

**EAST AYRSHIRE COUNCIL**

**SPECIAL NORTHERN LOCAL PLANNING COMMITTEE: 02 NOVEMBER 2011**

**11/0160/PP: PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING OF 65  
DETACHED, SEMI-DETACHED AND TERRACED UNITS WITH ANCILLARY  
WORKS, ASSOCIATED ACCESS, NECESSARY INFRASTRUCTURE WORKS,  
PARKING AND LANDSCAPING**

**AT SKERNIELAND ROAD FENWICK  
BY MANSELL 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=11/0160/PP>

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the residential development of the site. The proposal takes the form of 65 residential units, associated single access from Skernieland Road and internal road arrangement and Sustainable Urban Drainage System. The mix of residential units is as follows:

Private Housing 50 units –

14 x 3 bed semi detached  
4 x 3 bed terraced  
20 x 4 bed detached (2 different house types)  
12 x 5 bed detached (3 different house types)

Affordable Housing 15 units –

2 x 2 bed wheelchair unit  
4 x 1 bed cottage flat  
4 x 2 bed cottage flat (2 different house types)  
2 x 2 bed semi detached  
3 x 3 bed terraced house

1.2 All of the dwellings proposed are two storeys in height with a mix of integral and detached garages.

1.3 The external finishing material palette has not been clearly defined on the drawings however this has now been clarified as -

- Base course / Cills / Mullions / Surrounds - Buff coloured smooth Ashlar.
- Walls - Roughcast, white chip on white backing.

- Roofs - Grey flat profile tile.
- Windows / Soffit/ Fascia - White upvc
- Rainwater Goods - Black upvc

1.4 The boundary treatment proposed dividing each residential unit is noted as a mix of 1800mm high timber palisade fence, 900mm high timber post and rail fence, 1800mm high screen wall with piers and retaining wall incorporating screen fencing.

1.5 The surface water drainage of the site utilises a swale system running along the side of the road network following the topography of the site to the SUDS basin which is located at the lowest point to the south of the site. This SUDS area is an extension to the site and positioned outwith the recognised settlement boundary of Fenwick. An overflow route will allow water to pass from the SUDS area to the nearby watercourse.

1.6 The proposal has pedestrian permeability along the western section of the site connecting with the adjacent recreational area. This is detailed as two separate footpaths with a small safety build out onto the road with associated landscaping.

1.7 There are no formal areas of useable open space included within the application site. A small area of landscaped open space is noted at the entrance point to the site on either side of the access road. The site layout plan shows a number of trees planted within the front curtilages of most plots.

1.8 As part of the formal pre-application consultation process, a community consultation event was held in the John Fulton Hall, Fenwick on the Thursday 13<sup>th</sup> January 2011 and Saturday 15<sup>th</sup> January 2011. The comments received during the community consultation process are noted within the Pre-Application Consultation Report included as part of the planning submission.

## **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.**

## **3. CONCLUSIONS**

3.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

3.2 As detailed previously in this report the proposal is considered to be generally in compliance with the applicable policies in the Development Plan. The material considerations are generally supportive of the proposal with the exception of the significant level of representations received; however as stated above, the key concerns of the objectors have been addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or do not carry sufficient weight to justify refusal of the application.

3.3 It is considered that the proposed development, providing a mix of new residential dwellings and incorporating 15 affordable housing units is acceptable for this location in terms of density, scale, layout and, subject to the imposition of conditions, finishes to be used throughout the proposed development.

### **CONTRARY DECISION NOTE**

Should the Committee agree that this application for planning permission be refused contrary to the recommendation of the Head of Planning and Economic Development in terms of the principle of the development, then the application will require to be referred to the Council as it would represent a significant departure from Council policy.

**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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**AT SKERNIELAND ROAD FENWICK  
BY MANSELL HOMES**

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

#### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for determination an application for planning permission which is to be considered by the Northern Local Planning Committee under the scheme of delegation as the application represents a major development under The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 in which the Council has an ownership interest.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is located within the settlement of Fenwick towards the northern boundary of the village. The north western corner of the site bounds with the Designated Conservation Area. Immediately to the east the site bounds with the existing Fenwick Cemetery which is enclosed by a vertical boarded timber slatted fence and brick wall. To the west the site bounds with both the King George V recreational open space area and the rear and side garden ground of the residential units located on Skernieland Road. The recreational area has an enclosed ball area, a changing pavilion and a football pitch. The boundary of this area consists of post and wire fence and mixed native hedging (mainly hawthorn). The southern most part of the site bounds with agricultural land which falls relatively steeply to the watercourse.

2.2 The site is a rural area of ground with uninterrupted views of the surrounding countryside of Fenwick and beyond. The boundary treatment consists of mostly native hedgerows to the north and west with the cemetery boundary fencing to the east.

2.3 The application site measures 2.51 hectares equating to 6.2 acres primarily consisting of undulating agricultural land. The levels of the site fall on a north / south axis reducing to the south.

2.4 **Proposed Development:** Full planning permission is sought for the residential development of the site. The proposal takes the form of 65 residential units, associated single access from Skernieland Road and internal road

arrangement and Sustainable Urban Drainage System. The mix of residential units is as follows:

Private Housing 50 units –

14 x 3 bed semi detached

4 x 3 bed terraced

20 x 4 bed detached (2 different house types)

12 x 5 bed detached (3 different house types)

Affordable Housing 15 units –

2 x 2 bed wheelchair unit

4 x 1 bed cottage flat

4 x 2 bed cottage flat (2 different house types)

2 x 2 bed semi detached

3 x 3 bed terraced house

2.5 All of the dwellings proposed are two storeys in height with a mix of integral and detached garages.

2.6 The external finishing material palette has not been clearly defined on the drawings however this has now been clarified as -

- Base course / Cills / Mullions / Surrounds - Buff coloured smooth Ashlar.
- Walls - Roughcast, white chip on white backing.
- Roofs - Grey flat profile tile.
- Windows / Soffit/ Fascia - White upvc
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2.7 The boundary treatment proposed dividing each residential unit is noted as a mix of 1800mm high timber palisade fence, 900mm high timber post and rail fence, 1800mm high screen wall with piers and retaining wall incorporating screen fencing.

