

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 02 OCTOBER 2009 09/0152/FL: PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 75 DETACHED / SEMI-DETACHED / TERRACED HOMES AND 68 RESIDENTIAL APARTMENTS INCLUDING ASSOCIATED ROADS, OPEN SPACE AND LANDSCAPE INFRASTRUCTURE, DALSALLOCH WOOD SITE, MAUCHLINE ROAD, AUCHINLECK

APPLICATION BY CURO INVESTMENTS LIMITED

EXECUTIVE SUMMARY

1. DEVELOPMENT DESCRIPTION

1.1 **Proposed Development:** Full planning permission is sought for the erection of 75 dwellinghouses and 68 flatted dwellings on the site and for the construction of new residential roads to serve the proposed development and associated open space and landscape infrastructure. Four different house types are proposed as follows:

- (i) 8 Type A: A four apartment, 2 storey detached dwelling;
- (ii) 17 Type B: A four apartment, 2 storey detached dwelling with integral garage;
- (iii) 38 Type Semi-Detached: A four apartment, 2 storey semi-detached dwelling; and
- (iv) 12 Type Terraced: A four apartment, 2 storey terraced dwelling.

1.2 The flatted development comprises two blocks. Block 1 is an "L" shaped block of generally three storeys in height but extends to a fourth storey at the central part of the building. This block comprises 40 flats (34 two bedroom and 6 one bedroom flats). The second flatted block is smaller and lies to the east of the main block, separated by parking provision. This block is of both three and four storeys in height and will provide 28 flats (23 two bedroom and 5 one bedroom). In total 13 flat types are proposed according to floorspace provided.

1.3 The proposed dwellings are to be finished externally in a range of finishes according to the house type. Detached dwellinghouse will be finished in white render with either red or buff facing brick panels. The semi-detached dwellinghouse will be finished in white render with buff facing brick panels with the terraced dwellinghouses being finished in white render with red facing brick panels. Type A dwellinghouse will also incorporate a partial cedar lining wall finish. The two flatted blocks will incorporate details reflecting all of the external finishes to the used in the proposed dwellinghouses.

1.4 The existing maintained open space and Marie Curie Garden to the north of the site on Mauchline Road is to be retained and expanded to incorporate a sustainable urban drainage feature with new public footpaths being provided. This area will be overlooked by an apron of detached and semi-detached dwellings, presenting an attractive gateway feature to Auchinleck on its approach along the A76 Trunk Road. A total of 93 parking spaces are proposed to serve the flatted development including the provision of disabled spaces.

1.5 Access to the site will be taken from Pennylands Road with the new residential road forming a loop and new dwellings laid out around this loop. The flatted blocks will be located within the central area formed by the loop road. The new residential road will incorporate appropriate traffic calming measures. The proposed development will also result in a continuation of the existing footpath on Mauchline Road around and along the full length of the Pennylands Road boundary of the site up to the existing railway bridge on Pennylands Road.

1.6 Although a significant area of public open space will be provided as part of the proposed development, no active open space is shown within the proposed layout. However, given that substantial active open space is available on the adjacent Merlin Park, this is not considered to be a significant issue. Existing footpaths within Merlin Park will be retained or diverted to provide new links into the development site.

1.7 As indicated in Section 6.4 below, the application site has been the subject of two previous detailed applications and these extant consents allow the erection of 60 detached dwellinghouses and 60 flatted units. The present application under consideration is effectively for an amended scheme for the site, albeit that the overall number of units has increased by 23.

2. RECOMMENDATIONS

2.1 It is recommended that application be approved subject to the conditions listed on the attached sheet. The decision notice should be withheld until the Solicitor to the Council has satisfactorily concluded an agreement with the applicant, under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the developer contribution to the Council's Sports, Leisure and Recreation Fund.

3. SUMMARY OF ANALYSIS

3.1 As 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. As is indicated at Section 6 of the report, there are material considerations relevant to this application. However it is considered that the representations received can either be addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or are not of sufficient weight to justify refusal of the development.

3.2 The proposal represents a major development located on the fringe of the settlement of Auchinleck and will result in significant change to the locality. This is particularly relevant as the development will result in the felling of the Dalsalloch Wood. It is considered however that the proposed development, in terms of its scale, layout and design will also make a positive contribution to the townscape in this locality. Although there are no particular statutory or non-statutory natural heritage interests identified within the development site, it is considered that appropriate conditions could be attached to ensure that the potential for disturbance to any protected species that may be present within the site is appropriately addressed.

