

# **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 04 MARCH 2011**

**10/0812/PP: PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 206 HOUSES  
WITH ASSOCIATED ACCESS ROADS, SUDS BASIN AND LANDSCAPING**

**AT KILWINNING ROAD / DALRY ROAD, STEWARTON**

**APPLICATION BY STEWART MILNE HOMES**

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

**Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=10/0812/PP>**

## **EXECUTIVE SUMMARY SHEET**

### **1. DEVELOPMENT DESCRIPTION**

1.1 Planning permission is sought for the construction of 206 dwellings together with the provision of roads, footpaths and associated infrastructure including a swale and a Sustainable Urban Drainage system (SUDS). The proposed development layout has largely been developed around the existing topography of the site, with the incorporation of a spine road on a north/south axis linking Kilwinning road with Dalry Road, the existing boundary uses, the orientation and views across the surrounding rural landscape and the incorporation of areas of open space and peripheral path network.

1.2 The residential units proposed are all 2 storeys in height with the majority being detached, other than 4 blocks of terraced units. The development mix consists of 4 different styles of five bedroom units, 7 different styles of four bedroom units and 5 styles of three bedroom units. Most of the proposed dwellings have accommodation over 2 levels however on areas of the site with steeper gradients the house design reflects this, offering accommodation over 3 levels. All the dwellings have a common design theme.

- Three bed units have mixed front elevations with gable protrusions and front and side main entrances.
- Four bed units have similar mixed frontages with gable frontages incorporating both pitched and hipped roof protrusions. Six out of the seven house styles have integrated garages.
- Five bed units have a mixture of protruding single and double gable frontages with some styles incorporating bay front windows and upper level patio doors. Three out of the four styles of units have integrated garages.

1.3 The external finishes proposed consist of stone work detailing and/or facing brick, dry dash render, concrete roof tiles, cast stone window sills/lintels and mullions and white uPVC windows.

1.4 The application was preceded and informed by a formal pre-application consultation exercise undertaken by the applicant consistent with the requirements of the Planning etc (Scotland) Act 2006.

## **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet but that the issue of the decision notice should be withheld until the financial contribution as required under policy RES29 (Section 5.8 of the report) and the financial contribution for the Road Improvement works (Section 3.1 of the report) have been received by the Council.**

## **3. CONCLUSIONS**

3.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise.

3.2 As is indicated in Section 6 above, there are material considerations relevant to this application. The proposal has attracted a significant amount of representation however the points of objection are either not of sufficient weight to justify refusal of the application or are not material to the determination of this application. Therefore the material considerations of relevance to this application are considered to support the proposal.

3.3 The development of this area of undeveloped agricultural ground has raised concerns for many people within Stewarton and more specifically those people who bound the application site. However this application site is an identified residential opportunity site noted within the adopted East Ayrshire Local Plan 2010 in which the principle of residential development is accepted. The application complies with the development plan and the site layout has been developed in conjunction with a Masterplan following a detailed public consultation process which included a public event. This consultation formed part of the statutory pre-application consultation process introduced further to the "Planning etc (Scotland) Act 2006". The areas of open space, house types, densities and road layout are considered to be suitable for a development at this location.

3.4 To conclude there are no significant environmental or community concerns regarding the proposal that cannot be addressed by appropriate planning conditions and therefore it is considered that the application should be approved.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development based on the principle of the development, then the application would require to be referred to Council because a decision on that basis would represent a significant departure from the development plan.

**Alan Neish**  
**Head of Planning and Economic Development**

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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## 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for consideration an application for planning permission which is to be considered by the Local Planning Committee under the scheme of delegation as the proposals represent a major development in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009.

## 2. APPLICATION DETAILS

2.1 **Site Description:** The site extends to an area of 10.03 hectares (approximately 24.07 acres) and is located on the western approach to the settlement of Stewarton between Dalry Road to the north and Kilwinning Road to the south. The application site falls within the settlement boundary of Stewarton and is noted as 354H residential development opportunity site in the adopted East Ayrshire Local Plan 2010.

2.2 To the north the site is bounded by Dalry Road and a recently completed residential development. A single access road is positioned directly opposite the application site providing vehicular access to the residential development. To the south the site is bounded by Kilwinning Road and a terraced row of two storey dwellings which overlook the site. On the north side of Kilwinning Road and relatively centrally located a single dwelling (Rigghead Cottage) juts into the site. Mature tree planting surrounds Rigghead Cottage on the boundary of the application site, benefiting from the protection of a blanket Tree Preservation Order. To the west the site bounds with undeveloped agricultural land and is defined by a post and wire fence and native hedgerow. To the northeast the site bounds with Stewarton Cemetery defined by a boundary wall. To the south along the eastern boundary towards Kilwinning Road the site bounds with the rear gardens of the dwellings within Rigghead.

2.3 In terms of existing land use, the site is undeveloped and comprises mainly of agricultural land. An area of mature woodland is present along the northern periphery of the site known as Longridge Plantation which is approximately 14 metres wide comprising of a double row of trees, predominantly beech. These trees are not protected by a tree preservation order (TPO). An informal footpath meanders through this area.

2.4 The natural topography of the site falls towards Kilwinning Road sloping distinctly towards a natural low point in the south west corner (102.5m OD) with the highest part of the site lying to the south east (122.5m OD). A fall of approximately 20 metres is noted from the highest to the lowest areas of the site with the steepest area located to the southeast corner adjacent to Kilwinning Road.

2.5 **Proposed Development:** Planning permission is sought for the construction of 206 dwellings together with the provision of roads, footpaths and associated infrastructure including a swale and a Sustainable Urban Drainage system (SUDS). The proposed development layout has largely been developed around the existing topography of the site, with the incorporation of a spine road on a north/south axis linking Kilwinning road with Dalry Road, the existing boundary uses, the orientation and views across the surrounding rural landscape and the incorporation of areas of open space and peripheral path network.

2.6 The residential units proposed are all 2 storeys in height with the majority being detached, other than 4 blocks of terraced units. The development mix consists of 4 different styles of five bedroom units, 7 different styles of four bedroom units and 5 styles of three bedroom units. Most of the proposed dwellings have accommodation over 2 levels however on areas of the site with steeper gradients the house design reflects this, offering accommodation over 3 levels. All the dwellings have a common design theme.

- Three bed units have mixed front elevations with gable protrusions and front and side main entrances.
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2.7 The external finishes proposed consist of stone work detailing and/or facing brick, dry dash render, concrete roof tiles, cast stone window sills/lintels and mullions and white uPVC windows.

2.8 The application was preceded and informed by a formal pre-application consultation exercise undertaken by the applicant consistent with the requirements of the Planning etc (Scotland) Act 2006.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council Roads and Transportation Service has no objections in principle to the proposal based on the information contained within the amended road layout drawing and those details included within the Transport Assessment.

#### **Transport Assessment**

A Transport Assessment accompanied the Planning Application. Detailed comments have been provided following the main headings of the TA, a summary of which is noted below.

### Accessibility:

The information provided on the accessibility of the site by alternative forms of transport is satisfactory. The following pedestrian infrastructure alterations identified within the TA will be required to facilitate pedestrian trips to and from the site:

1. An extension to the northern footway on Kilwinning Road from the site boundary to Rigghead, a length of approximately 120m constructed to a width of 2m.
2. An asphalt footpath upgrade to the paved footway connecting Kilwinning Road and Dalry Road at the rear of Stewarton War Memorial.
3. The provision of an uncontrolled pedestrian crossing facility (pedestrian refuge island) within the confines of the proposed Dalry Road access junction, complete with all necessary dropped kerbs, bollards, tactile paving, and lighting as necessary.