2.8 The surface water drainage of the site utilises a swale system running along the side of the road network following the topography of the site to the SUDS basin which is located at the lowest point to the south of the site. This SUDS area is an extension to the site and positioned outwith the recognised settlement boundary of Fenwick. An overflow route will allow water to pass from the SUDS area to the nearby watercourse.

2.9 The proposal has pedestrian permeability along the western section of the site connecting with the adjacent recreational area. This is detailed as two separate footpaths with a small safety build out onto the road with associated landscaping.

2.10 There are no formal areas of useable open space included within the application site. A small area of landscaped open space is noted at the entrance point to the site on either side of the access road. The site layout plan shows a number of trees planted within the front curtilages of most plots.

2.11 As part of the formal pre-application consultation process, a community consultation event was held in the John Fulton Hall, Fenwick on the Thursday 13<sup>th</sup> January 2011 and Saturday 15<sup>th</sup> January 2011. The comments received during the

community consultation process are noted within the Pre-Application Consultation Report included as part of the planning submission.

### **3. CONSULTATIONS RESPONSES**

3.1 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.

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

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 as a minimum requirement an initial Desk Survey is undertaken to establish whether or not there is the potential for contaminants to be present on or adjacent to the site which may pose an unacceptable risk to key receptors.

***The comments do not relate to any direct threat of contamination and therefore an appropriate planning condition can be attached to any consent granted ensuring that should any contamination be encountered during the construction stages all works should stop and appropriate ground investigation works undertaken.***

3.3 East Ayrshire Council Roads and Transportation Service has no objections to the internal road layout and the revised Traffic Impact Assessment and provides the following comments:

#### **Internal Road layout**

The proposed amended internal road layout is considered acceptable subject to the following conditions:

- (i) The upgrading of Skernieland Road fronting the development should be upgraded as per comments for planning application 11/0177/PP, the proposals should include a 2 metre wide footway and a 2m wide road side verge which will include the road side swale.
- (ii) Visibility sightline splay areas of  $x=2.5$  metres by  $y=35$  metres shall be formed and maintained at the new access point at Skernieland Road with no obstruction greater in height than 1 metre allowed within the splay areas formed.
- (iii) Finished floor levels shall not be at a lower level than the carriageway levels.
- (iv) Where there is a double garage the driveway width shall be a minimum of 4.8 metres.
- (v) Additional visitor car parking spaces fronting plots 12 & 13.
- (vi) The swept paths provided are acceptable.
- (vii) A pedestrian guardrail shall be installed at the footpaths to the King George V playing fields to prevent pedestrian/child run out.

### **Traffic Assessment**

The proposed development is considered acceptable on traffic and accessibility grounds, subject to the agreement of conditions requiring the developer to provide the appropriate traffic infrastructure as detailed below:

- (viii) The provision of a 2 metre wide footway along the development frontage which will require to be contiguous with the carriageway in the vicinity of the access junction. Dropped kerbs and buff coloured tactile pavings will also be required at the priority access junction.
- (ix) The internal layout will require to be designed as suitable for 20 mph zones with appropriate traffic calming facilities to ensure full compliance.
- (x) Suitable footway linkage from the Skernieland Site to connect with the existing King George V Playing Fields.
- (xi) The provision of suitable stops to accommodate the X77 Service for both northbound and southbound trips. The stops will require raised height boarding kerbs and bus shelters to the Council's standards, along with the provision of a suitably approved safe walking route to allow access of the stops from the Skernieland Site.

Detailed design of the above features will be required prior to the issue of any Road Construction Consent.

### **Traffic Management for access to Construction Site**

- (xii) Prior to the commencement of any works on site the access road for site deliveries shall be agreed in writing with the Planning Authority in consultation with East Ayrshire Council Road Network Section and thereafter implemented as per approved.
- (xiii) Prior to the commencement of any works on site a joint road condition survey shall be undertaken and approved in writing by the Planning Authority in consultation with East Ayrshire Council Road Network Section.
- (xiv) Prior to the commencement of any construction works on site a method statement / traffic management plan shall be agreed in writing with the

Planning Authority in consultation with East Ayrshire Council Road Network Section and thereafter implemented as per approved.

***While condition (xi) noted within the above comment from the Roads and Transportation Service is noted, the requirement for the developer to provide suitable/safe bus halts for the X77 bus service, to appropriate standards, including the provision of a suitably paved safe walking route to these stops, is considered to be an overly onerous burden on the developer. It is considered the imposition of such a condition, requiring the provision of off site infrastructure for what is currently an 'ad hoc' stop arrangement on the X77 Bus Service, does not meet the test of reasonableness in this case.***

***The remaining requirements of the Roads and Transportation Service can be secured by appropriate conditions attached to any planning consent granted for the proposed development.***

3.3 East Ayrshire Council Roads and Transportation Service (Flooding Section) has no objections to the proposed development and provides the following comments:

- (i) It should be ensured that the SUDS basin is capable of attenuating the 1 in 200 year event or lesser event as agreed providing the overflow route to the river/flood plain is achieved.
- (ii) The 1 in 200 year swale detailed design shall be submitted to and approved prior to any construction works commencing on site.
- (iii) The SUDS basin shall be adopted by Scottish Water
- (iv) The SUDS basin shall discharge at rate of 4.5ltrs/sec/ha based on this site.