3.3 Notwithstanding the objections received, it should be noted that the present application under consideration is effectively an amended development scheme embracing the current planning consents for a mixed development of flats and dwellings and around the same layout of development, albeit that the overall number of dwellings proposed has increased by 15 and the number of flats increased by 8 (total increase of 23 units). The main change in respect of the proposed dwellinghouses is essentially the deletion of all the previously approved house types and all the two and a half storey town houses and their replacement by a mixture of semi-detached and terraced, two storey dwellings.

3.4 Nonetheless, the development will make a significant contribution in socio-economic terms, as it will bring much needed investment to the community of Auchinleck. While there are a number of concerns and points of objection raised by some of the local community, on balance it is considered that the positive benefits to the community of Auchinleck that will accrue from the proposed development significantly outweigh the acknowledged negative aspects.

CONTRARY DECISION NOTE

Should the Committee decide to refuse the application contrary to the recommendation of the Head of Planning and Economic Development and for reasons other than the principle of the development, then there will be no requirement to refer the application to the full Council for consideration.

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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APPLICATION BY CURO INVESTMENTS LIMITED

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Southern Local Planning Committee under the scheme of delegation as the application is considered to be a Major Development under the Hierarchy of Development Regulations 2009 but is not significantly contrary to the Development Plan.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located on the south side of Mauchline Road in Auchinleck and comprises the coniferous wooded area at Dalsalloch Wood and also the site of the now disused Auchinleck Greyhound Racing Track. The site extends to approximately 4.7 hectares and is gently sloping and undulating in nature rising from Pennylands Road to the west towards Merlin Park in the east.

2.2 As indicated, the greater part of the site is occupied by Dalsalloch Wood with a large area of maintained open space lying in the north-west part of the site, part of this forming the Marie Curie Cancer Care Garden. The site is bounded to the north by Mauchline Road and residential and commercial properties, to the west by Pennylands Road and the A76 Trunk Road beyond, to the south by the Glasgow - Dumfries rail line, and to the east by the Merlin Park. An existing gas governor building and a Scottish Water pumping station lie on the western boundary of the application site.

2.3 **Proposed Development:** Full planning permission is sought for the erection of 75 dwellinghouses and 68 flatted dwellings on the site and for the construction of new residential roads to serve the proposed development and associated open space and landscape infrastructure. Four different house types are proposed as follows:

- (i) 8 Type A: A four apartment, 2 storey detached dwelling;
- (ii) 17 Type B: A four apartment, 2 storey detached dwelling with integral garage;
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- (iv) 12 Type Terraced: A four apartment, 2 storey terraced dwelling.

2.4 The flatted development comprises two blocks. Block 1 is an “L” shaped block of generally three storeys in height but extends to a fourth storey at the central part of the building. This block comprises 40 flats (34 two bedroom and 6 one bedroom flats). The second flatted block is smaller and lies to the east of the main block, separated by parking provision. This block is of both three and four storeys in height and will provide 28 flats (23 two bedroom and 5 one bedroom). In total 13 flat types are proposed according to floorspace provided.

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2.6 The existing maintained open space and Marie Curie Garden to the north of the site on Mauchline Road is to be retained and expanded to incorporate a sustainable urban drainage feature with new public footpaths being provided. This area will be overlooked by an apron of detached and semi-detached dwellings, presenting an attractive gateway feature to Auchinleck on its approach along the A76 Trunk Road. A total of 93 parking spaces are proposed to serve the flatted development including the provision of disabled spaces.

2.7 Access to the site will be taken from Pennylands Road with the new residential road forming a loop and new dwellings laid out around this loop. The flatted blocks will be located within the central area formed by the loop road. The new residential road will incorporate appropriate traffic calming measures. The proposed development will also result in a continuation of the existing footpath on Mauchline Road around and along the full length of the Pennylands Road boundary of the site up to the existing railway bridge on Pennylands Road.