***The applicant has agreed to finance 1 and 2 above and agreed to construct 3 to the satisfaction of the Roads and Transportation Service.***

### Traffic Assessment:

Base network traffic flows were gathered from traffic surveys carried out between September 2008 and May 2010. The traffic information was factored to a design year of 2014 using National Road Traffic Forecasts (NRTF) Mid Growth Factors and incorporated all committed developments as necessary. Trip generation figures have been derived utilising a people based trip generation assessment and the TRICS database. For a residential development consisting of 220 houses the derived trip rates of 0.6 out and 0.19 in for the AM peak with 0.32 out and 0.6 in for the PM peak are considered satisfactory. It has been assumed that all trips to and from the development site will be split 50/50 between the north and south accesses. The following junctions were analysed either as part of the TA or the previously submitted Technical Issues Report (TIR) for Stewarton.

1. Kilwinning Road / Dalry Road – The analysis shows the junction will operate well within capacity during the AM and PM peak periods.
2. North Site Access/B778 – The visibility splays indicated for this proposed site access are acceptable. The analysis shows this junction will operate within capacity.
3. South Site Access / Kilwinning Road -The visibility splays indicated for this proposed site access are acceptable. The analysis shows this junction will operate within capacity.
4. Lainshaw Street / Standalane – The analysis indicates that the roundabout would continue to operate within capacity with all development traffic incorporated.
5. Stewarton Cross – Analysis of the Stewarton Cross Traffic Signals is contained within the previously submitted Stewarton TIR. The assessment indicated that the junction would be over capacity when the additional traffic associated with the proposed development site was added. The junction was then reanalysed with the two side roads combined into a single traffic stage. This analysis indicated that the junction would operate satisfactorily with the Kilwinning Road development traffic included, for both AM and PM peak periods. The analysis also indicated that there would be sufficient reserve capacity to allow for the other committed developments for Stewarton identified within the Local Plan. The Council implemented the revised staging arrangements on 5<sup>th</sup> October 2010 and commissioned a Road Safety Audit to consider the revised arrangements. The junction has been monitored regularly since the revised signal staging was

implemented and has been found to operate satisfactorily with reduced queues and delays at the junction during peak periods.

#### Sustainable Transport Options:

1. The surrounding road network is in general well catered for with existing footways.
2. The links connecting the proposed footpaths and footways within the site to the existing public road network appear satisfactory.
3. There are no existing cycle paths in the vicinity of the proposed development however the assumption on the use of available road network would appear acceptable.
4. The development is within reasonable walking distances of existing bus routes and the internal road layout would facilitate local bus services through the site.
5. The development site is also located within 800m from Stewarton Railway Station.

#### **Internal Development Layout**

The Roads and Transportation Service has not objected to the proposed development subject to conditions below:

1. Full details of the flood route for the 1 in 200 year rainfall event to be brought forward for agreement at RCC stage and including swales to the attenuation basin.
2. The full Flood Route is to be 2d modelled to ensure that no property on the route will be at risk and any problems identified are engineered out.
3. Confirmation of Scottish Water's adoption of the attenuation basin should be submitted (as it receives the road surface water for both the 1 in 30 year and 1 in 200 year events). SEPA approval is required for discharge into the existing watercourse.
4. A combined Stage 1/2 Road Safety Audit shall be submitted in support of the application.
5. Details of traffic calming throughout the development to be submitted and agreed.
6. A footway should be extended along Kilwinning Road for the full length of plot 127.
7. Driveways not leading to garages should be at least 12m long and driveways leading to garages should be at least 6m long.
8. Right angled visitor bays to be 6m long and located behind the service verge/footway.

***The requirements of the Roads and Transportation Service can be secured by appropriate conditions attached to any planning consent granted for the proposed development. However points 1-3 inclusive can be dealt with at the Roads Construction Consent stage rather than being implemented as a planning condition.***

3.2 East Ayrshire Council Environmental Health Service (Contamination Section) has no objection in principle to the application and states that the contaminated land data base has not identified any specific area of concern but, due to the sensitive nature of the development advises that soil sampling and soil gas monitoring be conducted to assess the potential for soil contamination and the presence of soil gas

as part of the ground condition report which will be required in granting the building warrant.

***The comments above do not relate to any direct threat of contamination and therefore the monitoring in terms of soil and soil gas can be carried out as part of the building warrant process rather than take the form of a suspensive planning condition in any planning consent granted.***

3.3 The Scottish Environment Protection Agency (SEPA) had originally objected to the application on the grounds of culverting a watercourse; however following discussions with the applicant's engineer and as an Engineering Activities Application has been made under The Water Environment (Controlled Activities) (Scotland) Regulation 2005 (as amended) (CAR) providing justification for such an activity, SEPA is now in a position to remove this objection and offers the following advice:

(i) Foul Drainage: The foul drainage from the site must be discharged to the public sewerage system. The applicant should consult with Scottish Water in this regard. SEPA would confirm that it is the responsibility of Scottish Water to ensure that the additional flow arising from this development will not cause or contribute to the premature operation of consented storm overflows.

***The foul drainage will require to be discharged through the public sewerage system and Scottish Water has not raised any significant issues within their consultation response.***

(ii) Surface Water: SEPA would ask that any planning permission granted includes a condition requiring the proposed discharge of surface water to the water environment to be in accordance with the principles of the SUDS Manual (C697) which was published by CIRIA in March 2007. The discharge of surface water must comply with the terms of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended).

***Appropriate conditions or notes can be attached to any grant of consent for the proposed development to meet the requirements of SEPA.***

3.4 The Access Panel has not responded to the consultation letter at the time of writing.

3.5 Stewarton Community Council has no objections stating that they hope that the potential increase in both the population and vehicle numbers would be recognised by East Ayrshire Council and suitable infrastructure support would follow on to improve the local community services accordingly.

3.6 East Ayrshire Council Environmental Health Service has no objections in principle to the proposed development but has the following comments to offer:

- (i) Noisy work on the site during construction should be restricted to 0700 and 1900 hours Monday to Friday, 0800 and 1300 hours on Saturdays, with no noisy work on Sundays.
- (ii) Noise from the works during construction should at no time cause the underlying background noise level LA90(1 hour) to rise by more than 3 dB(A), measured at the nearest noise sensitive locations.

- (iii) Suitable dust suppression measures should be introduced where appropriate during the construction phase.
- (iv) All waste arising from the works during construction should be disposed of to the satisfaction of the Waste Management Authority, and otherwise by burning.
- (v) All drainage should be completed to the satisfaction of SEPA and/or Scottish Water.
- (vi) The Contaminated Land Officer has not identified any specific area of concern but has suggested the inclusion of a general caveat on any conditions of approval to the effect that if any unsuspected contamination is encountered during the proposed works, the Council should be informed accordingly along with any required remedial measures formulated to address the risk of exposure to key receptors and subsequent confirmation of completion of works.

***Where appropriate, conditions can be attached to any consent granted for the proposed development to meet the requirements of the Environmental Health Service.***

3.7 East Ayrshire Council Department of Education and Social Services has no objections to the proposed development and confirms that the Department has an obligation to provide services including educational and social care provision in line with legislative requirements and the development of additional housing within this area would not impact on the requirement for delivery. The current Educational provision in the authority area would have the capacity to incorporate any additional children requiring education.

3.8 Strathclyde Passenger Transport (SPT) has no objections to the proposed development and offers the following comments:

While the site is relatively well served by bus services operating on Dalry Road and Kilwinning Road the site layout should be revised so that it does not prohibit future through serving by bus. As such we would request that the spine road width be revised to a minimum of 6 metres to accommodate buss access.

***The road layout has been specifically developed with the aim that the road layout can assist as a less intrusive form of traffic calming linked to the principles of Designing Streets. Additionally attention has been focused on ensuring the spine road does not become a short cut link between Dalry Road and Kilwinning Road. Therefore the widening of this road to incorporate future bus use would not be compatible with the overall aim of the spine road. However it is important to note that the development is positioned between two existing bus routes of Kilwinning Road and Dalry Road with access afforded to both.***

3.9 Scotland Gas Networks has not raised any objections to the proposed development but has provided information in relation to its apparatus in the locality, primarily within the existing road network.