***There are no outstanding flooding issues to note and all those points noted should be covered by suspensive condition attached to any consent granted.***

3.4 East Ayrshire Council Housing Services has raised no objections to the proposal and provide the following comments:

- (i) The fifteen proposed affordable houses for rent noted in the planning application for Skernieland Road, Fenwick are contained in year one (2011/2012) of the approved East Ayrshire Strategic Housing Investment Plan 2011/2012 – 2015/2016 and these properties would therefore support the proposed outcomes of the plan. Moreover the proposed affordable housing contained in the development forms the basis of an Investment and Innovation Fund (IIF) bid to the Scottish Government for Housing Association Grant to assist in funding the development proposals this financial year.

In terms of the revised proposals, having the social rented units grouped together in this instance is preferable. However as noted previously the trees shown on the proposed layout plan should be avoided from being planted in garden areas particularly the wheelchair and flatted properties so as to avoid ongoing maintenance for tenants and the garden ground must be delineated for the flatted

accommodation proposed at F3 and F4 property types for ongoing management and maintenance purposes. Further given the nature of the Type M properties proposed there may be some adjustment required to the internal layouts; a comment which may apply to all the other affordable housing property types in terms of ensuring they comply with Housing for Varying Needs standards, albeit it is unlikely that this would impact on external finishes significantly.

***The reference and the reasoning relating to the removal of the trees from the affordable housing plots is not considered wholly appropriate as the tree planting forms an important integral part of the development layout especially in this semi rural setting.***

3.5 Scotland Gas Networks has not raised any objections to the proposed development.

3.6 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.***

3.7 The Scottish Environment Protection Agency (SEPA) has no objection to the proposal and make comments relating to the Foul Drainage of the site, Surface Water Drainage and Flood Risk.

***The comments noted by SEPA have been examined by the Flood Prevention Authority (Council Flooding Officer) and no objections have been raised. Additional information can be covered by advisory notes and attached to any consent granted.***

3.8 West of Scotland Archaeological Service (WOSAS) states that the proposal falls within an area of some archaeological sensitivity based on the presence of site and finds of medieval and later date in the surrounding landscape. The application involves a substantial green field area which does not appear to have been previously developed. In the interests of the sustainable development of such sites it is important that all environmental issues are considered at an early stage including any implications for archaeological remains which may be present.

There is only one recorded archaeological site within the proposed development area. This is the site of a former farmstead (named Creelsheugh) likely to be one mapped on Roy's map of c.1755 along with a field system. However the absence of more recorded sites may be the result of inadequate survey investigation and recording in the past and may not be due to a genuine absence of archaeological sites in the area.

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 requirements of WOSAS can be addressed by the imposition of an appropriate condition in any consent granted for the proposed development.***

3.9 Scottish Water has no objections to the proposal but notes that planning approval does not guarantee a connection to Scottish Water infrastructure and note that Corsehouse Water Treatment Works that serves the proposed development has limited capacity available for new demand. The developer should discuss the development with Scottish Water.

***The above comments made by can be attached as planning advisory notes to any consent granted.***

3.10 Fenwick Community Council has objected to the proposed development on the following grounds:

(i) Numbers of houses – 65 exceeds the limit published in the 2010 local plan by 30%. The numbers set by EAC in the Local Plan for site 174H must be adhered to in order not to undermine the Local Plan and the planning process.

***The application site is noted with the Adopted East Ayrshire Local Plan 2010 as an identified residential development site and as part of the strategic expansion of Fenwick. The capacity for this site is noted as 50 units. However this notional capacity is an indicative figure only.***

(ii) Road Safety – Skernieland Road is not suitable for a 110% increase in traffic flow (196 cars plus service vehicles). 33% of the houses have no off road parking, 13% have greatly reduced parking due to permitted development. Traffic survey does not accurately reflect the impact of the development on Skernieland Road stating that even if a car is parked outside one of the houses (without off road parking) the road can still operate as a 2 way road. We do not accept this and we are aware that checks and tests have since been carried out that show this not to be the case. We also believe that the survey was carried out at the most inappropriate

times e.g. later in the morning after rush hour traffic and that the process of traffic assessment is not representative of what we believe to be the actual traffic situation.

***The application is accompanied by an independent Traffic Assessment and has been assessed by the Council's Roads and Transportation Service. No road safety or capacity issues have been raised which can not be addressed through the imposition of appropriate conditions in any consent granted.***

(iii) Settlement Boundary – The SUDS pond and drainage complex falls out with the settlement boundary and site 174H. It is our opinion that the SUDS pond which is approximately 40% larger than it needs to be for this development and is noted as having capacity to allow the building of a further 40 houses and associated roadways, must be reduced in size and accommodated within the settlement boundary. We do not believe in this instance that there is any reason to make an exception and demand the applicable rules are adhered to. EAC has not carried out the required development brief ref: Vol.3 Development Opportunities.

***The SUDS pond is located out with the settlement boundary of Fenwick but it is considered that this is not a significant encroachment into the rural area outwith the settlement boundary, given the nature and purpose of the SUDS basin. The size of the SUDS basin has been designed in accordance with the requirements of the Council's Flooding Section and Scottish Water.***

(iv) Green Spaces – schedule 4, local plan Vol.1 minimum public space standard for this type of development should be 60sqm per household i.e. 3900sqm. This equates to an area the equivalent of half of the King George V playing fields. This public space is allocated to the existing housing stock and therefore cannot be allocated to any new build. The required green space must be allocated within the proposed development site. This would clearly allow for the build density to be brought back in accordance with the existing village density profile. Policy RES23 is being contravened within the current proposal.