2.8 Although a significant area of public open space will be provided as part of the proposed development, no active open space is shown within the proposed layout. However, given that substantial active open space is available on the adjacent Merlin Park, this is not considered to be a significant issue. Existing

footpaths within Merlin Park will be retained or diverted to provide new links into the development site.

2.9 As indicated in Section 6.4 below, the application site has been the subject of two previous detailed applications and these extant consents allow the erection of 60 detached dwellinghouses and 60 flatted units. The present application under consideration is effectively for an amended scheme for the site, albeit that the overall number of units has increased by 23.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division has no objections to the proposed development subject to the following conditions:

1. The site will require to be served by internal roads which comply with the Roads Development Guide 1996 and will require Construction Consent from East Ayrshire Roads Department. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming, parking, provision for public transport etc. and this must be in place prior to commencing road works on site. All roads must be conventional blacktop roads with footways rather than shared surfaces as they do not meet the required criteria for shared surface roads. A road bond must be submitted by the developer prior to commencing house building work on site.
2. Junction visibility splay areas of 2.5 m by 35 m will be required at all internal road junctions with no object greater than 1m in height allowed within these areas. 15m forward sight visibility is required at speed bends.
3. No surface water must be allowed to discharge from driveways onto existing or proposed public roads.
4. Parking requirement must be to Roads Development Guide 1996 including visitor parking. This will require alterations to the layout to achieve 108 spaces for the flats (including visitors) and 24 visitor spaces spread evenly through out the site for the houses. All 3 bedroom houses will require a minimum of 2 off road car parking spaces per plot and the terraced houses will require a minimum of 1 space per unit.
5. Any garages must be set back a minimum distance of 6 m from the rear of the footway.
6. The private driveways will require to be paved over their full width for a minimum distance of 2 metres from the rear of the footway to avoid overcarry of loose material onto the public road.
7. Widened driveways to achieve driveway manoeuvrability should be provided for off-road car parking.
8. The proposed (driveway/parking area) should be not be less than 6m in length by 4.8m wide for a 2/3 bedroom house accessing a garage and 12m length by 2.75m wide where no garage is being provided.
9. Any gates will require to open inwards, away from the public road.

10. Drainage details and in particular the use of SUDS will require the approval of East Ayrshire Council Roads and Transportation Division, Scottish Water and SEPA as part of the Construction Consent.

11. Visibility sightline splay areas of 4.5m by 90m will require to be formed and maintained at the access point onto Runnels Road, with no obstruction greater in height than 1m allowed within the splay areas formed. This will require the removal of boundary trees, shrubs and hedges.

12. A 2.0m wide footway to East Ayrshire Roads specification will require to be constructed along the frontage of the site, from the existing footway on Mauchline Road to the railway bridge on Runnels Road.

13. Access to the new and existing pumping station and gas governor etc from Runnels Road will require to be taken via a standard driveway access crossing to East Ayrshire Roads Department standards. The applicant must contact the Roads Department for further details/specification and a Road Opening Permit will be required. Visibility sightline splays of 2.5m by 90m will be required at these locations. Any gates will require to be set back at least 6.0m from the edge of the carriageway.

14. A footpath and associated street lighting to East Ayrshire Roads Division specification must be provided linking the development to Mauchline Road, opposite Arran Drive. Dropped kerbs and tactile paving will be required on both sides of Mauchline Road in the vicinity of the footpath link.

15. A footpath link from the development to the adjacent recreation ground is required.

16. Two new bus-stops with raised kerbs and shelters to East Ayrshire Council Roads Division standards must be provided on Runnels Road adjacent to the development, the exact location to be agreed.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division. The requirement for the provision of two new bus stops would require to be secured by means of a Section 75 Agreement.

3.2 Scottish Water has not responded to the consultation letter.

Noted.

3.3 The Scottish Environment Protection Agency has no objections in principle to the proposals provided that the drainage arrangements are to its satisfaction. All foul drainage from the development must be discharged to the public sewerage system in accordance with Scottish Water requirements. The applicant should deal directly with Scottish Water on this matter. SEPA would confirm that it is the responsibility of Scottish Water to ensure that the additional volume of foul flow arising from this development will not cause or contribute to premature operation of downstream consented sewer overflows. The proposed SUDS should be designed in accordance with the principles of the Sustainable Urban

Drainage Systems Design Manual for Scotland and Northern Ireland. SEPA would highlight that for a discharge to the water environment from residential roads serving a development of greater than 50 units, the SUDs manual states that two levels of treatment are required. The SUD currently shown for the site will only deliver one. SEPA would also encourage the provision of “at source” treatment for in-curtilage drainage. All waste materials generated by this development that require to be removed such as construction, demolition materials and surplus excavated material, must be removed from the site by licensed waste carriers. Waste must be removed to a site that has either an appropriate waste management licence or is registered with SEPA as exempt from licensing.

