated in their original location in volumes behind the walls to the side of the former location of the cinema screen.

In 2003 permission was granted for the rear stage wall to be cut out to create a large glass wall and an additional entrance onto Justice Mill Lane. The property has now lain vacant for almost 5 years and in that period there has been significant damage to the building from water and bird ingress, wet rot and general disrepair.

Permission was granted in 2007 for a large hotel and office development immediately opposite the site on Justice Mill lane which has now been fully implemented. Two further hotels have subsequently been built on Justice Mill Lane within 100 metres of the application site and in 2009 permission was granted for an extension to the immediately adjoining Bells Hotel to form a 217 bedroom hotel.

Permission was granted in April 2011 for change of use of the bar / nightclub to a hotel with associated part demolition of existing auditorium and development of hotel accommodation and refurbishment of internal features and associated access and parking. The application involved the retention of the granite built front portion of the building facing Union Street, the almost complete demolition of the red brick fly-tower and auditorium and their replacement with an eight storey extension containing bar/restaurant and conference facilities in a double height space at ground / first floor level.

In the approved scheme for the hotel (which remains extant) the street facing façade of the extension would rise 28.7 metres above Justice Mill Lane, the elevation of the building closest to Union Street would be finished in frameless curtain walling and would be stepped up to full height from the rear wall of the Union Street elevation. The design of the new hotel building would be modern with polished granite cladding and frameless curtain walling to the lower part of the Justice Mill Lane facing elevation and a mix of grey cladding, aluminium framing and curtain walling to the remainder of the extension. The original red brick wall of the auditorium would be retained to a height of 12 metres along the side elevations.

There are current applications (planning permission ref. 131087 and conservation area consent 1311) for the redevelopment of the Bells Hotel site with an office development of similar scale to this application at the Capitol.

At the Capitol there is a current application for listed building consent (ref. 130616) for same scheme for which this planning application seeks permission.

## **PROPOSAL**

The application proposal is for detailed planning permission for the change of use and redevelopment of the former Capitol Cinema to form offices together with associated car parking (86 spaces) and cycle parking (31 spaces).

The proposal involves two main elements: the restoration of the front portion of the building as the entrance to the office directly from Union Street; and, the erection of a building of ten storeys in height on Justice Mill Lane (set back 22m from Union Street).

The proposal would involve the complete refurbishment of the grand entrance and canopy, with art deco entrance doors and flooring. Internally, plaster mouldings and the former Oscar's tea room area, would all be restored with original fabric being retained, including the light fittings. The two large square art deco style clocks that were located within the auditorium, would be restored and relocated within the front of the building. The only changes within the front area of the Capitol, would be that the two flights of stairs that lead up to first floor level would be removed and escalators installed in the same location. There is a landing within the stairs and the installation of the escalators would involve the 'straightening' of the angle of rise, though the take off and landing point of the escalators would be the same as the stairs. The original handrails would remain, and where one handrail is missing, a replica would be installed. Also, two lifts would be installed in the area to the side of the stairs, in order to provide disabled access to the upper level of the front portion of the building (the original Capitol).

The application has been the subject of extensive discussions involving site visits and meetings between the applicant, his architect, planning officers and representatives of Historic Scotland.

The red brick fly-tower and auditorium to the rear would be demolished and replaced by:-

A ten storey structure to accommodate an 86 space car park over five split floor levels with access from Justice Mill Lane.

The office building would provide approximately 9180m<sup>2</sup> gross floor area, accommodating approximately 600 people.

The street facing façade of the extension would rise approximately 41.8m above the street level on Justice Mill Lane. The north elevation would sit back approximately 22m behind the Union Street frontage of the Capitol, sitting approximately on the line of the rear of the front portion of the Capitol (2.5m approximately closer to Union Street than the red brick gable to the auditorium (the existing gable is approximately 24m above Union Street street level). The north elevation of the proposed building would be approximately 38m above street level on Union Street

The design concept for the new build element of the proposal, is for granite framed glazed ends to the north and south with a more solid aluminium rainscreen clad element wrapped around the central portion of the building.

The side elevation to the east (facing down Union Street) would be punctured by long vertical openings. At lower levels the elevation would abut the adjacent building to the east. The granite framed glazed elements to the north and south would sit 200mm back from the solid central portion, to create relief. The internal floor structures would be partially pulled away from the glazing to minimise the disruption to the appearance of the largely glazed elevations.

On the Justice Mill Lane elevation there would be entrances to the basement and upper level car park, within a granite façade at street level. Above the entrances would be granite clad louvres and granite framed grills. Above the car park levels,

the glazed curtain walling in a granite clad frame would match the north elevation.

