Abstract: This report deals with planning application No. 07/00336/FUL for the erection of a dwellinghouse for Keir Homes Ltd on land at Millgate, Friockheim. This application is recommended for approval.

1 INTRODUCTION

1.1 Full planning permission is sought for the erection of a dwellinghouse on land at Millgate Friockheim.

1.2 The application site extends to approximately 500 square metres, and is located to the rear of a small terrace of two storey properties at 7-9 Millgate. Access to the site, which is from Millgate, is shared with these properties whose rear gardens and off street parking spaces are located to the south, facing the site. The south boundary of the site facing the rear of these properties is currently undefined with the remaining three boundaries to the north, east and west defined by natural stone walls. Part of the wall along the north boundary has been removed to allow access to be taken to the south bank of the Mill Dam and the site is elevated in relation bank of the Dam adjacent to the Lunan Water. A number of mature trees are located outwith the site along the bank of the Dam while the site itself is partially overgrown and presents an unkempt appearance in the surrounding area.

1.3 A one and a half storey 3 bedroom house is proposed with velux windows in the roof to provide light to upper rooms. Proposed external finishing materials are concrete tiles for the roof, dry dash render for walls and timber windows. A small sun lounge is proposed on the west (side) elevation of the house with a balcony area formed partly on the roof above the sun lounge and partly recessed within the gable of the house. Off street parking space for two cars is proposed to the southeast of the site.

1.4 The application has been advertised as a potential departure to the Development Plan.

2 RELEVANT PLANNING HISTORY

2.1 An outline planning application for the erection of two dwellinghouses on the site was submitted in October 2004 and subsequently withdrawn by the applicant in February 2005 following concerns raised in respect of the scale and number of houses proposed.
3 APPLICANT’S CASE

3.1 The applicant’s agent has submitted a report from a consulting engineer in respect of potential flood risk.

4 CONSULTATIONS

4.1 The Head of Roads offers no objection to the proposal. Concern was originally raised in respect of potential flood risk however following submission of a report in respect of flood risk from a consulting engineer on behalf of the applicant the Head of Roads confirmed that these concerns had been satisfactorily addressed.

4.2 As above SEPA raised concerns in respect of potential flood risk however following submission of relevant supplementary information all concern in this regard have been appropriately addressed.

4.3 Scottish Water have no objections to the proposal.

5 LETTERS OF REPRESENTATION

5.1 Two letters of representation have been received in response to the application and copies are appended to this report. The main areas of concern are as follows:

- Access / road safety - This matter will be discussed in section 6.0 Planning Considerations.

- Loss of amenity to existing houses - This matter will be discussed in section 6.0 Planning Considerations.

- Inconvenience during construction – It is inevitable that during construction there will be some inconvenience to neighbouring properties. While I sympathise with affected neighbours any effects will be a limited period only and members will be aware that this is not a material planning consideration.

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 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.

6.4 The determining issues in this case are whether:

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

6.5 The Dundee and Angus Structure Plan does not contain any policies that are relevant to this application. The leading policy considerations in the determination of this application are therefore contained in the Angus Local Plan. Of particular relevance to the consideration of this application are:

- Policy ENV5: Development in Existing Built-Up Areas
- Policy H5: Small Housing Sites

6.6 Policy ENV5 states that:-

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 Policy H5 states that:-

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.

6.8 Policy H5 is the main policy which the application falls to be assessed against. This policy provides a range of criteria for the assessment of applications for small housing developments of less than 5 dwellings.

6.9 The proposal is compatible with surrounding land uses being located in a residential area with residential uses on three sides surrounding the site and provides a
satisfactory residential amenity (b). The proposed site is significantly larger than the minimum requirement of 400 square metres and in excess of 100 square metres of private garden ground provided to south of the site in accordance with criteria (c) and (d).

6.10 Concerns have been raised in of letters of representation regarding road safety issues. It is stated that the area either side of the access to Millgate is congested and concerns are raised over the increased use of the junction and the access to the rear shared with the five existing properties. A parking area which is satisfactory for two cars is proposed within the application site and there should accordingly be no impact in terms of on street parking on Millgate. The Head of Roads has fully considered the proposal in terms of road safety and has offered no objection. The proposal is accordingly considered to comply with criteria (e) as satisfactory and safe access and parking arrangements are achieved.