***The application site bounds onto the King George V playing field and therefore this can be considered as an alternative area of space in lieu of providing open space within the actual development site. Although no commitments have been made by the applicant to provide any funding towards existing play facilities in Fenwick it is considered that the provision of the affordable housing element of the proposed development provides some degree of mitigation in this respect.***

(v) Housing design in proximity to Conservation Area – housing design should reflect the fact that it is joined and adjacent to a conservation area and historic cemetery. Inadequate consideration has been taken of the need for house style, density, layout and materials to reflect the style and appearance of the established Conservation Area and to minimise the adverse impact of the proposed development.

***Notwithstanding the comments of the Community Council, it is considered that overall, the proposed development in terms of its scale, density and layout is considered to be acceptable for this location subject to the imposition of appropriate conditions regarding the use of external finishing materials.***

(vi) Scale – Local Plan 2010 describes this site 174H as a small scale/modest development opportunity to suit the realistic needs of Fenwick. 65 houses is a 15% increase in the size of the housing stock. This is a MAJOR development when viewed in the context of this village of Fenwick. It has also come to our attention that a similar sized site within very close proximity to site 174H was according to East Ayrshire planning policy department (if it had been included in the local plan 2010) expected to contain no more than 20 houses. We find the vast difference between the proposed densities of these two closely located sites to be totally unacceptable and believe the lower density reflects a much more appropriate outcome for a rural development.

***The allocation and proposed density of the site has been the subject of detailed consultation as part of the new East Ayrshire Local Plan 2010. Whilst the site capacity is noted within the plan as 50 units this capacity is indicative only. It is considered that given the mix of housing proposed, the erection of 65 units at this location is acceptable.***

(vii) Infrastructure – No proposals have been put forward to increase the already poor water mains pressure and to increase the apparently inadequate sewerage system. There are no details given about servicing the site and the Council roads flooding engineer has alluded to potential water logging problems.

***Scottish Water has raised no objection to the proposal but does advise the applicant to make early contact with Scottish Water due to potential infrastructure upgrading works required. The Council's Flooding Engineer has raised no objections following detailed discussions and further amended plans subject to the attachment of appropriate conditions to any consent granted.***

(viii) Streets – We do not think this design reflects the essential elements set out in the SPP3 Designing for Places and Designing for Streets Manual.

***The proposed layout reflects elements of designing for streets such as permeability, removal of cul-de-sacs, introduction of shared surfaces and traffic calming with road alignment. It should be noted that SPP3 has been revoked and was replaced by Scottish Planning Policy (SPP) in February 2010.***

#### **4. REPRESENTATIONS**

4.1 In addition to the objection received from Fenwick Community Council, 454 letters of representation have been received in connection with this application raising various points of objection which are summarised below. Some of the points

raised within these letters cover the same issues as those raised within the Community Council's representation.

4.2 Road Safety – Skernieland Road is not suitable for a 110% increase in traffic flow (196 cars plus service vehicles). 33% of the houses have no off road parking, 13% have greatly reduced parking due to permitted development. Traffic survey does not accurately reflect the impact of the development on Skernieland Road stating that even if a car is parked outside one of the houses (without off road parking) the road can still operate as a 2 way road. We do not accept this and we are aware that checks and tests have since been carried out that show this not to be the case. We also believe that the survey was carried out at the most inappropriate times e.g. later in the morning after rush hour traffic and that the process of traffic assessment is not representative of what we believe to be the actual traffic situation.

***As per the comments noted in section 3 above the application is accompanied by an independent Traffic Assessment and has been assessed by the Council's Roads and Transportation Service. No road safety issues have been raised which can not be addressed through the imposition of appropriate conditions in any consent granted.***

4.3 Number of houses – 65 exceeds the limit published in the 2010 local plan by 30%. The numbers set by EAC in the Local Plan for site 174H must be adhered to in order not to undermine the Local Plan and the Planning process.

***As per the comments noted in section 3 above the application site is noted with the Adopted East Ayrshire Local Plan 2010 as an identified residential development site and as part of the strategic expansion of Fenwick. The capacity for this site is noted as 50 units. However this capacity is an indicative figure. It is considered that given the mix of housing proposed, the erection of 65 units at this location is acceptable.***

4.4 Settlement Boundary – The SUDS pond and drainage complex falls out with the settlement boundary and site 174H. It is our opinion that the SUDS pond which is approximately 40% larger than it needs to be for this development and is noted as having capacity to allow the building of a further 40 houses and associated roadways, must be reduced in size and accommodated within the settlement boundary. We don not believe in this instance that there is any reason to make an exception and demand the applicable rules are adhered to. EAC has not carried out the required development brief ref: Vol.3 Development Opportunities.

***The SUDS pond is located out with the settlement boundary of Fenwick but it is considered that this is not a significant encroachment into the rural area outwith the settlement boundary, given the nature and purpose of the SUDS basin. The size of the SUDS basin has been designed in accordance with the requirements of the Council's Flooding Section and Scottish Water.***

4.5 Green Spaces – schedule 4, local plan Vol.1 minimum public space standard for this type of development should be 60sqm per household i.e. 3900sqm. This equates to an area the equivalent of half of the King George V playing fields. This

public space is allocated to the existing housing stock and therefore cannot be allocated to any new build. The required green space must be allocated within the proposed development site. This would clearly allow for the build density to be brought back in accordance with the existing village density profile. Policy RES23 is being contravened within the current proposal.