***A note can be attached to any consent granted for the proposed development advising the applicant to make early contact with SGN regarding the potential impact of the proposed development on its apparatus.***

3.10 Scottish Power Energy Networks has not raised any objections to the proposed development but has provided information in relation to its apparatus in the locality of the site.

***A note can be attached to any consent granted for the proposed development advising the applicant to make early contact with SPEN regarding the potential impact of the proposed development on its apparatus.***

3.11 The West of Scotland Archaeology Service states that there are no recorded archaeological sites within the proposed development area but because development is proposed for previously undeveloped land which is large in scale, there is a potential for significant unrecorded sub surface archaeological deposits to be present on site. It is not at all unexpected to find that there are few or no recorded sites within areas of improved ground that have been regularly ploughed in the past. However this does not mean that there has never been any human activity on the site throughout the many thousands of years covered by our understanding of British prehistory and history. Because this site is situated on previously undeveloped land the potential for significant unrecorded subsurface archaeological deposits remains.

WOSAS would therefore recommend the attachment of an appropriate condition to any consent the Council may grant, so as to properly control the detailed measures to be brought forward to deal with the archaeological issues arising from the development operations in this area. The most appropriate form of condition to use in these circumstances would be a negative suspensive condition such as that suggested for the outline application. WOSAS recommends the following wording, which reflects recent experience and current best practice:

*“No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.”*

The use of such a condition will allow the Council to ensure that if significant archaeological remains are present within the current application site, their excavation and recording can be achieved to an acceptable standard, along with the dissemination of the results of the work in the public domain if this is considered necessary.

***Following early discussions with the applicant regarding the above requirement by WOSAS, a Project Design Report has been undertaken by GUARD and submitted to the Planning Authority. This report provides a written scheme of investigation agreed by WOSAS. Therefore as this scheme of investigation has already been undertaken and submitted the incorporation of a planning condition can be attached to any consent granted ensuring that this report is adhered to.***

3.12 East Ayrshire Council Outdoor Services Section has no objections to the application and makes the following comments:

- (i) To construct the proposed entrance to the site off Dalry Road will require the removal of 37 mainly mature trees from the woodland belt. Although a number of these trees are in a poor condition there are also several good specimens which would normally be retained. The developer should replace the 37 trees with root balled container grown extra heavy standards (18-20cm girth) of suitable species to recreate the woodland.
- (ii) Trees in gardens within 2 metres of pavements or driveways should be planted with root trainers to prevent future damage to the hard surface. Careful selection of suitable trees will be required as space will be limited.
- (iii) The development should have children's play provision for toddlers, juniors and teenagers as a development of this size is likely to have a large number of children. The play areas should be positioned in the open and not obscured from public view.
- (iv) A development of this size should have a quality open space area of at least 1240 m<sup>2</sup>.
- (v) An access path should be created through the open space area to the south east of the site as a natural desire line for the public to access Kilwinning Road.

***The above comments relating to the loss of trees to the north of the site (along Dalry Road forming the Longridge Plantation) have been incorporated into a replanting scheme for this area of the site. Conditions can be attached to any consent granted to ensure the planting is as per the stated specification.***

***Amended plans have also been produced which revise the location of the play area to a more prominent location within the site and introduce an additional play area (providing two play areas in total). In terms of the access path provision to the south east of the site, this opportunity was explored but due to the land levels in this corner any path would be steep in gradient and involve a series of steps. Those comments which have not been addressed in the amended site layout plans and are capable of being incorporated into the development can be attached as conditions to any consent granted.***

3.13 Scottish Natural Heritage has no objections to the application and makes the following comments:

Due to the agriculturally improved nature of the majority of the ground the site is of relatively low natural heritage interest. However, we note that the Ecology Report indicates that trees are to be felled as part of this development and that this habitat is used by European Protected Species (EPS), bats. SNH would suggest that the full list of recommendations listed in chapter 6 of the Ecology report is included within the conditions of any planning approval.

- SNH is keen to see that developments recognise and support the Central Scotland Green Network, a national priority in the National Planning Framework.

- East Ayrshire Council should be satisfied with the standards and materials used for footpaths and the provision of seating, rubbish bins, flower beds etc to be used in open spaces.
- The relationship between the development and the new sports facilities should be considered. We would encourage the provision of an off road footpath/cycleway connecting to the Rigghead residential area to allow children to access these new facilities safely and sustainability.
- East Ayrshire Council should be satisfied that the house development considers CO2 emissions and uses a suitable range of materials, insulation qualities and environmental standards of homes.

***The above points have been taken into consideration and can be incorporated as appropriate planning conditions in any consent granted for the proposed development.***

3.14 Scottish Water has no objection to the proposed development and states that due to the size of this proposed development it is necessary for Scottish Water to assess the impact this new demand will have on existing infrastructure. With any development of 10 or more housing units, or equivalent, there is a requirement to submit a fully completed Development Impact Assessment form. In terms of foul treatment there are no public sewers in the vicinity of the proposed development. Camphill Water Treatment Works currently has capacity to service this proposed development.

#### **4. REPRESENTATIONS**

4.1 The application has attracted 13 letters of representations from 17 signatories objecting to the proposed development. The points of objection can be summarised as follows:

4.2 I live in Rigghead and these houses will be built facing my back door. I will lose all my privacy and not to mention the great views across the countryside.

***The proposal has been assessed against overlooking and window-to-window distances have been checked between those proposed dwellings along the eastern boundary of the site and those existing dwellings along Rigghead. All of the proposed dwellings are in excess of the Planning Services minimum window-to-window distance of 18 metres and therefore are not considered to present any overlooking issues to those existing dwellings. It is noted that those existing dwellings along Rigghead, which back onto the application site, have unrestricted views across the immediate countryside and beyond; however the loss of a person's view from their property is not a valid planning ground of objection.***

4.3 The houses are not needed at all as there are many homes in the nearby area that cannot sell at present.

***The application site is identified as a Development Opportunity Site within the adopted East Ayrshire Local Plan 2010 (EALP) in order to meet***

**future housing demands in Stewarton. While the comments of the objectors are noted, they are not material to the determination of this application.**

4.4 There will be an increase in traffic within Stewarton which could mean an addition of some 400 cars.

**The Roads and Transportation Service has been involved in the detailed assessment of the site as part of the process of including the site as a development opportunity site within the adopted EALP. In consideration of the Transport Assessment which accompanies the planning submission the Service has not indicated any objections to the proposed development either on road capacity or road safety grounds, subject to planning conditions.**

4.5 The increase in the number of houses is such that pollution in terms of sewage and drainage in the area will be affected.

**The points raised by the objector are not supported by the comments received as part of the consultation process where no objections have been raised in terms of the capacity or otherwise of the infrastructure to serve the proposed development.**

4.6 The local health centre and schools are already over their limits with the average waiting time at the surgery over three weeks.

**The comments made by the objector are duly noted; however as part of the assessment process of new land release in connection with the preparation of the EALP, service sectors such as schools and health practices were involved in the consultation process. As the application site has been approved as an identified residential development opportunity site within the EALP, the impact on Schools and the local Health Centre has been considered and is therefore not of sufficient weight to warrant the refusal of the application. Furthermore the Department of Education and Social Services has confirmed in Section 3.7 above that there is sufficient capacity to accommodate additional children requiring education as a result of this application.**

4.7 The proposed properties will mean the destruction of a number of trees that are over 150 years old and we are also led to believe that these trees were planted over a mass burial site.

