1 INTRODUCTION

1.1 Full planning permission is sought for the erection of dwellinghouse for Mr and Mrs Rowe at garden ground at 2 Balmachie Road.

1.2 The application site measures approximately 453 square metres in area and is located within the settlement boundary for Carnoustie. The site is accessed off the driveway that serves 2 Balmachie Road with the site currently used as garden ground for 2 Balmachie Road. To the north of the site is garden ground belonging 2 Balmachie Road, to the east and south is 32 West Path and to the west is the roadway Braefoot and an area of land in the ownership of Angus Council. The boundaries of the site are formed by timber fencing that are complemented by additional mature planting and a stone retaining wall that is complemented by additional mature planting. The site characteristics are such that there is a flat section some 6 metres deep from the north eastern boundary before there is a significant slope on the site from east to west which results in there being a difference of 13 metres between the eastern side of the site (Balmachie Road) to the western side of the site (Braefoot). The slope created due to the difference in ground level within the site is populated by extensive planting which includes several mature trees.

1.3 The proposal involves the erection of a 1½ storey detached dwellinghouse with a footprint of approximately 60 square metres and an overall height of 6.2 metres. Due to the topography of the site 46 square metres of the footprint of the dwelling would be constructed on the flat area of the site with 14 square metres being cantilevered above the slope within the site. The cantilever would be formed by laminated beams resting on galvanised steel columns. The ground floor will accommodate a lounge, bedroom, kitchen, bathroom and utility room. Associated with the lounge is a balcony which has a footprint of 6 square metres. The first floor would accommodate a study/bedroom. The north elevation of the dwelling would accommodate the main doorway to the dwelling, a doorway to the utility room and a window serving the proposed bathroom. The east elevation would be a blank gable. The south elevation would have one window serving the kitchen, one serving the bedroom and three full length glazed windows/door serving the lounge. The west elevation would have a secondary oval window serving the lounge. The north facing roof slope would have one velux serving the study/bedroom. The south facing roof slope would have three velux windows serving the study/bedroom. The external materials of the
dwellinghouse would include a slate roof with solar panels and white rendered walls with selected panels of light red render to match the extension to 2 Balmachie Road and Siberian larch panelling. The driveway access would be taken from the existing driveway to 2 Balmachie Road. Drainage arrangements are proposed to be tackled by foul drainage to the public sewer and a soakaway for surface water.

1.4 The application has been advertised as development potentially contrary to the Development Plan.

2 RELEVANT PLANNING HISTORY

2.1 This Division has no record of any planning history relating to this site however the applicant’s agent has indicated that planning permission was obtained in 1985 for a house of identical design to the one subject of this application by a previous owner of the site.

2.2 The application site is within the grounds of 2 Balmachie Road which is a Residential Home that has been subject to numerous planning applications for alterations and extensions dating back to 2003. At this time there is a planning application (ref: 07/00062/FUL) for the Alterations and Extension to Nursing Home which is still under consideration.

3 APPLICANT’S CASE

3.1 No supporting information has been submitted by the applicant.

4 CONSULTATIONS

4.1 The Head of Roads has no objections to the proposed development but would recommend that any consent granted shall be subject to the following conditions, in the interests of traffic safety and free traffic flow:

1. A minimum of two car parking spaces shall be provided within the plot curtilage.

2. Turning space shall be provided within the site curtilage to allow vehicles to enter and leave in a forward gear.

4.2 Scottish Water has been consulted in respect of the application and offered no objection to this proposal.

5 LETTERS OF REPRESENTATION

5.1 Two letters of representation have been received and are attached to this report. The main issues raised relate to:

- **Plot size** – this will be discussed under planning considerations at section 6 of this report.

- **Plot coverage** – this will be discussed under planning considerations at section 6 of this report.

- **Private amenity space** – this will be discussed under planning considerations at section 6 of this report.
• **Distance between buildings** – this will be discussed under planning considerations at section 6 of this report.

• **Garages** – this will be discussed under planning considerations at section 6 of this report.

• **The proposals compatibility with the Finalised Angus Local Plan Review** – there have been objections received during the Post Modification objection period for the Finalised Angus Local Plan Review. The details of these objections require to be submitted to the Infrastructure Services Committee prior to further progression of the FALPR. Considering that objections have been received any proposal for the erection of a dwellinghouse in this context should be considered against Policies in the Angus Local Plan because the weight which can be attached to the FALPR at the present time is limited.