6.11 The design of the proposed house is considered to be acceptable and although a number of windows face towards the properties to the south these are separated by the mutual access to the dedicated parking for those houses and associated garden areas. The existing houses to the south are approximately seventeen metres away and accordingly I am satisfied that there will be no adverse impact on the privacy of the existing houses and the proposal will maintain residential amenity (f). Although the proposed house includes accommodation within the roof it is comparatively low at 6.5 metres to the ridge of the roof and is of a suitable scale for the site. The development also respects the scale, form and use of materials of adjacent housing (g). It is relevant to note that the current proposal is for one house only compared to the previously withdrawn application for two houses. Concern is also raised in letters of representation in respect of a potential for a general loss of amenity resulting from the development of a house on the site however it is relevant to note that the area in its current condition is relatively overgrown and unsightly. In this respect I consider that the development of a house on the site would serve to improve the appearance of the surrounding area. The site also lies adjacent to the Mill Dam area which has been reinstated with public access provided as part of a separate housing development further to the east of Millgate. I consider that the Mill Dam area adjacent to the site serves an appropriate function both as a useable recreational area and wildlife habitat not provided by the current application site. An acceptable means of foul and surface water disposal can be achieved (h) and overall the proposal is compatible with Policy H5.

6.12 As stated in Section 4 above some concerns were raised by consultees in respect of potential flood risk. Policies INF8 and 9 are accordingly relevant.

**Policy INF8 : Flooding – Consultation**

Angus Council will routinely consult SEPA if development proposals are adjacent to:-

- the Elliot Water, south of Arbirlot;
- the Brothock Burn, south of Leysmill;
- the South Esk;
- the North Esk, south of Edzell;
- the catchment of the Dighty Water and tributaries; and
- other sites adjacent to watercourses known to be a local flood risk.
Policy INF9: Flood Risk Assessment

Angus Council will take cognisance of SEPA’s recommendations on relevant applications and developers will be required to submit hydrological studies and/or flood risk assessment where appropriate.

6.13 A report has been submitted in respect of potential flood risk by the applicant which concludes that there is no flood risk to the proposed site and that the site does not occupy part of an active flood plain. The information within the report has been verified by relevant consultees and as such there is no conflict with either of the above Policies.

6.14 Policy ENV5 requires consideration to be given to the settlement development strategy. I do not consider the proposal to have implications for the wider development strategy of Friockheim. I consider the proposal to be consistent with Policy H5 and I do not foresee any unacceptable impacts in terms of the amenity and character of the area. I therefore consider the proposal to satisfy the test provided by Policy ENV5.

6.15 The application is for development which is consistent with the provisions of the development plan. There are no material considerations which would justify refusal of the application and as such I consider the application should be approved subject to conditions.

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 approved for the following conditions.

1. That the development hereby permitted shall be begun before the expiration of five years from the date of this permission.
   Reason: In order to comply with the requirements of the Town and Country Planning (Scotland) Act 1997.

2. That no alterations or amendments be made to the details contained in the approved and docqueted plans unless so indicated by conditions attached to this consent or agreed in writing with the Planning Authority.
   Reason: For clarification purposes and for the avoidance of any possible misunderstanding.
3. That the existing stone boundary walls shall be retained and reinstated in natural stone where required prior to occupation of the dwellinghouse hereby approved in accordance with details to be submitted to and approved in writing by the Planning Authority which shall also include the proposed means of enclosure to the southern boundary.  
Reason: In order that the visual amenity of the area shall not be adversely affected.

4. That prior to the commencement of development a detailed specification of proposed landscaping shall be submitted to and approved in writing by the planning authority. The approved scheme shall thereafter be implemented prior to occupation of the dwellinghouse.  
Reason: In order to ensure that the landscaping proposals necessary to enhance the amenity of the proposal/development are satisfactory and acceptable to the Council.

5. That all planting comprised in the approved details of landscaping be carried out in the first planting season following the completion of the development or at earlier stages and any plants or trees which within a period of 5 years from the commencement of the use die; are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.  
Reason: In order to ensure that the landscaping proposals necessary to enhance the amenity of the proposal/development are satisfactory and acceptable to the Council.

6. That prior to the commencement of development, a plan shall be submitted for the approval of the planning authority which details finished ground and floor levels of the proposed house relative to existing ground levels.  
Reason: In order that the amenity of nearby occupied premises shall be adequately safeguarded.

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/DS/IAL  
5 November 2007  
Eric S. Lowson  
Director of Infrastructure Services