**The loss of 37 trees to the north of the site within the Longridge Plantation is required in order to provide new access to the site from Dalry Road and more specifically to accommodate the visibility splays required for road safety. These trees are not covered by a tree preservation order. A detailed tree survey has been carried out which notes the location and condition of all trees to be removed, many of which are in a poor condition. Following the formation of this new access road an extensive tree planting scheme is proposed within this area along with a formal pathway which links to the western perimeter of the site. Conditions can be attached to any consent granted ensuring the specific types and sizes of trees are appropriate for the location. With**

**specific regard to the comment relating to the mass burial site, WOSAS have not raised any issues regarding archaeological constraints on the site.**

4.8 The proposed development is on an elevated site and will block light.

**Although the proposal is on an elevated site the layout and proximity of the proposed dwellings are not considered to impact on the natural day lighting to any existing houses bounding the site, which can only be on Kilwinning Road and Rigghead.**

4.9 This town has become a commuter town and has no facilities for its residents. The applicant has offered a sweetener in that they are part funding the planned leisure complex at Rigghead. This as mentioned is a sweetener to allow the development to go ahead when the monies were already available for this project.

**The application site has been identified as a Development Opportunity Site through the adopted East Ayrshire Local Plan 2010 for residential development. Studies were carried out during this allocation to assess the suitability of Stewarton for expansion of this scale. In addition the applicant has agreed to pay an upfront Developer Contribution payment of £227,836 which amount is consistent with the terms of Policy RES29 of the EALP.**

4.10 There are only four small open spaces in the whole development, one of these is at the extreme south east corner and is of no value. There is only one small play area.

**This area of open space assists the developments integration with the adjoining area of open space. In addition due to the site levels in this area any other use of the ground would be very difficult. The location and size of the play area have been discussed and amended plans have been submitted moving the location to a more prominent area and providing two play areas rather than one.**

4.11 Phasing: The applicant wants to build 50 homes per year; from 2011 to ensure the development is finished by 2015. The development plan indicates a maximum of 130 houses by 2017 and 70 houses thereafter.

**Section 5.4 below provides details on the specific phasing requirement and discussions the applicant has had with the Council. The applicant provided detailed justification that the proposed phasing requirement was not viable in this economic climate and as such there is no longer a requirement for the development to be phased.**

4.12 The 1.8 metre high fence quoted in the plan is totally inadequate to respect our privacy.

**The use of a 1.8 metre high timber fence to define rear boundaries is a standard feature in residential developments. In this instance a planning condition can be attached to increase the height of the fence along this eastern boundary to 2.0 metre to provide slightly more privacy to both the existing dwellings and those proposed.**

4.13 The plan indicates a whin dust path round the north and west side of the estate. This is a totally penny pinching exercise on the part of SMH.

***The layout plans do show a perimeter path finished in a whin dust surface. However the principle of this is to create a softer more rural style path within the areas of open space especially along the western section which bounds the rural landscape.***

4.14 We object to the re-alignment of the part of Kilwinning Road on the south side of the proposed development.

***The re-alignment as shown on the site plan allows for safer on street car parking for residents along this section of Kilwinning Road (numbers 57 – 79 inclusive). This has been considered by the Roads and Transportation Service and no issues relating to road safety have been raised.***

4.15 Stewarton Woodlands Action Trust have raised concerns regarding a safe link crossing at Dalry Road and are anxious that safe gated or staggered barriers be used at both ends of the proposed path where it meets with Kilwinning Road and Dalry Road as traffic can be speeding up at both of these locations.

***A condition can be attached to any consent granted to meet this requirement.***

#### Stewarton Cross

4.16 In relation to the alterations to the traffic movements at Stewarton Cross, representations have been received on a wide ranging basis. In response to these objections the Council is in receipt of further information from consultants acting on behalf of the applicant and also detailed comments from the Roads and Transportation Division. These comments provide a full response to the various points of objection.

4.17 We fully accept that running 2 instead of 3 traffic stages results in some additional traffic capacity being available at the junction. This does not however address the safety concerns that arise as a result of the alteration.

***The changes were safety audited by Stewart Milne Homes' transport consultants, and EAC commissioned an independent road safety audit. Neither audit indicated safety concerns at the junction.***

4.18 Introduction of opposing side roads makes it more likely that right turners from Rigg Street and Vennel Street become 'stuck' beyond the stop line during their red stage, impeding turners from the other approaches.

***This situation is controlled by ensuring that appropriate stage intergreen timings are used. Extensions to intergreen timings at the junction have been made to reflect the changed priorities.***

4.19 Through traffic from Vennel Street to Rigg Street has to deviate significantly around right turners, resulting in right turners from Rigg Street, putting priority in

doubt in some situations, and leading to some right turners from Rigg Street accepting smaller gaps that is desirable from a safety point of view

***This assertion is not supported by observations at the junction.***

4.20 Large vehicles turning left from Vennel Street have always had to swing onto the wrong side of the road to perform the manoeuvre. When they do this now they do so at the risk of encountering an oncoming vehicle from Rigg Street, alternatively they cannot perform the left turn until oncoming traffic from Rigg Street has passed. If the left turn into Lainshaw is attempted without swinging out, goods vehicles mount the footway at the corner of Vennel Street and Lainshaw to the detriment of pedestrian safety where the footway is narrow.

***An allowance has been made for this by moving back the stop line on Lainshaw St and narrowing down the lane width locally at the stop line. No problems have been observed as a result of these alterations.***

4.21 The vast majority of right turners from Vennel Street do not pull forward into the right turn box marked on the ground. The result of this is to make the capacity improvement less effective in practice than it is on paper, and computer models of the future situation are likely to over-estimate the benefits resulting from the scheme as implemented. Because right turners from Vennel Street to Main Street do not pull forward they more frequently block straight through and left turn movements from Vennel Street to the detriment of junction capacity.

***This assertion is not borne out by observations at the junction which indicate that vehicles do use the right turn storage bay.***

4.22 By running Rigg Street and Vennel Street together, the new arrangement has introduced vehicle-to-vehicle conflicts that were not present in the original situation. By definition, any increase in the number of conflicts at a junction increases the risk of accidents occurring. Whether more accidents do in fact occur may only be known over the course of monitoring for a number of years. Three years is a typical period for considering accident trends. By that time what recourse will the Council have if accidents have increased?

***The accident record at the junction will continue to be monitored by the Roads & Transportation Service. Strathclyde Police records indicate that there were no reported accidents at the junction from the introduction of the changed priorities on 5<sup>th</sup> October up until 31<sup>st</sup> December 2010 (the most recent data available).***

4.23 Frequent examples can be observed of vehicles accelerating hard from Rigg Street to 'beat' oncoming traffic from Vennel Street to the turn. This is an unsafe practice that was not present or necessary in the previous arrangement. Similarly numerous examples can be observed of vehicles turning on a red signal because of being delayed due to the opposition and blocking of turns on Vennel Street and Rigg Street, which again did not occur in the previous arrangement. This behaviour is particularly notable in the Weekday PM peak.

***This situation is controlled by ensuring that appropriate stage intergreen timings are used. Extensions to intergreen timings at the junction have been made to reflect the changed priorities.***

4.24 The result of the behaviour described above is that these late turners start to encroach towards the pedestrian stage, with the potential to increase the risk to pedestrians when this happens.

***This issue is also dealt with through the application of appropriate intergreen timings and extensions to these intergreens were made during the trial.***

4.25 Concern raised on maintenance of the road markings which are required to ensure the scheme works as intended.

***The road markings will be monitored as part of routine maintenance inspections and will be refreshed as and when required.***

4.26 Concern raised regarding the visibility of the markings under extreme winter conditions.

***The Council has a Winter Service Plan in place that forms part of the Council's quality procedures. Additionally, during the signal trial there were several instances of inclement winter weather from late November through to early January. During this period the installation performed safely and efficiently without incident. Notwithstanding the above, drivers also have a duty of care when driving in winter conditions and the highway code gives clear advice on driving in adverse weather conditions.***

4.27 As a result of the signal changes the risk of footway over-run particularly at the corners of Vennel Street has increased.