***The application site bounds onto the King George V playing field and therefore this can be considered as an alternative area of space in lieu of providing open space within the actual development site. Although no commitments have been made by the applicant to provide any funding towards existing play facilities in Fenwick it is considered that the provision of the affordable housing element of the proposed development provides some degree of mitigation in this respect.***

4.6 Housing design in proximity to Conservation Area – housing design should reflect the fact that it is joined and adjacent to a conservation area and historic cemetery. Inadequate consideration has been taken of the need for house style, density, layout and materials to reflect the style and appearance of the established Conservation Area and to minimise the adverse impact of the proposed development.

***Notwithstanding the comments of the objectors, it is considered that overall, the proposed development in terms of its scale, density and layout is considered to be acceptable for this location subject to the imposition of appropriate conditions regarding the use of external finishing materials.***

4.7 Scale – Local Plan 2010 describes this site 174H as a small scale/modest development opportunity to suit the realistic needs of Fenwick. 65 houses is a 15% increase in the size of the housing stock. This is a MAJOR development when viewed in the context of this village of Fenwick. It has also come to our attention that a similar sized site within very close proximity to site 174H was according to East Ayrshire planning policy department (if it had been included in the local plan 2010) expected to contain no more than 20 houses. We find the vast difference between the proposed densities of these two closely located sites to be totally unacceptable and believe the lower density reflects a much more appropriate outcome for a rural development.

***The allocation and proposed density of the site has been the subject of detailed consultation as part of the new East Ayrshire Local Plan 2010. Whilst the site capacity is noted within the plan as 50 units this capacity is indicative only. It is considered that given the mix of housing proposed, the erection of 65 units at this location is acceptable.***

4.8 Infrastructure – No proposals have been put forward to increase the already poor water mains pressure and to increase the apparently inadequate sewerage system. There are no details given about servicing the site and the Council roads flooding engineer has alluded to potential water logging problems.

**Scottish Water has raised no objection to the proposal but does advise the applicant to make early contact with Scottish Water due to potential infrastructure upgrading works required. The Council's Flooding Engineer has raised no objections following detailed discussions and further amended plans subject to the attachment of appropriate conditions.**

4.9 Streets – We do not think this design reflects the essential elements set out in the SPP3 Designing for Places and Designing for Streets Manual.

**The proposed layout reflects elements of designing for streets such as permeability, removal of cul-de-sacs, introduction of shared surfaces and traffic calming with road alignment. It should be noted that SPP3 has been revoked and was replaced by Scottish Planning Policy (SPP) in February 2010.**

4.10 Given that East Ayrshire Council have also identified land to the west of the War Memorial as suitable for 20 houses surely it is incumbent upon East Ayrshire Council as the Planning Authority to take this into account along with access to Rysland Drive and Blackfaulds Drive to develop a broader traffic management plan for the north of the village. This would provide an opportunity to ensure that no further traffic pressure is placed on Skernieland Road as a result of the proposed development.

**As noted above the Transport Assessment has been submitted, which indicates that all surrounding junctions, with modifications where necessary, will be able to accommodate the proposed development.**

4.11 An additional concern in relation to the development is that the SUDS pond (which forms part of the proposal) is situated outwith the identified boundary of the local plan.

**The SUDS pond is located out with the settlement boundary of Fenwick but it is considered that this is not a significant encroachment into the rural area outwith the settlement boundary, given the nature and purpose of the SUDS basin. The size of the SUDS basin has been designed in accordance with the requirements of the Council's Flooding Section and Scottish Water.**

4.12 In my previous response I strongly objected to the fact that the developer had taken no account whatsoever of the design styles of houses within the conservation area of Fenwick. Within the new proposal it is difficult to tell whether or not they have made any concessions in this area as many of the design types have no elevation designs to show. This is unacceptable given the scale of the development in relation to Fenwick as a village.

**Included in the application submission are the details of the various house types which include the external elevational treatment. All of the units proposed are 2 storeys in scale with a mixture of some having integral garages and other with detached garages. The materials**

***proposed are note detailed on the plans and include white roughcast wall covering grey roof tiles and white upvc windows. The proposed external finishing materials are not considered to be the most suitable for this semi rural location and in proximity to the Conservation Area therefore a condition can be attached to any consent granted controlling those external materials and ensuring more appropriate use of external wall and roof coverings are used.***

4.13 Questions also have to be raised in relation to the actions of East Ayrshire Council as far as this development is concerned. As I stated previously East Ayrshire Council has identified the Knockroon development as “an exemplar of design quality and sustainable development for East Ayrshire, Scotland and beyond in terms of urban extensions or new neighbourhoods. There is currently no evidence that East Ayrshire Council have made any attempts whatsoever to try and influence Mansell Homes in conforming to this aspiration.

***The proposed development has been the subject of discussions and negotiations between the Planning Service and the applicant in terms of deign and layout. As a consequence of these discussions amendments have been secured which results in a development which is considered to be acceptable.***

4.14 As owner of the land and the Planning Authority you are treading a very fine line. We will encourage our representatives to challenge the Council vigorously to ensure that the democratic process is followed to the letter.

***The comment of the objectors is noted.***

4.15 Around 30 years ago it was accepted that the cemetery would extend into the surrounding field in due course. Later the village was pressurised into accepting that part of the land should be used for sheltered housing. If commercial housing has been proposed there would have been no such agreement. Where will the additional cemetery capacity be found and how and when did commercial housing creep on the agenda?

***The development of this site is part of a long term plan in terms of housing allocation which has already been taken account of and ratified in the housing allocation levels within the Development Plan. In addition the site has been the subject of further community consultation as part of the formation of the East Ayrshire Local Plan 2010.***

4.21 I am concerned about the capacity of the water and sewerage system.

***Scottish Water has raised no objection to the proposal but does advise the applicant to make early contact with Scottish Water due to potential infrastructure upgrading works required.***

## 5. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

### East Ayrshire Local Plan

5.2 Strategic Policy RES1 states that 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 as may be stipulated or agreed for the sites in question.