Conditions and appropriate notes can be attached to any consent granted to meet the requirements of SEPA.

3.4 Power Systems has no objections to the proposed development.

Noted.

3.5 Auchinleck Community Council has been consulted but no comments have been offered in the return of the consultation documents.

Noted.

3.6 Scotland Gas Networks has indicated the presence of its apparatus and structures in the locality of the development site. Any protection or diversion of apparatus shall require to be undertaken at the developer’s expense.

An advisory note can be attached to any consent granted for the proposed development to advise the applicant to make early contact with SGN.

3.7 Scottish Natural Heritage has no objections to make on the proposed development but recommends conditions to minimise any adverse natural heritage impacts arising from the proposals. While the development footprint is contained within an urban setting and is bounded on three sides by roads and a rail line, approximately three quarters of the development area is wooded and may contain species such as red squirrel, bats and breeding birds at certain times of the year. This area is also used for public access and recreation and current desire lines and routes should be taken into account at the design stage. SNH recommends that:

(i) A bat survey is carried out by a competent bat worker to establish if bats are using the trees in the woodland for roosting. If bats are found using trees, a licence will be required to disturb or fell the tree. SNH should be contacted for further advice if this is the case.

- (ii) A red squirrel survey should be carried out by a competent ecologist to determine if red squirrels are present in the woodland.

As part of the original grant of planning consent for development of the Dalsalloch Wood site, the original developer carried out a comprehensive ecological survey of the site which, while not totally discounting the possibility of the presence of such species using the site, concluded that the site was of negligible or local value only. Appropriate mitigation and further pre-construction surveys were to be undertaken as part of the development of the site.

This ecological assessment has been updated, with the present applicant engaging the services of the same ecological consultant that carried out the original assessment. Again, this updated assessment offers similar conclusions about the ecological value of the site and offers appropriate mitigation to ensure that any adverse impacts on natural heritage resources are minimised including further surveys to be carried out prior to construction works commencing on site.

- (ii) Tree felling should not occur during the bird breeding season (March – July inclusive)

A condition can be attached to any consent granted for the proposed development to meet the requirements of SEPA.

- (iii) Current public access routes and pathways should be designed into the development where possible.

The proposed layout of the site is essentially the same as that approved under the previous grants of planning permission for this site. It is considered that this layout already accommodates and ties in with existing routes and pathways.

3.8 West of Scotland Archaeology Service has not responded to the consultation letter.

Noted.

4. REPRESENTATIONS

4.1 A total of 15 letters of letters of representation from 19 signatories have been received raising points of objection or concern regarding the proposed development. Twelve of the letters received are pro forma letters containing the

same points of representation. The main points of objection or concern are summarised as follows:

4.2 The vast number of flats will undoubtedly present serious management problems in the future as the common areas of the apartments and grounds would have to be managed by a factoring agent. The proposed apartments will very quickly run into disrepair when all fees are not ingathered for essential works / maintenance and the only winners are ultimately the factoring / management agency and not the majority of the responsible owners.

It is considered that this is not a valid ground of objection to the development. The use of factors for grounds maintenance is widespread in developments of this type and the use of appropriate conditions in any consent granted for the development would seek to ensure that there is delivery of an acceptable regime for future maintenance of open space areas.

4.3 The flats would attract a number of 'investment landlords' who can rent their property to whomever they choose and not all are responsible, as is proven time and time again. Recently we unfortunately had experience of such landlords who placed tenants with Anti-social Behaviour Orders in the houses recently developed at Dippol Crescent. During this time, there was an increased instance of vandalism and graffiti to our properties, instances of verbal abuse and threatening behaviour, not to mention increased litter, the evident drug abuse, the urinating in public and defecation.

While sympathetic to the experiences of the objectors, these are not valid grounds for objecting to the proposed development. These are matters of public order and policing.