The side elevation to the west would be clad in granite panels adjacent to the street, with the remainder of the side elevation (bounding the Bells Hotel site) at the lower level (up to and including third floor level) being in granite effect blockwork.

## **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at - <http://planning.aberdeencity.gov.uk/PlanningDetail.asp?130615>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

The applicant's agent has produced a range of computer generated images (CGIs) showing the building from various viewpoints.

A Constraints and Opportunities Report has been submitted, this highlights the following points:

- That with regard to the previous hotel permission, due to the compromises in the design to allow retention of existing building elements and on a deep narrow feu, the scheme ultimately proved not to be attractive to hotel operators;
- The poor state of the building with deterioration due to water ingress causing extensive damage;
- The need to retain the entrance foyer and front part of the building, the change in levels across the site, shape of feu and the walls hard up against the lower levels of the building are constraints;
- The constraints have lead to the need to maximise light coming into the building from either end (north and south);
- The nature of the site allows the provision of parking that is largely concealed within the building;
- The scheme makes full use of the existing grand entrance which is the best way of preserving the old building;
- The refurbishment of the building and difficulties of the topography require to be balanced with income generating space – a cost benefit balance. A reduction in the commercial content would render the whole package unviable;
- The proposal would help revitalise Union Street with commerce and footfall into the surrounding businesses;
- Office use within this location is easily accessible by public transport and is also ideally located close to the west end – Albyn Place, Carden Place and Queens Road – the oil and gas companies, lawyers, accountants etc.

## Conservation Report

This includes an assessment of the building in terms of its historic features, including the following:

- The shop frontage to the east side of the entrance would be refurbished as part of the proposals, this would be restored to something similar to the existing shop unit to the west side of the entrance.
- The frontage and canopy would be restored and high level signage proposed to be erected;
- The former tea room and all its internal features would be restored.
- Method statements are included for the removal to safe storage of the organ console and associated pipes, percussions, extensive wiring and switches that link elements of the instrument, the console lift, fan blower and generator. These will taken to a store to be provided by the developer. The organ is to be restored by the Aberdeen Theatre Organ Trust, a registered charity. A final home for the restored organ has not yet been established, however, the intention of the trust is that the organ be restored to working order.
- The proscenium arch and decorative plaster coverings to the organ expression shutters would be removed in sections, labelled and put into storage, probably within the storage areas under the front part of the building.

#### Transport Assessment

This includes a travel plan and assessment of potential travel to the site via various modes. Taxis would pick up on Justice Mill Lane rather than on Union Street, where taxis cannot stop in the bus lane.

#### Design and Access Statement

Describes the approach taken to the design.

### **REASON FOR REFERRAL TO SUB-COMMITTEE**

The application has been referred to the Sub-committee because there is an objection from the Theatres Trust. Accordingly, the application falls outwith the scope of the Council's Scheme of Delegation.

### **CONSULTATIONS**

**Roads Projects Team** – No objections subject to there being a contribution towards the amendments required to the works already planned to take place within Justice Mill Lane and payment of the Strategic Transport Fund.

**Environmental Health** – Request attachment of noise condition relating to the ventilation / ac system and potential for disturbance to guests within the Park Inn Hotel.

**Developer Contributions Team** – Request contribution towards core path / public realm works.

**Enterprise, Planning & Infrastructure (Flooding)** – No comments

**Education, Culture & Sport (Archaeology)** – No comments

**Scottish Environment Protection Agency** – Requests the attachment of a condition requiring a site specific construction management plan; no objections to drainage proposals.

**Historic Scotland** – Acknowledge that the precedent for a major redevelopment scheme for the former Capitol Cinema is already established under the 2010

approved hotel development. Content with the principle of this new proposal for an office based scheme, with similar focus on conserving /restoring the granite front (Union Street) part of the former cinema and demolition of the much altered former brick auditorium at the rear to facilitate the new build. Accept that it is no longer viable to incorporate the main remaining features of the auditorium, i.e. proscenium arch, organ niches and organ, within the proposed office scheme, and agree with the strategy for careful removal and storage of these features for potential re-use elsewhere, as set out in the submitted Conservation Report. Pleased that this includes the gifting of the organ to the Aberdeen Theatre Organ Trust.

Satisfied with the proposed conservation/restoration works for the interior, and the Union Street frontage, as set out in the submitted drawings, and Conservation Report. Suggest that a full specification for these proposals, including repair works, be obtained together with larger scale drawings for significant features such as reinstatement of the iconic 'Capitol' signage. While disappointment is expressed that the former Tea Room cannot be returned to its original use, it is noted that it will remain largely unaltered as part of the office scheme, with many of its special features conserved. Satisfied that the proposed interventions, notably the insertion of escalators into the main stair and provision of lifts, can be undertaken without undue loss of character. The design for the escalators do however need refinement, to minimise disturbance to the main stair and to include reinstatement of original handrail - further details should be obtained.