5.3 The Council will particularly encourage and support the development of housing sites which provide an appropriate and diverse range of housing types and tenures, catering for various segments of the housing market and meeting a range of different housing needs. Mixed use proposals, providing housing development along with other sympathetic associated development, such as local retail units and leisure and recreational uses, will be particularly supported by the Council, in appropriate locations.

***The application site is identified housing site 174H in the East Ayrshire Local Plan 2010 and, as such, the principle of housing development at this location meets with the provisions of policy RES1. The development site is identified in the local plan for 50 units and this application is for 65 units. It is pointed out that the capacities given in the local plan are indicative only.***

5.4 Policy RES23 states that 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, back land locations will not be considered acceptable.

***The application site layout does not incorporate any significant area of public open space. However as the site bounds with the adjacent existing recreational open space assessment can be made under Policy RES25.***

5.5 Policy RES25 states that were a development is proposed which would necessitate the provision of open space and that development is located adjacent or in close proximity to an area of existing open space in need of upgrading or improvement, the Council may, as an alternative to providing new open space areas, require the developer through an appropriate Section 75 Agreement to upgrade and

improve the existing open space area and provide for the maintenance of that area for a specified period to be agreed.

***The application site bounds onto the King George V playing field and therefore this can be considered as an alternative area of space in lieu of providing open space within the actual development site. Although no commitments have been made by the applicant to provide any funding towards existing play facilities in Fenwick it is considered that the provision of the affordable housing element of the proposed development provides some degree of mitigation in this respect.***

5.6 Policy RES26 states that 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.

***The level of private garden ground proposed over the site as a whole is compliant with the open space guidelines as detailed in Schedule 5.***

5.7 Policy RES29 states that the Council will require all potential developers of residential sites comprising four or more houses to make an appropriate financial and/or non-financial contribution towards the provision of any new or expanded facilities, amenities or associated community initiatives as may be required to meet the needs of any future populations introduced to the area as a direct result of the proposed development itself. Developer contributions will be required by means of a Section 75 or other appropriate agreement between the applicant and the Planning Authority in line with the provisions of Circular 12/1996 and in accordance with the provisions of the Council's Supplementary Planning Guidance relating to developer contributions.

***The proposal for this site is 65 dwellings and, as such, policy RES 29 Developer contributions should normally apply. However, developer contributions in respect of this site have were previously agreed as part of the Council's negotiations with the developer regarding the sale of the land. In this respect, at the time when developer contributions were not mandatory, the developer offered a voluntary contribution of £20,000 towards the Developer Contribution fund which was subsequently agreed with the Planning Service. The developer has confirmed that this agreement will still be honoured.***

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

6.1 The material considerations relevant to the determination of this application are the consultation responses, the letters of representation, the impact on the amenity of the area, the planning history and Scottish Planning Policy.

### Consultation Responses

6.2 No significant adverse issues have been raised in the consultation process which warrant refusal of the application, and there are no outstanding issues that

cannot be addressed through the imposition of appropriate conditions in any consent granted for the proposed development.

### Letters of Representation

6.3 The application has attracted an extremely high level of objection covering a wide selection of planning related issues. The issues raised in the letters of representation generally relate to the principle of residential development on this area of greenfield land, the issues relating to the potential traffic implications specifically along Skernieland Road and those layout, density and design issues. The principle of the residential development on this site has already been established within the EALP, which has been the subject of an extensive consultation process and subsequent independent examination by the Scottish Ministers. Any decision not to approve residential use on this site would be a significant departure from Council policy. In terms of the traffic implications it is considered that such concerns have been adequately addressed in Section 4 of this report.

### Impact on the amenity of the area

6.4 The proposal will ultimately have a degree of impact on the visual amenity of this semi rural area. The relatively high density of the development and the layout does not provide any breaks in the built form through landscaped areas or areas of open space however tree planting is shown on the site plan and proposed within the front garden grounds of most plots providing natural breaks in the built form. Furthermore the retention of the natural hedgerow along the western section of the site will be conditioned to any consent granted.

### Planning History

6.5 The application site has not been subject of any previous planning application. The planning application Ref: 11/0177/PP has been submitted and is awaiting determination for the proposed upgrade to the cemetery access road and the formation of a new road to serve the future cemetery extension.

### Scottish Planning Policy (SPP)

6.6 SPP is the over-arching national guidance on planning topics, and is a material consideration in the assessment of planning applications. Through the promotion of efficient use of land and buildings within existing settlements, SPP notes that national policy should identify housing need and demand on a consistent and robust basis through the development plan system; the use of the planning system to facilitate the construction of well-designed, good-quality housing in sustainable locations; and the creation of high-quality places, which support the development of sustainable communities.

6.7 In October 2010, advice was issued to Scottish Planning Authorities on Scottish Ministers' views on the provision of new housing and maintaining a supply of land in the right places which is free of all constraints and can be developed. It was stated that the role of the planning system is to enable the development of well

designed, energy efficient, good quality homes in sustainable locations, with housing development an important contribution to the Government's overarching objective of increasing sustainable economic growth.

6.8 In March 2011, the Chief Planner for the Scottish Government wrote to all Planning Authorities to note that authorities should be mindful of the importance the Scottish Government places on removing constraints to the development of housing land in the current economic climate, and that Councils should be flexible in dealing with affordable housing in their plans. There is currently no Affordable Housing policy within the East Ayrshire Local Plan 2010. Although the East Ayrshire Local Plan 2010 has no specific policy relating to the provision of affordable housing the proposed development includes 15 affordable housing units.