***The adjustments to the Lainshaw Street stop line and centre line positions reduce the likelihood of vehicle over-run at the Vennel Street corner. Consideration is also being given to the installation of a footway bollard to prevent footway over-run.***

4.28 Video footage during the trial would have been useful to highlight some of the real and perceived traffic problems.

***Video footage of the trial was undertaken between 15<sup>th</sup> and 19<sup>th</sup> October 2010. Analysis of the video footage did not indicate any safety concerns.***

4.29 On occasions, vehicles have to wait a second cycle of the traffic signals to allow clearance of the junction.

***Prior to the signal alterations there were numerous instances where vehicles had to wait for several signal cycles before getting through the junction. There has been a significant improvement in junction performance since the revised signal staging has been implemented.***

4.30 The capacity savings as a result of the signal changes have been grossly exaggerated and that the levels of queuing traffic are now almost back at original levels.

***This is not borne out by observations undertaken by the Roads & Transportation Service which indicate that the additional capacity created as a result of the signal changes is still evident and that the traffic queues at the junction are considerably less than before the changes to the signals.***

4.31 The additional capacity created as a result of the signal alterations will be immediately utilised by the Kilwinning Rd development coming on stream.

***The Transport Assessment (TA) submitted in support of the application indicates that the revised signal staging would allow the junction to operate satisfactorily with the Kilwinning Road development traffic included, for both AM and PM peak periods. The analysis also indicated that there would be sufficient reserve capacity to allow for the other committed developments for Stewarton identified within the Local Plan.***

4.32 Additional confusion has been introduced as a result of opposing arms now running on a single traffic stage. This operation is not normal.

***It is standard practice at signal controlled junctions to run opposing traffic streams together in the same signal stage. The road safety audit did not indicate safety concerns at the junction.***

4.33 In addition the applicant contends that the above representations can be conclusively addressed due to the level of work which has been undertaken at Stewarton Cross. They summarise this below:

4.34 Initially the operational analysis of the junction utilised up-to-date traffic counts that were undertaken in September 2008. The analysis of the junction included flows from all committed developments and all local plan release sites and also takes into account background traffic growth. This operational analysis established that the optimal solution for the junction operating within capacity with all development in place required the Vennel Street and Rigg Street approaches to operate on the same signal stage. With this optimal solution in place the junction is forecast to operate within accepted levels of capacity in both peak periods with trips from all committed development and Local Plan allocations in place.

4.35 The proposed layout was established following detailed discussions with East Ayrshire Council Roads and Transportation Division and detailed in the Transport Assessment.

4.36 The layout was the subject of a Stage 1 and Stage 2 Road Safety Audit carried out independently. This raised no significant issues with the proposed layout and was accepted by EAC Roads, allowing the design to be adopted as the preferred solution.

4.37 A six week trial of this layout was implemented at the request of EAC and as part of this trial the following activities were carried out:

- Before and after traffic counts and queue length surveys

- Before and after Safety Reviews by a qualified Road Safety Auditor in conjunction with EAC Roads
- A video survey of the junction between 15:00 on Friday 15/10/2010 and 19:00 on Monday 18/10/2010

4.38 The results of the above work were reported to EAC Roads in the Stewarton Cross Revised Traffic Signal Phasing Trial Report, dated November 2010. A copy of the video survey was also submitted to the Council's Roads and Transportation Division, together with an analysis of this to highlight points of interest in the video such as heavy vehicle manoeuvres. The analysis of the video survey showed no significant issues. The report concluded that the junction was performing more efficiently with the alterations in place and no significant safety issues had been identified.

4.39 In addition following receipt of this report, East Ayrshire Council commissioned an independent Stage 3 Safety Audit of the junction. The Roads and Transportation Service have advised that no significant issues were highlighted in this report. The Roads and Transportation Service accept the findings presented to them by the applicants agents.

## 5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (2007) and the Adopted East Ayrshire Local Plan (2010).

### Ayrshire Joint Structure Plan

5.2 The Ayrshire Joint Structure Plan, in terms of Schedule 5 within the plan, promotes a strategic expansion site within the Stewarton area. This is to meet the requirements of Policy COMM2 which states that the three Ayrshire Councils shall work together to facilitate the levels of development proposed within the strategic expansion locations identified within the schedule.

***It is considered that with the allocation of the site as a residential development site in the East Ayrshire Local Plan, this fulfils the requirements of the Structure Plan and is therefore consistent with the provisions of Policy COMM2.***

***It is considered that the proposed development accords with the Approved Ayrshire Joint Structure Plan,***

### East Ayrshire Local Plan

5.3 The application site lies within the settlement boundary of Stewarton in the Adopted East Ayrshire Local Plan 2010. Policy SD4 states that:

*“The Council will direct all new development to those development opportunity sites specifically identified on the local plan maps as being suitable for the type of development proposed. Any development on sites not identified for the specific purposes envisaged will be assessed on their own merits against the provisions of all appropriate local plan policies.”*

***The application site is identified within the EALP as Development Opportunity Site 354H. The proposed residential development of this site is consistent with the provisions of Policy SD4.***

5.4 Policy RES1 relates to the principle of the residential development and states:

*“The Council will encourage and support the residential development of those Development Opportunity Sites identified for housing purposes on the individual local plan maps. The sites identified will be specifically reserved for residential development at the indicative capacities indicated, with development taking place in line with any phasing programme described in the plan, or such other programming as may be agreed for the sites in question.”*

***The proposed development site for 206 houses is identified as a residential opportunity site (354H) within the local plan with an indicative capacity of 200 houses. The principal of residential development at this site is therefore acceptable and is in accordance with this element of RES1.***

***Volume 3 of the adopted local plan requires that development at site 354H is phased with no more than 130 units being built pre 2017 with the remaining 70 units programmed post 2017. The applicant has requested that this programming requirement be removed to allow maximum flexibility for development during the current difficult economic climate. The applicant has presented justifications for the removal of the phasing requirement and meetings have been held between the applicant and officers of the Council to further examine this matter.***

***Policy RES1 sets out the circumstances where the Council may consider permitting the post 2017 element of the site to be developed prior to 2017. The applicant was not able to conclusively demonstrate that there was a shortfall in the supply of effective housing land within the Glasgow Link Corridor. However, it is considered that the issue of effective housing land is very unclear in the current economic climate with both local authorities and the house building industry being uncertain about which sites will be developed over the next 5 years. The applicant did, however, contend that the phasing requirements set out in the local plan would result in uncertainty over funding for the development and that the development would not be able to proceed with the prescribed artificial phasing restrictions. Given the reduced number of private house completions that the Council has seen in the past two years, it was considered that the Council should support the case of the developer in this instance to ensure that the development starts in early to mid 2011. In these circumstances, therefore, it is considered that there should no longer be a requirement for the development to be phased.***

5.5 Policy RES23 relates to residential open space provision and states:

*“The Council will require all housing developers to provide areas of recreational and amenity open space as an integral part of their development proposals and to ensure*

*that the location of all such areas is addressed as a primary consideration in the preparation of any housing layout design. All open space, and particularly those areas of open space containing play equipment, should be located in accessible positions which are centrally located within the housing layout and open to public view. The provision of public open space in peripheral, backland locations will not be considered acceptable.*

*Developers are also required to ensure that the design of all open space is to the highest possible standards and to make provision for the future maintenance of these areas, once formed, to the satisfaction of the Council. In preparing their proposals, developers should have regard to the interim guidelines in Schedule 4. The precise type, size, location and design of the open space will, however, be dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area. Prospective developers are advised to consult fully with the Council's Head of Leisure Services in this regard, prior to formulating their development proposals."*

***With regard to the site layout submitted, it is considered that the considerable area which takes in the SUDS basin can, on this occasion, be included in the open space requirement, given that a footpath has been proposed around the pond, making it a useable space. Taking this open space along with the other identified areas, the proposed layout exceeds the open space guidelines as described in Schedule 4 of the Local Plan. Originally concern was expressed about the peripheral nature of the proposed area of public open space to the south western part of the site. It was suggested that two house plots be removed and the open space area brought up to meet the road. Relocation of the play area was also suggested. The applicant has submitted revised drawings which meet all of these requirements and the proposal is now considered to comply with the provisions of policy RES 23.***

5.6 Policy RES24 relates to public open space provision and states:

*"In formulating their development proposals, developers should ensure that:*

*(i) areas of open space are of a size and configuration that is easily maintainable. Larger areas of well-located, consolidated open space should be provided in preference to a series of smaller, individual areas scattered throughout the proposed development site;*

*(ii) proposed areas of open space link, wherever possible, with other areas of adjacent existing open space;*

*(iii) the proposed areas of open space are safe and secure, overlooked if possible by adjacent properties;*

*(iv) play areas, kick about areas and games pitches are provided as required by the Council's Head of Leisure Services;*

*v) play equipment and facilities for the disabled and those with special needs are provided as considered appropriate;*

(vi) areas of open space are attractively planted and, where appropriate, use plant species to encourage wildlife; and

vii) all open spaces are provided, as appropriate, with footpaths for both access and leisure walking, linking with adjacent open spaces wherever possible.”