Concerning the proposed new build, it is noted that this would be significantly higher than the previous approved scheme, but more setback from the Union Street front part. While the primacy of the Union Street frontage would appear to be largely maintained, it is appreciate that the increased height of the new build will require careful assessment in terms of wider visual impact on this part of Union Street and the conservation area.

**Theatre Trust** – objects to the proposal. Without evidence from an extensive options appraisal, heritage significance evaluation/statement and marketing report for the site, is unconvinced that the auditorium could not be restored and regenerated to provide an important heritage building in a new use.. The Capitol is one of the handful of remaining super cinemas of the 1930s that could be restored for alternative use, is a landmark building in the City and as such is something the Council should be keen to preserve. Quotes Scottish Planning Policy (SPP) which states that change to a listed building should be managed to protect its special interest with the layout, design, materials, scale, siting and use being appropriate to the character and appearance of the building and setting. That the resulting development should ... be the minimum necessary to enable its conservation and re-use.

The Trust's view is that the application doesn't adequately address why the retention (or creation of a new) auditorium cannot be achieved.

**Community Council** – No comments

## REPRESENTATIONS

Four letters of objection / representation have been received. The objections raised relate to the following matters –

- New offices in Union Street should be no higher than the present;
- Questions building new offices in the city centre when companies are relocating to business parks on the outskirts;
- Impact of tower block on Union Street, where tall buildings would dwarf historic buildings;
- This proposal and other towers being built in Aberdeen at the moment are completely out of place in the Granite City and will be eye sores of the future;
- The organ should be restored to working order;
- The Capitol's name should appear in the canopy, exterior be retained and poster frames showcase the City's rich cinema past;
- The art deco former circle and Oscars should be restored and brought back into use as café bar;
- What would become of the cinema clocks and screen edging;
- Although the historic interior is being restored the public will not see this because it will be a private building;
- Loss of public access from Union Street makes this a far poorer application than previous ones, as far as the public is concerned;
- Loss of Compton organ – one of only two left in Scotland.;
- Lack of proper public consultation – at a public meeting for a previous scheme, strong feelings were expressed that the building would be too big and would dominate the Aberdeen skyline.
- Traffic congestion due to car parking spaces, rather than encouraging use of bus;
- Old cities should be lovingly cared for, tower blocks should not obstruct the view and impressive architecture should be retained;
- This is speculative development and the building may lie empty;
- Claims that the development would regenerate Union Street are overstated, anecdotal evidence is provided of city centre office workers that do not use the shops to any great extent, although it is acknowledged that sandwich shops may benefit;
- Union Street would benefit instead from a reduction in parking charges, charges that drive people to Union Square.
- One objector includes two articles: one consisting of an interview with an organist who often played the Capitol's Compton organ and another an article from the Aberdeen Voice relating to the potential for restoration of the cinema.

The Civic Society welcomes the application and expresses pleasure that the former Capitol frontage and foyer would be retained. Also welcome the high quality office space in the town centre, especially at the west end of Union Street. Reservations are expressed about the height of the building, however, understand that further work is being undertaken to enhance the detailing.



## PLANNING POLICY

### National Policy and Guidance

#### Scottish Planning Policy (SPP)

This is the statement of government policy on land use planning. The policies on sustainable economic growth, sustainable development, transport and the historic environment are relevant, described in more detail below and are discussed in the evaluation.

SPP highlights (in paragraph 33) that achieving sustainable economic growth requires a planning system that enables the development of growth enhancing activities across Scotland and protects and enhances the quality of the natural and built environment as an asset for that growth. It states that planning authorities should take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that could contribute to economic growth.

In paragraph 45, on economic development, SPP states that the planning system should support economic development in all areas by, *inter alia*:

- Taking account of the economic benefits of proposed development in development management decisions;
- Promoting development in sustainable locations, particularly in terms of accessibility;
- Promoting regeneration and the full and appropriate use of buildings; and,
- Supporting development which will provide new employment opportunities.

In paragraph 48, SPP emphasises the importance of high environmental quality in attracting investment into an area and providing economic opportunities, eg through tourism. The SPP goes to state that planning authorities should ensure that new development safeguards and enhances an area's environmental quality. The re-use of derelict and vacant buildings is encouraged.

Paragraph 110 (Historic Environment) describes the historic environment as a key part of Scotland's cultural heritage as it enhances local distinctiveness and contributes to sustainable economic growth and regeneration.

In terms of listed buildings, paragraph 113 states that changes to a listed building should be managed to protect its special interest while enabling it to remain in active use. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting.