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

7.1 There are financial and legal implications for the Council in the determination of this application as it has an ownership interest on the land subject to this application.

7.2 The application will not require to be referred to the Scottish Ministers in terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

## **8. CONCLUSIONS**

8.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

8.2 As detailed previously in this report the proposal is considered to be generally in compliance with the applicable policies in the Development Plan. The material considerations are generally supportive of the proposal with the exception of the significant level of representations received; however as stated above, the key concerns of the objectors have been addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or do not carry sufficient weight to justify refusal of the application.

8.3 It is considered that the proposed development, providing a mix of new residential dwellings and incorporating 15 affordable housing units is acceptable for this location in terms of density, scale, layout and, subject to the imposition of conditions, finishes to be used throughout the proposed development.

## **9. RECOMMENDATION**

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet.

## **CONTRARY DECISION NOTE**

Should the Committee agree that this application for planning permission be refused contrary to the recommendation of the Head of Planning and Economic Development in terms of the principle of the development, then the application will require to be referred to the Council as it would represent a significant departure from Council policy.

**Alan Neish**  
**Head of Planning and Economic Development**  
RG/HM/RG  
25 October 2011

## **LIST OF BACKGROUND PAPERS**

1. Application forms and indicative Masterplan.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of Representation.
5. East Ayrshire Local Plan 2010.
6. Ayrshire Joint Structure Plan 2007.
7. Scottish Planning Policy (SPP).

Anyone wishing to inspect the above papers should contact Hugh Melvin Development Management Manager on 01563 556753.

**Implementation Officer: Hugh Melvin**

**East Ayrshire Council**

**TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997**

**Application No: 11/0160/PP**

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Location	SKERNIELAND ROAD FENWICK
Nature of Proposal:	PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING OF 65 DETACHED, SEMI- DETACHED AND TERRACED UNITS WITH ANCILLARY WORKS INCLUDING ASSOCIATED ACCESS, NECESSARY INFRASTRUCTURE WORKS, PARKING AND LANDSCAPING
Name and Address of Applicant:	MANSELL HOMES
Name and Address of Agent	MANSELL HOMES ALAN ARNOTT SUITE 4 SOUTH INCH BUSINESS CENTRE

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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. If ground contamination is encountered during construction works, work shall immediately cease and the Council immediately notified. No further development shall be undertaken 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.

3. Should contamination be present in terms of Condition 2 above, prior to any further site development, the developer shall submit a report, 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 Authority's satisfaction.

4. Notwithstanding the submitted plans, the external wall 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 construction work, and thereafter implemented as approved.

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

5. Notwithstanding the submitted plans, the external roofing materials of the houses are not hereby approved. The roof covering shall consist of slate or a high quality slate substitute. Details/samples of the proposed roof covering shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any construction work, and thereafter implemented as approved.

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

6. 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.

7. Prior to the commencement of any development works commencing on site a programme of archaeological works in accordance with a written scheme of investigation shall be submitted to and approved in writing by the Planning Authority and, agreed by the West of Scotland Archaeology Service. Thereafter the programme of archaeological works shall be 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.

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

8. Prior to commencement of any works on site, a Construction Traffic Management Plan for development shall be submitted to, and approved by the Planning Authority in consultation with the Roads Authority.

REASON: In the interests of road safety and the operational planning of the site.

9. Construction works shall be restricted to between 7am and 7pm Monday to Friday; between 8am and 1pm on a Saturday and not at all on a Sunday, unless otherwise agreed in writing with the Planning Authority.

REASON: In the interests of surrounding amenity.

10. All waste arising from construction works shall be disposed of in accordance with details to be agreed in writing with the Waste Management Authority and otherwise than by burning.

REASON: In the interests of surrounding amenity.

11. Details of the SUDS attenuation ponds designed to accommodate a 1:200 year flood event shall be submitted and approved by Local Planning Authority. Unless otherwise agreed in writing with the Planning Authority, development shall be carried out in general accordance with the approval details. Discharge to a watercourse shall be limited to the rate of 4.5ltrs/sec/ha.

REASON: In the interests of flood prevention.

12. Prior to any construction works commencing on site the 1 in 200 year swale detailed design shall be submitted to and approved in writing by the Planning Authority in conjunction with the Council's Roads and Transportation Division and thereafter implemented as approved.

REASON: In the interests of flood prevention.

13. Prior to the occupation of the first dwelling the upgrading of Skernieland Road fronting the development should include a 2 metre wide footway and a 2m wide road side verge which shall include the road side swale.

REASON: In the interests of Road Safety.

14. Notwithstanding the submitted plans the internal layout shall be designed as suitable for 20 mph zones with appropriate traffic calming facilities to ensure full compliance.

REASON: In the interests of Road Safety.

15. Prior to the occupation of the first dwelling the visibility sightline splay areas of x=2.5 metres by y=35 metres shall be formed and maintained at the new access point at Skernieland Road with no obstruction greater in height than 1 metre allowed within the splay areas formed.

REASON: In the interests of Road Safety.

16. Notwithstanding the submitted plans the finished floor levels of all the dwellings shall not be at a lower level than the road carriageway levels.

REASON: In the interests of Road Safety.

17. Notwithstanding the submitted plans where there is a double garage the driveway width shall be a minimum of 4.8 metres.

REASON: In the interests of Road Safety.

18. Notwithstanding the submitted plans additional visitor car parking spaces shall be provided in front of plots 12 & 13.

REASON: In the interests of Road Safety.

19. Prior to the occupation of the first dwelling a pedestrian guardrail shall be installed at the footpaths to the King George V playing fields to prevent pedestrian/child run out.