4.4 There are too many examples of these problems in flatted developments (Council owned and private) accommodation throughout East Ayrshire and therefore the development of more potential "ghettos" does not exercise due diligence to a long term sustainable approach or meet the interests of the village and community as a whole.

The comments of the objectors are noted but it is inappropriate to suggest that this proposed development, insofar as the flatted element is concerned, is unacceptable on the basis of problematic flatted developments elsewhere in East Ayrshire.

4.5 Many developers would argue that the apartments would fall into the affordable housing bracket to meet their legal requirements for a site of this capacity. However since neither the site nor the location could be deemed as prime residential land, small terraced houses would also fall into the affordable category. Furthermore they would offer greater longevity and sustainability.

The proposed development offers a range of different types of accommodation including detached, semi-detached and terraced dwellinghouses.

4.6 The vast amount of flats is not in keeping with the surrounding Barony Road / Mauchline Road.

While recognising that the flatted element of the proposed development will result in a significant change to the built environment at this location, it is considered that the site, given its location and extent, is capable of accommodating the centrally placed flatted element within the overall site layout.

4.7 Given the current short, medium or long term economy prospects and property market conditions, any unfinished flatted development would attract vandalism and graffiti. All unsold properties would have to be boarded up eventually, thus creating an unsightly and undesirable area and becoming "the cold sore at the mouth of the village".

The speculation of the objectors is not a valid ground of objection to the proposed development.

4.8 The local services such as the surgery / health centre, nursery and primary schools etc. may not have the capacity to deal with the potential increase in numbers to the village.

The comment of the objectors is noted, but it would be for the various service providers to ensure that the needs of the community are met in this regard.

4.9 The proposed plans also represent a gross eradication of mature and established woodland. The woods are now home to a multiplicity of wildlife species. We have enjoyed observing them over the years and they include bats, owls, badgers, hedgehogs, roe deer, numerous birds including woodpeckers (spotted). It has also been mentioned to us of a red squirrel sighting which is possible due to conservation efforts and increase in numbers in the Dumfries and Galloway region. A more sympathetic development retaining greater areas of woodland should be considered in the interests of conservation, as bats, badgers, hedgehogs and red squirrel are all protected species and independent surveys as required should be exercised.

Scottish Natural Heritage has been consulted on the proposed development and has not raised any objections in respect of the proposed development, although has recommended a number of conditions be attached to any grant of planning consent. It should be

noted that in terms of the existing consents currently in place, the approved developments necessitate the felling of the mature woodland. It has previously been acknowledged that the Dalsalloch Woods make a contribution to the townscape of Auchinleck. However, the woodland is a mature coniferous plantation that would require to be harvested at some point in the future.

In the original planning consent for the Dalsalloch development, a condition was attached to the consent which required the developer to investigate the possible use of the woodlands by any protected species. The ecological assessment subsequently concluded that the site was of low ecological value but recommended that prior to the demolition of any buildings or felling of trees, further surveys be conducted to ensure minimal impacts on natural heritage resources.

In terms of the current application, the applicant has submitted an update to the ecological assessment which again, subject to appropriate mitigation measures and implementation of Environmental Management Procedures, reaffirms the findings of the previous assessment. Ultimately it is for the developer to ensure that the proposed works are undertaken on site in conformity with relevant legislation in this regard.

4.10 We also note from the current local plan statement that the Council will support a housing application at site Ref. 242H, if the developer makes a financial contribution to the improvement of facilities at Merlin Park under a Section 75 Agreement. Surely this should not be at the cost of creating a sustainable environment that is sympathetic and sensitive to the surrounding established area, as stressed by the Government and core to East Ayrshire Councils fundamental planning objectives? As highlighted, we are not totally opposed to a residential development in principle but are very much opposed to the potential overdevelopment of the mature woodlands and formation of yet another ghetto.

The objectors are referring to the allocation of the site for residential purposes in the Alterations to the East Ayrshire Local Plan (Finalised Version with Modifications). The statement within the plan merely reflects the current position regarding the already consented and extant planning permissions granted for the site. There is a current Section 75 Agreement in place for this site which requires a financial contribution for upgrade of facilities at Merlin Park. Consequently any different scheme proposed which does not afford required levels of public open space would necessitate the concluding of such an Agreement. In terms of the consents previously granted, the loss of the woodland has already been established in principle.