**The inclusion of footpaths within and between the areas of open space and specifically along the northern and western boundaries of the site are welcomed and in accordance with criterion (ii) and (vii) of RES24. However, in line with RES23, RES24 also requires areas of open space to be well located, safe and secure, and overlooked, wherever possible, by other properties. The relocation of the play areas to a more visually prominent location as per the amended site plan shows compliance with part (iii) of this policy.**

5.7 Policy RES26 relates to residential private open space provision and states:

*“All developers of new housing developments should have regard to the private open space guidelines in Schedule 5. These may be relaxed where the Council is satisfied that relaxation is justified.”*

**Over the site as a whole a few of the proposed residential units do not meet with the Council’s guidelines set out in Schedule 5 of the adopted local plan. However, it is recognised that many of the units have an over provision of private open space. A relaxation of the guidelines is therefore considered appropriate in this case and on average across the development as a whole private open space is of sufficient levels.**

5.8 Policy RES29 relates to developer contributions and states:

*“Where a development of 4 or more houses, either on its own, or in association with existing developments, will place additional demands on community facilities or infrastructure that would necessitate new facilities or exacerbate deficiencies in existing provision, the council will require the developer to meet or contribute to the cost of providing or improving such infrastructure or facilities. Contributions will relate to the development concerned, including in nature, scale and kind. Where these cannot be secured by planning conditions or other appropriate means, the council will expect developers to complete a section 75 or other legal agreement. Contributions sought under this policy will be waived or reduced only in exceptional circumstances – for example, where a developer demonstrates that a development would have exceptional development costs, would bring particular economic, social or other benefits, or is ‘enabling development’ as defined in the plan.”*

**The Supplementary Planning Guidance on developer contributions indicates that for this development, the developer contribution will be as follows:**

<b>Corridor wide – New leisure facility in Stewarton</b>	<b>£667 per unit</b>
<b>Stewarton and Dunlop – Upgrading of B778</b>	<b>£379 per unit</b>
<b>Administration Fee</b>	<b>£60 per unit</b>
<b>Total per unit</b>	<b>£1106 per unit</b>

***Based on the development comprising of the erection of 206 dwellings the applicant has agreed to an upfront payment of £227,836 and therefore this is no requirement for a Section 75 legal agreement.***

5.9 Policy ENV10 relates to design statements and states:

*“The Council will, at its discretion, require developers to accompany their planning applications with formal design statements in line with the provisions of PAN 68: Design Statements. If an applicant fails to produce a design statement on request, or if a submitted statement is considered below standard, the Council may determine to refuse the application it relates to on design grounds.”*

***Policy ENV10 requires design statements to be submitted for certain developments. It is noted that a design statement has been submitted in support of this application and the proposed design of the scheme is considered acceptable.***

5.10 Policy ENV18 relates to the safeguarding and protection of trees and states:

*“The Council will actively seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire.”*

***The Longridge Plantation that runs along the northern boundary of the site includes a considerable number of established trees which, although not protected through any TPO, do create an important feature on the landscape. Whilst it is accepted that the removal of some trees will be necessary in order for the site to be developed with the two access points, in order to meet policy ENV18, it should be ensured that a substantial re planting scheme is implemented at an early stage of the development and those remaining trees are adequately protected during the construction period.***

5.11 In addition to those specific policies relevant to the application the residential development opportunity site 354H requires additional improvements to be made within the surrounding area. Volume 3 of the East Ayrshire Local Plan outlines these as the following:

### ***Stewarton Cross Improvements***

(i) The local plan states that developers of the main Greenfield release housing sites in Stewarton shall enter into a section 75 agreement to enable improvements to be made to Stewarton Cross. The applicant has undertaken extensive modelling work and a trial run of a new phasing of the traffic lights at Stewarton Cross has been in place since October 2010. The Roads and Transportation Service has confirmed that it is satisfied with the new phasing arrangements and that these should remain in place permanently. Therefore this requirement will have been met and there will be no need for the developer to enter into a Section 75 agreement in this regard.

## **Footpath Improvements, Kilwinning Road**

(ii) Volume 3 of the local plan states that the developer will require to enter into a Section 75 agreement with the Council regarding the provision of upgraded footpath links along Kilwinning Road, particularly in the vicinity of the War Memorial. Meetings on this matter have taken place with the applicant and the Planning and Roads Services and a footpath improvement scheme has been agreed. Costs for these works have been examined and agreed between the applicant and the Council. The applicant has agreed to give the Council a sum equivalent to the cost of these works immediately prior to any planning consent for the housing development being issued. Therefore there is no need for the applicant to enter into a Section 75 agreement in this regard.

***In terms of both of the above requirements the applicant has agreed to contribute financially in advance of the issue of planning permission therefore negating the need to enter into a Section 75 Legal Agreement.***

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations received, Scottish Planning Policy and The Conservation (Natural Habitats, &c.) Regulations 1994.

### Consultation Responses

6.2 There has been detailed engagement with consultees particularly the Roads and Transportation Service. There are no significant adverse issues raised by consultees that cannot be addressed by use of appropriate conditions.

### Representations

6.3 The representations have been carefully assessed within this report but it is considered that the points of objection are either not of sufficient weight to justify refusal of the application or are not material to the determination of this application.

### Scottish Planning Policy

6.4 Guidance on national planning policy is given in the “Scottish Planning Policy” document (SPP) issued in February 2010 which is the statement of the Scottish Government’s policy on nationally important land use planning matters. Two policies relative to the proposed development are provided within this document and are noted below:

(ii) **Housing:** Paragraphs 78 and 79 state that the Scottish Government’s objectives of creating successful places and achieving quality residential environments should guide the whole process of delivering new housing. The type of development that can be achieved should be considered when sites are being selected. The siting and design of new housing should take account of its setting, the surrounding landscape, topography, character, appearance, ecologies and the scope for using local materials. The aim should be to create places with a distinct character and identity, promoting a well-integrated mix of land uses including well-designed

homes of different types and tenures. Development plans should encourage and enable the creation of successful places which contribute to the identity of the area. New housing developments should be integrated with public transport and active travel networks, such as footpaths and cycle routes, rather than encouraging dependence on the car. New streets should connect well with existing streets and with walking and cycling networks, and allow for links into future areas of development.

***The development thinking behind the masterplan for the site and the subsequent informative public consultation process encompassed many of the principles noted above and this is evident in the finalised submission.***

(iii) **Transport**: The SPP states that opportunities for personal travel should be prioritised by mode in the following order – walking, cycling, public transport, car and other motorised vehicles. Buildings and facilities should be accessible on foot and by cycle. Improvements to active transport networks, such as paths and cycle routes, in urban and rural areas will support more sustainable travel choices. The aim is for urban areas to be made more attractive and safer for pedestrians and cyclists, including people with mobility difficulties. Cycle routes and, where relevant, cycle parking and storage should be safeguarded and enhanced wherever possible. Statutory equal opportunities obligations relating to accessibility to different users of different means of transport should be taken into account in development plans and development proposals. Accessibility issues and street layout and design should be part of the design and planning processes from the outset.