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building; the resulting development should be of a high design quality, protect the listed building and its setting and be the minimum necessary to enable its conservation and re-use.

In terms of conservation areas, paragraph 115 states that a proposed development that would have a neutral effect on the character or appearance of

a conservation area should be treated as one that preserves the character / appearance. The design, materials, scale and siting of new development within a conservation area should be appropriate to the character and setting of the conservation area and planning permission should normally be refused for development that fails to preserve the character or appearance of the area.

Scottish Historic Environment Policy (SHEP) is the statement of government policy on the protection and management of the historic environment. It seeks to make the best use of the historic environment in a sustainable way that secures its long term survival yet achieves the government's wider aims of economic and social regeneration.

### **Aberdeen City and Shire Structure Plan**

The following Structure Plan key objectives for the growth of the City are relevant – economic growth, accessibility and the quality of the environment.

### **Aberdeen Local Development Plan (LDP)**

Policy C2: City Centre Business Zone – the front part of the Capitol is zoned within this policy area. The policy relates mainly to retail uses. It also states that proposals to use basement and upper floor levels for retail, residential and other appropriate purposes will be encouraged in principle.

Policy H2: Mixed Use Areas – the remainder of the Capitol falls within this area. Applications for development must take into account the existing uses and character of the surrounding area and avoid undue conflict with the adjacent uses and amenity. Where new business or commercial use is permitted, development should not adversely affect the amenity of people living and working in the area.

Policy C1: City Centre Development – Regional Centre  
Development must contribute towards the vision for the City Centre as a major regional centre. The City Centre is the preferred location for retail, commercial and leisure development serving a city-wide or regional market.

Policy I1: Infrastructure Delivery and Developer Contributions

Policy T2: Managing the Transport Impact of Development

Policy D1: Architecture and Placemaking

New development must be designed with due consideration for its context and make a positive contribution to its setting. Landmark or high buildings should respect the height and scale of their surroundings, the urban topography, the City's skyline and aim to preserve or enhance important views.

Policy D2: Design and Amenity

Development deemed to have an influence on public realm in the City Centre will make an agreed contribution to art or other enhancement to the public realm.

Policy D3: Sustainable and Active Travel

**Policy D4: Aberdeen's Granite Heritage**

Encouragement of the retention of granite buildings, with conversion and adaptation being favoured.

**Policy D5: Built Heritage**

Proposals affecting Conservation Areas or listed buildings will only be permitted if they comply with Scottish Planning Policy.

**Policy D6: Landscape**

Development will not be acceptable unless it avoids: obstructing important views of the City's townscape, landmarks and features when seen from busy and important publicly accessible vantage points and main approaches.

**Policy NE10 – Air Quality**

**Policy R7 – Low and Zero Carbon Buildings**

**Supplementary Guidance**

City Centre Development Framework

**EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas

The main issues to be taken into consideration are:

- the appropriateness of the proposed use in this building and location;
- impact on occupiers and users of neighbouring buildings
- the design and scale of the proposal;
- the impact on the conservation area and, in particular, the street scene in Union Street;
- economic benefits
- transport and parking

Compatibility with Surrounding Uses

The proposals accord with the Structure Plan's objective to promote economic growth. The proposal would involve a change from previous nightclubs and bar uses, to office use and complies with Policy C2: City Centre Business Zone, and Policy H2: Mixed Use Areas in the LDP. The proposed office use is compatible, in principle, with the range of other uses, including office, hotel, bars, restaurants and retail.

The application site is centrally located within the regional centre and complies with LDP Policy C1: Regional Centre and with structure plan and LDP policies on accessibility, with site being in the city centre and easily accessible by public transport.

In terms of the impact on the occupiers of the hotel on the opposite side of Justice Mill Lane. The Park Inn Hotel maximises the benefits of its southern elevation, although there are windows on the north side. The southern elevation of the proposed office building would be significantly higher than the existing Park Inn / IQ building, however, the glazed curtain walling would reflect light and would lie to the north; it is considered that there would be an insignificant impact on the occupiers of the building opposite due to the presence of a tall building. There has been no objection from operators / tenants within this building and it is further considered that the redevelopment of a vacant and deteriorating building would have benefits for neighbouring occupiers. With the attachment of a condition relating to noise assessments and mitigation to any air conditioning or ventilation equipment, it is considered that the potential for impact on occupiers of neighbouring buildings in terms of noise would be minimised.

The elevational design of the proposed development at the Capitol takes account of the possible redevelopment of the Bells site to the west, with glazing only at the extremities of the west elevation.