4.11 The proposed development would lead to a loss of privacy by overlooking our properties. There will be the possibility of loss of daylight should multiple storey housing be erected.

The objectors' properties lie on the north-eastern boundary of the development site and it is accepted that the proposed two storey dwellings in this locality will result in a degree of overlooking of the properties concerned. However, it is considered that in terms of distances between the existing properties and the proposed new dwellinghouse adequate distances have been maintained in relation to window to window relationships. In terms of potential loss of daylight, it is not considered that the proposed development will have any significant impact on the objector's property and certainly not in relation to the current impact of the existing woodland.

4.12 Members of the community use the recognised walkway through the woodland as exercise for themselves and their dogs. The proposed development does not seem to have incorporated this, as this walkway has been moved and joins onto a roadway.

While the use of the woodland for recreational purposes is recognised, links will still be maintained through the development from the existing footpaths within Merlin Park. In addition new public footpaths will be provided within the existing and proposed public open space on Mauchline Road together with the provision of a new public footway along Pennylands Road. This would give added opportunities for recreational walking in the locality. Further consideration may require to be given to potential formal temporary closure or diversion of this walkway during construction works should it be deemed to be a formal public right of way.

4.13 There would be traffic issues arising from the proposed development.

The Roads and Transportation Division has not raised any concerns regarding the capacity of the existing road infrastructure to serve the proposed development nor raised any specific road safety concerns subject to the imposition of appropriate conditions in any consent granted for the proposed development.

4.14 I have lived at my current address for the past 32 years. There is no access for parking and never has been. After living at the address for two years and parking on the road, it was brought to the attention of the local police and I was requested to refrain from parking at this location and requested that I park instead on the pavement across the road, land at that time being Council owned. The proposed new development includes this area and if I am no longer allowed to park my vehicles at this location, I will have no choice but to park on the other

side of the road. With the proposed new development there is a greater risk of accidents occurring. To enhance the area it would perhaps be appropriate that the building company should consider providing off road parking for a few vehicles on Mauchline Road. This may also serve as a useful parking area for any members of the public who wish to use the proposed public area and Marie Curie Garden.

Noted. This is not a valid ground of objection in respect of the determination of this application.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 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. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Local Plan (2003).

Ayrshire Joint Structure Plan

5.2 There are no particular policies within the structure plan that are relevant to the proposed development.

Noted.

East Ayrshire Local Plan

5.3 Policy RES4 states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against a set of four stated criteria, as follows:

(i) impact on the surrounding natural and built environment and adjacent uses;

Residential use at this location is acceptable in principle and is unlikely to have any detrimental impact on the surrounding natural and built environment.

(ii) transportation and infrastructure implications;

This is subject to satisfactory responses from the Roads Division and other consultees.

- (iii) compatibility with surrounding densities and housing types; and

A development brief has previously been prepared for this site. The density of the proposed retirement apartments is distinctly higher than that outlined in the development brief. The development brief indicated that the site should accommodate 100 dwellings, whilst the 68 flats together with the 75 houses proposed for the site, equal 143 units on the site which exceeds the stated density for the site. It is accepted that the development brief did not account for any provision of flatted development, which by their very nature are higher density. However, as indicated in Section 6 below, there are current planning consents relative to this site which allow the construction of 60 detached dwellinghouses and 60 flatted units within two 3/4 storey buildings.

While the present proposal represents an increase in the number of dwellinghouses from 60 to 75 and the number of flats from 60 to 68, the proposal complies with all other aspects of policy regarding private and public open space provision, albeit that public open space provision is dependent on the contribution made by the adjacent Merlin Park. There is no discernable increase in the massing or scale of the proposed development from the development previously approved since the increase in the number of flats is achieved by internal amendments to floorspace. The increase in the number of dwellinghouses is similarly achieved by providing a number of semi-detached and terraced dwellinghouses.

- (iv) compliance with the Council's Development Promotion and Design Guidance.

It is considered that the proposed development complies with the Council's Development Promotion and Design Guidance.

5.4 Policy RES19 requires all housing developers to provide areas of recreational and amenity open space in their developments to the indicative basic standards set out in Schedule 3 of the Local Plan. The policy states also that the precise type, size, location and design of the open space required is dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area.