### 6 PLANNING CONSIDERATIONS

6.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

6.2 In this case the development comprises: -

- Dundee and Angus Structure Plan (Approved 2002)
- Angus Local Plan (Adopted 2000)

The Development Plan is current and up-to-date and in this respect merits considerable weight in the determination of the proposal.

6.3 There are no policies in the Dundee and Angus Structure Plan that are relevant to the consideration of this application.

6.4 Although the Development Plan is current and up-to-date, Angus Council has been undertaking a review and roll forward of the ALP and the Finalised Angus Local Plan Review (2005) (FALPR) was approved by Angus Council at their meeting on 15 December 2004. The FALPR establishes policies and proposals for the period to 2011, taking into account the guidance from the DASP. Although not yet part of the statutory Development Plan the FALPR (including Committee approved modifications) has reached the stage where it is a material consideration to be taken into account in the determination of this planning application. In this report policies of the FALPR have been referred to when the said policy is materially different to the ALP to the extent that, as a consequence the recommendation contained within this report has been substantially influenced.

6.5 The determining issues in this case are whether:-

- the proposal complies with development plan policy;
- there are any other material considerations.

6.6 In the Adopted Angus Local Plan, 2000 this site is located in an area where the following policies apply:-
Policy H5: Small Housing Sites

“Development proposals for residential development on small infill, backland or redevelopment sites will be assessed on their individual merits taking into account:-

(a) compatibility with surrounding land uses;  
(b) provision of a satisfactory residential amenity;  
(c) plot size should be compatible with those in the general area with a minimum plot size of 400m²;  
(d) provision of at least 100m² private garden ground;  
(e) provision of satisfactory and safe access and parking arrangements;  
(f) maintain residential amenity and privacy of adjoining housing;  
(g) development designed to respect the scale, form and use of materials of adjacent housing;  
(h) provision of acceptable means of foul effluent and surface water disposal.

Criteria (c) and (d) would not be applicable in considering proposals for flatted developments.”

Policy ENV 5: Development in Existing Built-Up Areas

“Within defined development boundaries planning applications for new development on sites not identified on the inset Proposals Maps will only be permitted where the proposals accord with the Development Strategy and other policies of the Local Plan. Proposals leading to significant loss of amenity and character of the surrounding area will not be permitted.”

6.7 Advice Note 14 – Small Housing Sites is also relevant.

6.8 As a site which lies within the existing Development Boundary for Carnoustie and is without specific designation the proposal needs to be assessed against the provision of Policy ENV5. ENV5 requires proposals to be considered in terms of their compliance with the Development Strategy and other relevant Local Plan policies. The proposal does not conflict with the Development Strategy for Carnoustie and must therefore be assessed against other relevant policies.

6.9 In terms of the type of development proposed, the most relevant Local Plan policy is Policy H5 which deals specifically with small housing proposals. This policy is criteria based and proposals must be assessed against all relevant criteria.

6.10 The proposal is for the erection of a dwellinghouse within the garden ground of 2 Balmachie Road. As such it is considered to be compatible with the surrounding uses which consist of housing to the east, south and west and a residential home to the north. The proposal is therefore consistent with Criterion (a).

6.11 Criterion (b) requires the provision of a satisfactory residential amenity. The dwelling has been oriented in such a way that it does not create any direct overlooking issues from adjacent housing into the site. The dwelling would have all its habitable room windows south facing so that these rooms receive a maximum amount of sunlight/daylight. However, the slope within the site, also to the south of the proposed dwelling, accommodates a number of mature trees that make an important contribution to the area. It is likely that a number of trees would have to be felled
given their relative height to permit an acceptable amount of light to habitable windows. The removal of mature trees in this location would have a detrimental impact on the surrounding area and as such it is unlikely that the proposal would comply with criterion (b).

6.12 Criterion (c) is similarly considered as it relates to plot sizes stating that all sites should be a minimum of 400 square metres and be compatible with those in the general area. An objection has been received in relation to plot size. The application site measures some 453 square metres which exceeds the minimum plot size of 400 square metres. Plot sizes within the immediate area range from less than 400 square metres at Braefoot to the south, 400 – 500 square metres at Braehead Drive to the north, and 900 square metres on Balmachie Road to the east of the site. Considering the characteristics of the site which contains a severe slope that results in a difference of 13 metres between the eastern side of the site (Balmachie Road) to the western side of the site (Braefoot) some 200 square metres of the site is technically unusable. Taking the above into consideration the useable area of the plot is less than the minimum 400 square metres and as such fails to comply with criterion (c).