***This development is considered to satisfy these requirements and is also well located for access to existing community facilities and transport links.***

#### The Conservation (Natural Habitats, &c.) Regulations 1994

6.5 The Ecology Report submitted with the planning application indicates that trees are to be felled as part of this development and that this habitat is being used by European Protected Species (EPS), i.e. bats. The Ecology Report states, in summary, that pipistrelle bats were found to be foraging within and around the edges of the plantation and commuting down the hedgerow on the western boundary of the application site. Emergence and dawn surveying for the species did not indicate any bat roosting within any of these trees, although bats were found to be feeding around them. SNH has suggested that the full list of recommendations listed in chapter 6 of the Ecology report is included within the conditions of any planning approval. It is considered that such measures would avoid the potential for disturbance of any roosts which may be present in the existing woodland.

***The application of conditions as suggested in the Ecology Report and as endorsed by SNH should ensure that disturbance to bats and associated habitats is minimised.***

**At this stage, SNH has not indicated any potential need for a licence to disturb any habitat used by protected species and consequently the Planning Authority has reasonably considered the general requirement established under Regulation 3(4) to have regard to the provisions of the**

**Habitats Directive, and in particular to the provisions of Articles 12 and 13 of the Directive and Regulations 39 and 43 of the 1994 Regulations.**

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial or legal implications for the Council in the determination of this application. The applicant has agreed an up front payment in respect both of the Developer Contributions and of the works to form the footpath link along Kilwinning Road and the upgrading works at the rear of the War Memorial.

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise.

8.2 As is indicated in Section 6 above, there are material considerations relevant to this application. The proposal has attracted a significant amount of representation however the points of objection are either not of sufficient weight to justify refusal of the application or are not material to the determination of this application. Therefore the material considerations of relevance to this application are considered to support the proposal.

8.3 The development of this area of undeveloped agricultural ground has raised concerns for many people within Stewarton and more specifically those people who bound the application site. However this application site is an identified residential opportunity site noted within the adopted East Ayrshire Local Plan 2010 in which the principle of residential development is accepted. The application complies with the development plan and the site layout has been developed in conjunction with a Masterplan following a detailed public consultation process which included a public event. This consultation formed part of the statutory pre-application consultation process introduced further to the "Planning etc (Scotland) Act 2006". The areas of open space, house types, densities and road layout are considered to be suitable for a development at this location.

8.4 To conclude there are no significant environmental or community concerns regarding the proposal that cannot be addressed by appropriate planning conditions and therefore it is considered that the application should be approved.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet but that the issue of the decision notice should be withheld until the financial contribution as required under policy RES29 (Section 5.8 of the report) and the financial contribution for the Road Improvement works (Section 3.1 of the report) have been received by the Council.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development based on the principle of the development, then the application would require to be referred to Council because a decision on that basis would represent a significant departure from the development plan.

**Alan Neish**  
**Head of Planning and Economic Development**

20 February 2011  
RG/HM

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of representation
5. Adopted East Ayrshire Local Plan (2010)
6. Approved Ayrshire Joint Structure Plan (2007)
7. Transport Assessment Prepared by Jacobs (September 2010)
8. Ecology Report Prepared by MBEC (September 2010)
9. Tree Survey Prepared by Alan Motion (September 2010)
10. Design and Access Statement Prepared by LMA (September 2010)
11. Planning Supporting Statement Prepared by LMA (September 2010)
12. Pre Application Consultation Report Prepared by LMA (September 2010)
13. Scottish Planning Policy
14. Planning Advice Notes
15. Archaeological Project Report

Any person wishing to inspect the background papers listed above should contact Mr Robin Ghosh on 01563 553505.

**Implementation Officer: Dave Morris**

**East Ayrshire Council**

TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

**Application No: 10/0812/PP**

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Location	KILWINNING ROAD/DALRY ROAD STEWARTON
Nature of Proposal:	PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 206 HOUSES WITH ASSOCIATED ACCESS ROADS, SUDS BASIN AND LANDSCAPING
Name and Address of Applicant:	STEWART MILNE HOMES 3 KILNARTIN PLACE TANNOCHSIDE BUSINESS PARK UDDINGSTON G71 5PH
Name and Address of Agent	LAWRENCE MCPHERSON ASSOCIATES 6 THE ATRIUM NEW ROAD AYR KA8 8EX

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Officer's Ref: Robin Ghosh  
01563 553505

The above application for PLANNING PERMISSION should be granted subject to the following conditions:

1. Prior to the commencement of construction works relating to the internal road layout details of traffic calming throughout the development shall be submitted to and approved in writing by the Planning Authority in consultation with the Councils Roads and Transportation Service, and thereafter implemented as approved.

REASON: In the interests of residential amenity and road safety.

2. Prior to the commencement of construction works relating to the internal road layout a combined Stage 1/2 Road Safety Audit shall be submitted to and approved in writing by the Planning Authority in consultation with the Councils Roads and Transportation Service.

REASON: In the interests of residential amenity and road safety.

3. Prior to the occupation of the dwelling of plot 127 a new footway shall be provided along Kilwinning Road for the full length of plot 127.

REASON: In the interests of residential amenity and road safety.

4. Notwithstanding the details on the submitted plans, right angled visitor bays shall be 6 metres long and located behind the service verge/footway.

REASON: In the interests of residential amenity and road safety.

5. Notwithstanding the submitted plans, driveways not leading to garages should be at least 12 metres long and driveways leading to garages should be at least 6 metres long.

REASON: in the interests of residential amenity and road safety.

6. Notwithstanding the submitted plans, the external finishing materials of the houses are not hereby approved. Details/samples of all external materials shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any house foundation work, and thereafter implemented as approved.

REASON: In the interests of the visual amenity of the area due to the elevated and prominent position of the site.

7. All trees within 2 metres of any road or within gardens within 2 metres of pavements or driveways should be planted with root trainers to prevent future damage to the hard surface.

REASON: In the interests of future tree protection and reducing damage to hard surfaces.

8. Notwithstanding the submitted plans and as per (BS 5837; 2005), no development works shall be undertaken within the root protection zones of any trees within the application site. Such trees shall have a permanent fence erected prior to ground clearance works commencing on site. No work including utility work shall be carried out within the root protection zones without the prior approval in writing of the Planning Authority.

Reason: In the interests of visual amenity and environmental protection.

9. Prior to the construction of any house foundations a detailed landscaping plan indicating species and sizes of planting for the areas of open space/landscaping including the area of tree planting to the north of the site, as indicated on the approved site plan, shall be submitted to and approved in writing by the Planning Department and thereafter implemented on site as per the approval.

REASON: To ensure the areas of landscaping shown on the approved site are appropriately planted.

10. Notwithstanding the submitted plans the replacement trees within the Longridge Plantation shall be root balled container grown extra heavy standards of minimum size 18-20 cm girth and of suitable species to recreate the woodland. The planting scheme shall be implemented as per the approved details of condition 10 above at an early stage in the development prior to any house foundation works commencing on site.

REASON: In the interests of visual amenity and to ensure the replacement trees are planted at an early stage in the development.

11. No trees shall be lopped, topped or felled within the development site without the formal written consent of the Planning Authority, otherwise than as agreed in terms of the Tree Survey from Alan Motion dated September 2010 and the Arboricultural Impact Assessment Plan (ref:ARC-006) which formed part of the application submission.

REASON: In the interests of visual amenity and environmental protection.

12. Any trees to be felled which are suitable for bat use, especially those with cracks or holes, shall be inspected for use by bats by a suitably qualified person. Best practice shall be used to guide felling where roost sites are possible. Felling should be undertaken outwith the hibernation period and trees de-limbed and felled from the top down to allow bats to escape. If bats are found then work should stop immediately and further advice sought from SNH, all in accordance with recommendations contained within Section 6.4 of the Ecology Report by Mackenzie Bradshaw Environmental Consulting (Version 4 dated 23 September 2010) which formed part of the application submission.