#### Scale and Design

LDP Policy D1 relates to context and contribution to setting. The proposal involves the restoration of the section of the building fronting onto Union Street and this is to be very much welcomed as making a positive contribution to the streetscene on Union Street. The granite frontage and canopy has the potential to be returned to its once grand and iconic state. Works to achieve this are proposed as part of this application and the entrance that is currently boarded up would be used as the main entrance to the office. This element of the proposed development would have a very positive impact on the west end of Union Street, as both a statement in itself and also in terms of the activity that it would bring back to the street. The nature of the existing building is that the frontage of the building is lower, by approximately one storey, than its neighbours, whilst the rear part of the building – the red brick auditorium and tower are significantly higher than the frontage. The proposed design follows this relationship, although there would be a more significant difference between the elements. The principle of the form is considered appropriate, the issue of the height is considered further below. It should be noted, that there is an extant permission for a hotel on the site, the form of that building was that it stepped down in terraces towards the Union Street frontage. The proposed development would be approximately three storeys higher than the approved hotel scheme.

The proposed building contains parking within the lower levels and the applicant's agents have stated that the difficulty of getting light into the building, resulted in this being the best solution. The building rises in a uniform block from Justice Mill Lane to the south and from the rear of the Capitol frontage building, to an overall height of ten storeys above Justice Mill Lane. The lower level is differentiated by a more solid granite façade, with granite clad louvres above openings for vehicular access and granite framed grills to the parking area above.

The design approach to the main building is a function of the need to maximise light into the north and south elevations, with a more solid element around the central portion. The detailing of the design is considered to be high quality, with the elevations simple and elegant in style. This approach is considered appropriate, in this location where a quirky or eye catching appearance would be inappropriate. The colours of the materials would be various shades of grey - granite and grey aluminium cladding. As far as possible, given the scale, this would help to blend the building with its surroundings, rather than the use of stark white or strong colours that would stand out.

The design of the building is considered acceptable, the scale of the building within its context is the main issue for consideration. The applicant's agent has submitted a number of computer generated images (CGIs) and these provide an impression of how the building would sit in relation to its surroundings.

On Justice Mill Lane the full height of the building would form the street frontage along this stretch, although not an overly long street frontage (24m, compared to the approximately 109m length of frontage of Park Inn / IQ), in terms of its height the building would have a strong presence on Justice Mill Lane and a significant impact on this particular stretch of the street. This dominating presence would be mitigated to some extent by the use of granite at the lower level, the reflective nature of the material at higher level, the fact that the existing building is vacant and derelict and the relatively short length of façade. It is acknowledged that the height on Justice Mill Lane is one of the drawbacks of the proposal, though it would be localised in nature. The nature of the Justice Mill Lane elevation is also that it would be very much the rear elevation. This is a function of the entrance being onto Union Street and it is considered that the approach is the correct one, especially given the special nature of the entrance of the Capitol.

The new build element is set approximately 22m back from Union Street, and would be seen to a greater and lesser extent from the north side of the western part of Union Street. Due to the set back from the Union Street frontage the new build element of the proposal would not be seen in context with the Capitol and the link between the two would not be discernible when viewed from up/down Union Street. This would help give the impression that the higher building is not on Union Street. From the west side of Union Terrace, the building would be indiscernible amongst the range of shapes of rooflines and heights of buildings fronting onto Union Street. Approaching from the east the upper levels of the building would become increasingly more visible, however, the building immediately to the east of the Capitol is higher than the Capitol itself and would help screen the proposed office to some extent, despite this the upper two – three storeys would be visible behind the varying rooflines of the buildings on Union Street because of the set back from the Union Street. From the corner of Albyn Place the front part of the proposed building would be visible, with the full extent of the building not being clearly discernible due to screening by structures on the roofs of adjacent buildings.

The extent to which the streetscene on Union Street is affected by buildings that sit beyond the street frontages and the extent to which those using the street take cognisance of structures behind the granite frontages and rooflines, is a matter

for debate. It is considered that although very clearly visible, the proposed structure would not be overly prominent within the views of those using the street, due to the extent to which it sits behind the frontage buildings which dominate the view. The issue of impact on the conservation area specifically, is dealt with below.

The building would be most highly visible from Chapel Street where it would be very dominant within the view at the south end of the street. The building would sit at an angle to Chapel Street, with the result that the entire side of the elevation as well as the north elevation, would be seen from Chapel Street. It is from this location that the building would be at its most visible and this is undoubtedly a disbenefit of the proposal. It should, however, also be noted that within the secondary streets to the north of Union Street, there are a number of taller and larger buildings clearly visible in views along streets, for example, Union Plaza and the Denburn flats. Views along Union Street are of greatest importance because of the status and layout of the street – the ‘Granite Mile’.

In longer range views from the south, the building would sit behind the existing Park Inn / IQ building and although taller than this structure, it would be seen against the backdrop of Union Plaza. Impact on long range views is considered to be acceptable.