6.13 Similarly Criterion (d) requires at least 100m² of private garden ground. An objection has been received in respect of the provision of garden ground. Due to the topography of the site and the proposed layout of the site it is evident that this proposal would not comply with criterion (d) as the land to the rear of the property is formed by a steep slope and unusable as defined by Advice Note 14. Although a site specific design is proposed that includes an area of decking to the side of the house and a small balcony to the rear of the dwelling this solution would not provide an adequate level of private garden ground therefore the proposal fails to comply with criterion (d).

6.14 Under H5 requirements proposals are required to demonstrate that safe and satisfactory vehicular access can be achieved and it is noted that the Head of Roads has not objected to the proposal. Appropriate planning conditions in relation to the provision of a safe means of access and appropriate in curtilage parking are also attached to Section 8 of this report. Criterion (e) is therefore met.

6.15 Criterion (f) seeks to maintain the residential amenity of adjoining housing. An objection has been received in respect of the distance been the proposed dwelling and the neighbouring property to the southeast. The east elevation of the proposed dwelling has a blank gable and would be offset at an angle from the objecting property. In respect of the guidance in Advice Note 14 the proposed dwelling complies with the required window to window distance of 12 metres between a blank wall and another habitable room window. Although there is a balcony associated with the proposed dwelling this would be located at an angle to the neighbouring property to the southeast and due to its orientation provides only limited overlooking of this neighbouring property at distances of 18 metres which would not reduce the residential amenity of the neighbouring property to an unacceptable level. In respect of the other neighbouring properties the only properties that could be affected are located to the south of the proposed dwelling but these are located some 13 metres below the proposed house and due to the steep slope and existing planting on the slope the proposal would have no adverse impact on the amenity of the these neighbouring dwellings. In this respect the proposal meets with Criterion (f) requirements although should mature trees be removed overlooking of the properties to the south would increase.
6.16 The issue of design is relevant to Criterion (g) as proposals should be designed to respect the scale, form and materials of adjacent housing. The introduction of a cantilever platform to support part of the proposed dwelling over the steep slope is a unique solution that has been utilised to address the slope of the site. The dwelling would be of a contemporary, site specific design with modern materials used throughout. In the context of this particular area of Carnoustie there is a wide range of dwelling styles and this proposal is considered to be compatible with Criterion (g).

6.17 Finally in terms of H5 criteria (h), the proposed means of foul and surface water disposal has not raised an objection from Scottish Water and is considered to be acceptable at the proposed in-settlement location as the proposal is to dispose of foul water to the public sewer and surface water to soakaway. The proposal therefore meets with Criterion (h).

6.18 Drawing together the above the proposed development is contrary to Policy H5 of the Adopted Angus Local Plan (2000), specifically criteria (b), (c) and (d) in terms of the residential environment that would be created; the size of the proposed plot and the provision of useable and private garden ground.

6.19 Policy ENV 5 requires consideration to be given to the town development strategy. I do not consider the proposal to have implications for the wider development strategy of Carnoustie. As suggested above, I consider the proposal to be inconsistent with Policy H5 and I have previously detailed my concerns in relation to the impact of the proposal on the amenity and character of the area. I therefore consider the proposal to fail Policy ENV5.

6.20 The application is for development which is considered to be contrary to the provisions of the development plan. There are no material considerations of sufficient weight which would warrant departure from the established policy and as such I consider the application should be refused.

6.21 This application is for a development that is contrary to a policy or policies of the Development Plan. Should the Committee determine to approve the application contrary to the Development Plan, reasons will require to be specified at the meeting for so doing.

7 HUMAN RIGHTS IMPLICATIONS

7.1 The recommendation in this report for refusal of this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the present recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant’s right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council’s legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.
8 RECOMMENDATION

8.1 It is recommended that the application be refused for the following reasons.

1. **Reason:** That the development proposed is contrary to Policy H5 of the Adopted Angus Local Plan (2000), specifically criteria (b), (c) and (d) in terms of the residential environment that would be created; the size of the proposed plot and the provision of useable and private garden ground.

2. **Reason:** That the development proposed is contrary to Policy ENV5 of the Adopted Angus Local Plan (2000) in that the development proposed is inconsistent with other policies of the local plan (namely Policy H5) and would harm the character and amenity of the area.

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

P&T/RK/IAL
27 August 2007

Eric S. Lowson
Director of Infrastructure Services