REASON: In the interests of Road Safety.

20. Tree planting within the site shall be implemented in the next available planting season once the all houses are complete as per the approved site layout plan (ref: 610/001 revH).

REASON: In the interests of visual amenity.

21. Prior to any construction works commencing on site details of the factoring and maintenance obligation for the SUDS pond and surrounding area shall be submitted to and approved in writing by the Planning Authority and thereafter implemented and maintained thereafter.

REASON: In the interests of flood prevention and visual amenity.

### **Additional Advisory Notes**

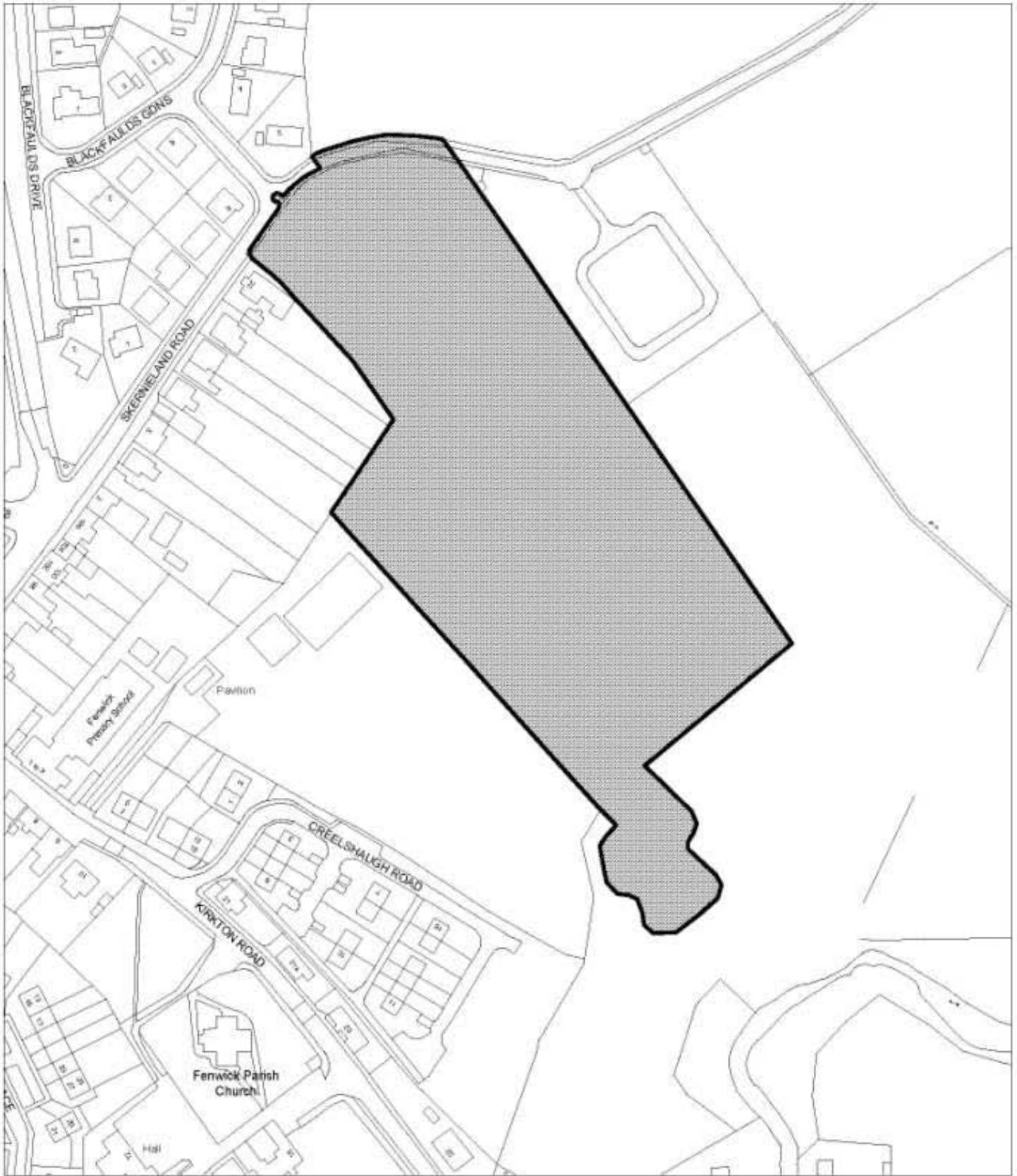
1. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site and to confirm the request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS. 15. Scottish Water technical approval will be required for all drainage proposals including connection to the public drainage network.



2. Any proposed discharges of surface water at this site must comply with the terms of the Water Environment (Controlled Activities) (Scotland) Regulations 2005, as amended.

3. The applicant is advised to contact Scottish Power and Scottish Gas Networks in relation to their apparatus in the area.
4. The applicant is advised to make early contact with Scottish Water regarding the connection to the water and waste water network.

### **Reason for the Decision**

The proposal is compliant with the Development Plan and after consideration of representations, consultations responses and other relevant factors it is considered that the material considerations do not, on balance, indicate that the application should be refused contrary to the Development Plan.



<p>Title/Location     <b>Skernieland Road</b></p> <p>                          <b>Fenwick</b></p> <p>                          <b>Application No. 11/0160/PP</b></p>	<p><b>East Ayrshire Council</b>          Department of Neighbourhood Services          Planning &amp; Economic Development Service          The Johnnie Walker Bond          15 Strand Street          Kilmarnock KA1 1HU          Tel: (01563) 576790    Fax: (01563) 554592          E-Mail : <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a>          Com Date: 02/11/2011</p> 
<p>Key</p>  <p><b>Application Site</b></p>	