The restoration of the front part of the Capitol would make a very positive contribution to its setting as has been stated above. Because of its height and relationship with streets containing lower buildings, the new building would have an impact within the surrounding streets, in particular, Justice Mill Lane and in views along Chapel Street.

In terms of compliance with LDP Policy D1, there are tensions in respect of some aspects of relationship to its surroundings of the new build element, as described above. However, there is no adverse impact on the City’s skyline or long range important views.

#### Impact on Conservation Area

The southern boundary of the Union Street Conservation Area is Justice Mill Lane. In terms of impact on the Conservation Area, the main issue relates to views from Union Street, and secondly to views from other streets as described above.

The restoration of the existing Capitol would have an unquestionably positive impact and would enhance the character of the conservation area, particularly taking into account the slightly neglected appearance of a number of buildings at this end of Union Street.

The nature of Union Street is formed by granite frontages (both solid and clad) and buildings of 4-5 storeys in height. The buildings are generally quite solid (in terms of solid: void ratio) and there is variety and decoration along rooflines. As noted above, the new build element would sit well back from the Union Street frontage and is relatively narrow, following the width of the feu. In terms of its height, elevational design and materials, the proposed building would not

conform to the general characteristics of buildings forming the frontage onto Union Street, it would not be appropriate to attempt to echo these characteristics in a building of this nature. The building would be visible as described above, and as it is not in keeping with the character of the conservation area, in terms of its height, it would not enhance the conservation area.

SPP states that a neutral impact on the conservation area should be considered to preserve the character. The proposal has both a positive and a negative impact. There is no doubt that the scale of the development, particularly its height, would have a significant visual impact on the character and appearance of the conservation area in terms of the views, and the dominating presence within Justice Mill Lane. The proposal could therefore not be considered to be fully compliant with Policy D5, SPP (in terms of historic environment) or SHEP. It is a matter of judgement whether the scale of the change is acceptable and justified by other material considerations, in particular, the impact on the economy. Government policy is to make best use of the historic environment in a sustainable way that secures its long-term survival yet achieves the government's wider aims of economic and social regeneration.

#### Impact on Listed Building

The proposal would result in the restoration of the front part of the Capitol, including the granite frontage itself, the canopy and entrance doors. Internally all existing original features would be retained, including the former Oscars tea room (to be incorporated without subdivision). The organ would be donated to a local charity and with all its associated instruments and equipment, would be capable to being fully restored to working order. It is acknowledged that the proscenium arch and organ niches would not be incorporated into the proposed development. However, given their size and nature, it would be awkward and somewhat contrived to attempt to install them into an office development. The art deco clocks would, however, be installed within the front part of the building. The principle of the substantial demolition of the auditorium and tower have already been established by the extant hotel permission, although these permission including the retention of the arch and niches in slightly different locations within a double height public space. Historic Scotland are content with the proposals in respect of the listed building. Conditions would be attached to ensure that the features would be retained and restored.

The rear part of the Capitol would be demolished. Its substantial demolition has also been granted planning permission under the hotel consent. In terms of the exterior of the building, this is not of particular character and has been significantly altered on the Justice Mill Lane elevation. The gable end of the auditorium, visible from Chapel Street, supports a number of telecoms masts and its removal would have a positive impact on views within the conservation area. In terms of the impact of the new build element on the character and setting of the listed building, the two elements would remain visually separate. From the opposite side of Union Street, directly facing the Capitol, the top of the new building would be visible, however, the Union Street frontage would be the dominant element and would not be compromised. Viewed from oblique angles along the street, the two would be seen as separate elements. It is considered that there would be no adverse impact on the character and setting of the remaining Capitol.

### Economic Benefits

The benefits of the proposal are to the local economy – at the west end of Union Street, as well as the City as a whole- and indeed to the national economy, since the economy of Aberdeen is of such significance. The introduction of around 600 people working at the top of Union Street has potentially significant benefits for the vitality of the street.

SPP states that the Government's central purpose is to increase sustainable economic growth and accordingly planning authorities should take a positive, flexible approach to development to ensure that new economic opportunities can be realised. It is considered that the proposals accord with SPP in terms of redeveloping a derelict, vacant building in a sustainable location with good access, bringing it back into productive use and creating a more attractive environment which has considerable civic as well as economic benefits. Approval of the application would support new job opportunities by accomodating the growth of firms and inward investment. The development would contribute to the vitality and diversity in the city centre, with high quality design and frontage onto Union Street.

By acting as a trail blazer the proposal also has considerable potential to act as an important catalyst that could stimulate further investment in redevelopment for office and other commercial uses at the west end of Union Street and further afield, thereby helping to deliver the Council's ambitions for the regeneration of the City Centre.