REASON: In the interests of environmental protection and in relation to a European Protected Species.

13. Prior to the construction of any house foundations, details/specifications of the children's play equipment and the maintenance schedule for the play areas which shall incorporate associated public seating, shall be submitted to and approved in writing by the Planning Authority and thereafter implemented on site prior to the occupation of dwellings on plots 134, 135, 136, 137, 138, 68 and 151 inclusive.

REASON: In the interests of ensuring the installation of appropriate equipment.

14. Notwithstanding the details on the submitted plans the dry stone wall located on both sides of the access road from Kilwinning Road shall be constructed in natural stone.

REASON: In the interests of the visual amenity.

15. Construction activity on the development site shall be restricted to between 0700 and 1900 hours Monday to Friday, between 0800 and 1300 hours on Saturdays and with no construction work taking place on Sundays.

REASON: In the interests of residential amenity.

16. If ground contamination is encountered during construction works, work shall immediately cease and the Council shall be immediately notified. No further development shall begin on site until a comprehensive contaminated land investigation has been submitted to, and approved in writing by, the Planning Authority. The investigation shall be conducted in line with BS 10175: 2001 code of practice for "The investigation of potentially contaminated sites" and will contain details of proposals to deal with contamination (if present) to include:

- (i) The nature, extent and type(s) of contamination on the site;
- (ii) A site specific risk assessment of all relevant pollutant linkages.
- (iii) Remedial measures to treat/remove contamination to ensure the site is fit for the use proposed.
- (iv) Measures to deal with unsuspected contamination discovered during construction works.

REASON: To ensure potential risks arising from previous site uses have been fully assessed.

17. Should contamination be present in terms of Condition 16 above, prior to any further site development, the developer shall submit a report to the Planning Authority confirming that the remedial works have been carried out in accordance with the remediation plan.

REASON: To provide verification that remediation of the site has been carried out in accordance with the remediation plan and to the Planning Authority's satisfaction.

18. All waste arising from the works during construction shall be disposed of to the satisfaction of the Waste Management Authority, and otherwise than by burning.

REASON: In the interests of public health and safety.

19. The programme of archaeological works as noted within the Project Design Report, prepared by GUARD shall be implemented in full and the evaluation report shall be submitted to and approved by the Planning Authority in consultation with the West of Scotland Archaeological Service prior to any ground clearance works commencing on site.

REASON: In the interests of preserving and recording any archaeological remains within the site.

20. Notwithstanding the submitted plans the 1.8 metre high double slatted timber screen fence shown along the eastern boundary of the site shall be replaced by a 2 metre high double slatted timber screen fence.

REASON: To ensure adequate levels of privacy are afforded to both the existing and proposed dwellings.

21. Prior to any ground clearance works commencing on site a Construction Traffic Plan shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads and Transportation Service.

Reason: In the interests of Road Safety.

22. Notwithstanding the submitted plans, details/specifications of a safe gated or staggered barrier system which shall be used at both ends of the proposed footpath where it meets with Dalry Road and Kilwinning Road, shall be submitted to and approved in writing by the Planning Authority in consultation with the Roads and Transportation Service prior to the construction of the footpath.

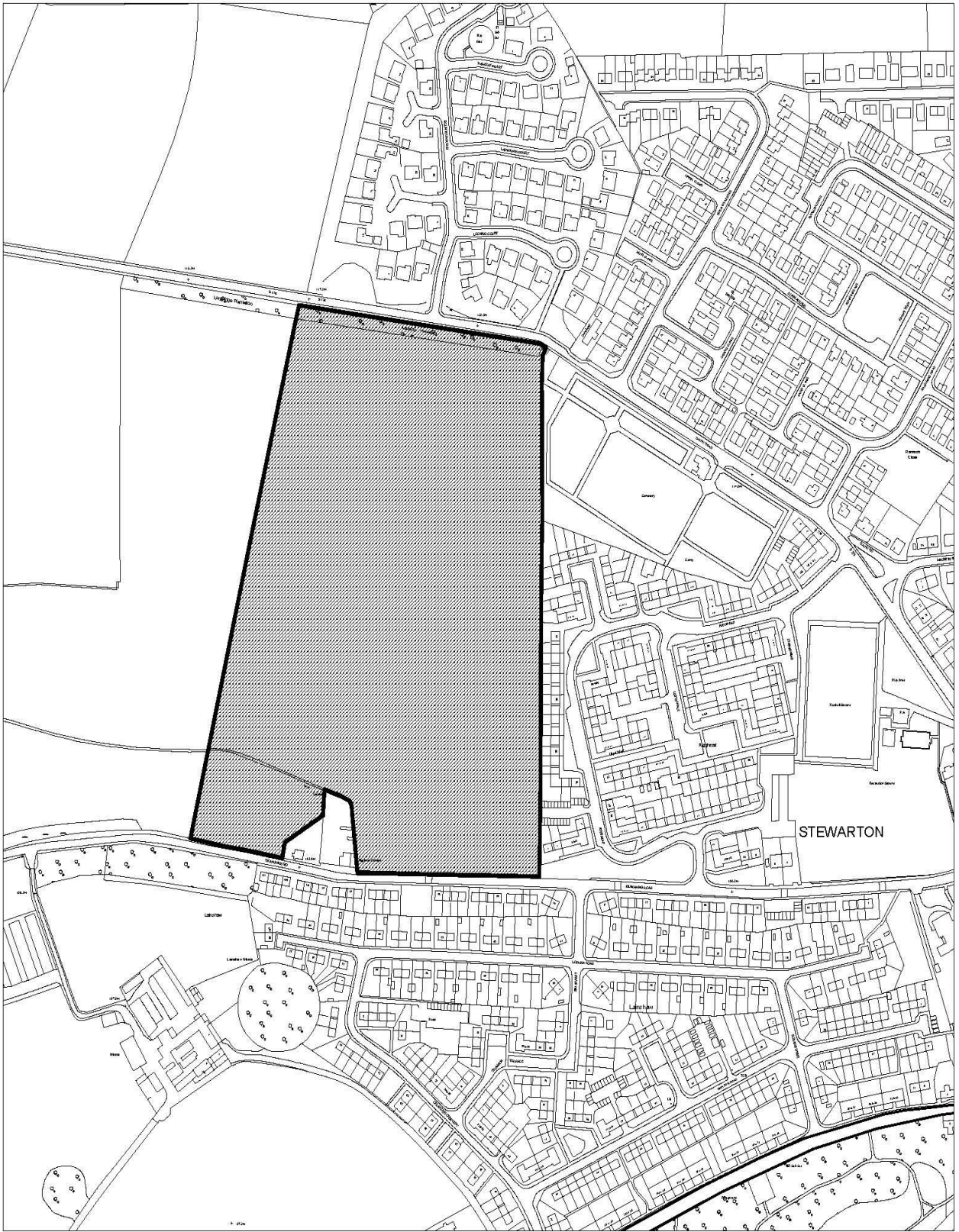
Reason: In the interests of Road Safety.

## **Notes to Applicant**

1. East Ayrshire Council Roads and Transportation Service has advised that Construction Consent will be required for the construction of the residential roads and footpaths, street lighting etc. The Service can be contacted on Tel 01563 555337. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming, internal junction visibilities etc. A road bond will require to be provided prior to construction works commencing on site.
2. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site and to confirm the details of the proposed Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.
4. The developer should make early contact with Scottish Gas Networks, Scottish Water and Scottish Power Energy Networks regarding the possible protection/diversion of their apparatus which lies in or adjacent to the application site.

## **Reason for the Decision**

The proposals are compliant with the Development Plan and after careful consideration of representations and other relevant factors there are no material considerations that would indicate that the application should not be approved.



Title/Location **Darly Road, Kilwinning,  
Stewarton  
Application No. 10/0812/PP**

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 Planning & Economic Development Service.  
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 Com Date: 4/3/2011



Key  **Application Site**