### Parking and Transport

The Roads Project Team does not object to the application. The number of parking spaces is considered acceptable given the highly accessible location and the cycle parking facilities comply with standards. Studies of the impact on the local road network have been undertaken and contributions are sought towards improvements – improvements are planned on Justice Mill Lane and the implementation of this development would result in some changes needing to be made. Contributions would also be sought towards the Strategic Transport Fund, in terms of the likely traffic generation.

In terms of taxis, those ordered from the Capitol would pick up from Justice Mill Lane. Ad hoc hailing of taxis and drop off could take place from Union Street. It is likely that this would mainly take place outside the peak hours as taxis would be used by visitors to the office or staff attending meetings elsewhere, rather than for commuting. The scenario is one that is common with offices within the city centre. There are taxi ranks on Chapel Street, Union Row and Dee Street all close to the building.

### Other issues raised by objectors

Many of the issues raised, including relating to the scale of the building, have been dealt with above.

In terms of other issues:



- the proposal is for the Capitol's name to be on the building at high level as it was on the former cinema and this would be conditioned. The idea of poster frames has been raised with the applicant, however, it is questionable whether this would be of benefit to the appearance of the building.
- The interior of the auditorium has largely been lost as a result of the conversion to a nightclub, however, the former Oscars tea room would be fully restored. Due to the constraints of securing the building, it would be very difficult to manage a situation where the public accessed part of the building and the applicants are unwilling to include a public use in the former Oscars.
- The cinema clocks would be retained whilst the proscenium arch is too large to be incorporated in any meaningful way, into the proposal.
- It is acknowledged that the public would not see the restored interior of the building, although the restored frontage would obviously be very much a public benefit. There would be a large number of staff within the building as well as visitors who would see the restored interior.
- Consultation, notification and advertising have taken place in accordance with statutory requirements. A previous consultation exercise, to which the objector may be referring, related to a similar scheme that included the Capitol and Bells site together. It is acknowledged that the height is a contentious issue.
- A limited number of parking spaces have been provided, the travel plan indicates that encouragement would be given to the use of other modes of transport.
- The tall building would not obstruct views, although it would be seen behind other buildings. The architectural interest in the site would be retained.
- This is speculative development, however, it is unlikely that development would take place without a strong prospect of finding an occupier.
- Parking charges close to Union Street are not relevant to this application.
- The articles submitted in relation to the organ drew attention to the previously unknown fact that equipment / instruments associated with the organ remain within the Capitol, in hidden spaces behind the walls. There are now proposals in place for all this to be removed and handed over to a charity so that the organ would be capable of being restored to full working order. This is an improvement on the previously approved scheme whereby only the organ would have been retained and mounted on a wall above the hotel entrance from Justice Mill Lane.

### Conclusion

The main issues can be summarised as follows:

To be welcomed:

- The restoration of the granite Union Street frontage of the art deco former Capitol Cinema
- The restoration of the original features within the front of the building and potential for the organ to be brought back into working order
- The influx of 600 office workers (likely to be well-paid) increasing activity on, and adding to the vitality of, Union Street
- Economic benefits for local businesses on Union Street

- Economic benefits for accommodating growth of firms within the city, to the benefit of the local and national economy
- Highly accessible location, ideally located for public transport and for other complementary businesses within the west end and city centre.

Drawbacks:

- Impact on Union Street Conservation Area of views of new tall building
- Impact character of Justice Mill Lane
- Impact on view along Chapel Street to Union Street
- Removal of possibility of Capitol Cinema being brought back into use as a cinema – though this is highly unlikely.
- Loss of part of listed building and associated internal features (arch and niches)
- Removal of possibility of bringing restaurant/tea room back into public use

The main issue in terms of drawbacks is the height of the proposed building. The applicant's agent have described the constraints of the building in terms of the narrow deep feu, the need for light within office floorspace and the costs of restoration, by way of explanation of the need for the number of storeys. The fact that the hotel permission (which was itself 8 storeys in height) has not been implemented may support this statement.

Scottish Government guidance emphasises the importance of sustainable economic growth and regenerating the environment. It is undoubtedly the case that the proposal would support economic growth in the region and provide local benefits on Union Street. The proposal would also regenerate the historic environment on Union Street. It is considered that in this instance, these factors outweigh the impact on views within the Conservation Area and the on the streetscene within Justice Mill Lane.

**RECOMMENDATION: Willingness to approve conditionally. Consent to be withheld until such time as a developer's contribution has been secured towards works to the local road network, core paths / public realm improvements in the area and Strategic Transport Fund.**

**REASONS FOR RECOMMENDATION**

The proposals are considered to accord with zoning policies C2 – City Centre Business Zone and H2 – Mixed Use Areas within the Aberdeen Local Development Plan (LDP). The proposal would accord generally with policies within the structure plan, LDP and Scottish Planning Policy. The development would contribute towards the regeneration of the historic fabric on Union Street add to vitality and contribute towards economic development in the City Centre as well as in the region. The building would be taller than than its surroundings and would be visible including from various viewpoints on the north side of the upper half of Union Street and would have an impact on the character of the Conservation Area. The economic benefits accord with the Scottish Government's wider aims of economic regeneration and outweigh the local impact.

**Conditions:**

**it is recommended that approval is granted subject to the following conditions:-**

(1) that no development shall take place unless a scheme, including submission of materials samples, detailing all external finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed - in the interests of visual amenity and the character of the listed building and conservation area.

(2) That full details, including elevational and cross sectional drawings, shall be submitted to show all works, including repair and cleaning works, to the remaining fabric of the listed building. These shall include the installation of the Capitol's art deco style clocks within the building. That all works, as so agreed, to the frontage, canopy, and interior of the existing building - the 'Capitol'- must be fully implemented prior to any part of the development being brought into use. These shall be in accordance with the approved plans, or others subsequently approved and the building shall not be used unless the entrance is fully restored and available for use as the main entrance to the building, unless otherwise agreed in writing with the planning authority – in the interests of preserving the character of the listed building.

(3) That the proscenium arch, decorative plaster work over the organ expression shutters and organ and all associated pipes, instruments and equipment required for the organ to be brought back into use, shall be carefully removed prior to any demolition works taking place. The organ and associated items shall be dismantled / removed and taken safely to storage facilities, in complete accordance with the method statement as submitted and approved as part of this permission, unless otherwise agreed in writing with the planning authority. The proscenium arch and decorative plaster work shall be removed and stored in accordance with a scheme to be submitted to and approved in writing by the planning authority - in order to ensure the possibility of the organ being fully restored to working order as part of the historic fabric of the listed building.

(4) That the development hereby granted planning permission shall not be occupied unless the cycle storage facilities as shown on the approved drawings, or others subsequently approved have been provided - in the interests of encouraging more sustainable modes of travel.

(5) That the development hereby approved shall not be occupied unless there has been submitted to and approved in writing a detailed Travel Plan, which outlines sustainable measures to deter the use of the private car in accordance with the principles set out in the Transport Assessment by Fairhursts issue 4, or other TA as subsequently approved - in order to encourage more sustainable forms of travel to the development.

(6) That no window replacement shall take place unless there has been submitted to, and approved in writing by, the planning authority a full survey of the windows showing that they are beyond repair. Any replacement frames shall match those existing and shall be implemented fully in accordance with details, including cross sections, submitted to and approved in writing by, the planning

authority - in the interests of protecting the character and appearance of the listed building.

(7) That the existing entrance to the 'Capitol' shall be used as the main entrance to the entire development hereby granted permission, including the new build element extending back to Justice Mill Lane and the front part of the development shall not be functionally separated nor access physically blocked, unless otherwise agreed in writing with the planning authority – in the interests of the vitality and appearance of Union Street.

(8) That no window replacement shall take place unless there has been submitted to, and approved in writing by, the planning authority a full survey of the windows showing that they are beyond repair. Any replacement frames shall match those existing and shall be implemented fully in accordance with details, including cross sections, submitted to and approved in writing by, the planning authority - in the interests of protecting the character and appearance of the listed building.

(9) That no development shall commence on site until a site specific Construction Method Statement has been submitted and approved in writing by the Planning Authority in consultation with SEPA (and other agencies as appropriate). All works on site must be undertaken in accordance with the approved CMS unless otherwise agreed in writing with the planning authority - to control pollution of air, land and water.

(10) That the building shall not be brought into use unless the handrails to the stairs and escalators have been retained, restored and replaced in accordance with a scheme to be submitted to, and approved in writing by the planning authority - in the interests of preserving the character of the listed building.

(11) That the shop frontage within the application site to the east of the Capitol entrance shall be refurbished generally to match the existing shop front immediately to the west of the Capitol in accordance with a scheme, including detailed drawings and cross sections, to be submitted to and approved in writing with the planning authority. Neither the shop itself, nor the main development shall be brought into use unless the shop front has been refurbished in accordance with such a scheme - in the interests of visual amenity and the character of the conservation area.

(12) that the building hereby approved shall not be occupied unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full - to ensure that this development complies with requirements for reductions in carbon emission specified in the City Council's relevant published Supplementary Guidance document, 'Low and Zero Carbon Buildings'.

**Dr Margaret Bochel**

Head of Planning and Sustainable Development.