The development brief states that, given the amount of public open space surrounding the park, there is no need to provide this within the development site but that the Marie Curie Garden to the north of

the site should be extended and an appropriate financial contribution should be made to the Council to upgrade the existing facilities at Merlin Park. While the Marie Curie Garden has not been extended, the applicant has agreed to meet the financial contribution of £100,000 previously secured under the original planning consent for the Dalshalloch Wood development.

5.5 Policy RES21 states that where a proposed development is located adjacent or in close proximity to an area of existing open space in need of upgrading or improvement, the Council may allow the developer, as an alternative to providing new open space areas, to upgrade and improve that existing area and provide for its maintenance for a specified period.

As stated above, the Council will require the developer to make an appropriate financial contribution towards upgrading the facilities at Merlin Park which, if set in place, will ensure compliance with policy RES21.

5.6 Policy RES22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

From the plans submitted by the applicant, the proposal generally meets with the Council's minimum private open space standards.

5.7 Policy TLR5 of the Local Plan requests that all potential developers of residential sites comprising four or more houses enter into a Section 75 agreement with the Authority for contributions towards the provision of appropriate leisure and recreational facilities within the area to which their development relates.

The developer has confirmed agreement to make a contribution to the Sports, Leisure and Recreation Fund in line with the previous contribution offered and secured under application 05/1052/FL and hence complies with this policy. It is considered that the contribution should be secured by means of a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997.

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, the planning history of the site and the Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications (2009)). As representations have been made about the potential for protected species to be present within the development

site, the Conservation (Natural Habitats, &c.) Regulations 1994 is also a material consideration in this case.

Consultations Responses

6.2 The consultation responses in respect of the application do not suggest that permission should be withheld.

Representations

6.3 It is recognised that some of the points of objection raise pertinent planning issues and in the main it is appreciated that the proposed development will bring significant change to the area in which the development is located, not least in respect of the Dalsalloch Wood. However it is considered that the representations received can either be addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or are not of sufficient weight to justify refusal of the development. On balance it is considered that the positive benefits to the community of Auchinleck that will accrue from the proposed development significantly outweigh the acknowledged negative aspects.

Planning History

6.4 A detailed planning application (Ref. No. 05/1056/FL) for the erection of 86 detached dwellinghouses was approved by the former Development Services Committee on 13 December 2005. Following clearance of the application by the Scottish Ministers and the concluding of a Section 75 Agreement to secure a SLR Contribution of £100,000, the consent was issued on 14 February 2006.

6.5 A subsequent detailed application for a flatted development within part of the approved site (Ref. No. 06/0776/FL) was approved under Delegated Powers on 12 October 2007. The application promoted a flatted development comprising 60 units within the central part of the approved Dalshalloch site. The flatted development replaced 26 detached dwellings previously approved in the central area, with two blocks proposed and the units provided over 3 and 4 storey levels.

6.6 In summary, the above extant consents at this time allow for the development of 60 detached dwellinghouses and 60 flatted units on the Dalshalloch Wood site.

Alteration to the East Ayrshire Local Plan

6.7 Strategic Policy RES1 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 as may be stipulated or agreed for the sites in question.

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 as residential development opportunity site 242H therefore housing development at this location is acceptable in principle. Although the indicative capacity attached to the local plan allocation is 86 units, this is based on a previous consent and it is accepted that the site is capable of accommodating a higher density.

6.8 Policy RES 23 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. Developers will be required to comply with the indicative basic standards set out in Schedule 4 of the Local Plan in preparing their proposals. 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.”

The development brief states that, given the amount of public open space surrounding the park, there is no need to provide this within the development site but that the Marie Curie Garden to the north of the site should be extended and an appropriate financial contribution

should be made to the Council to upgrade the existing facilities at Merlin Park. While the Marie Curie Garden has not been extended, the applicant has agreed to meet the financial contribution of £100,000 previously secured under the original planning consent for the Dalshalloch Wood development.

6.9 Policy RES 25 states:

“Where 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.”

As stated above, the Council will require the developer to make an appropriate financial contribution towards upgrading the facilities at Merlin Park in lieu of providing an area of open space within the development site.

6.10 Policy RES 26 states:

“All developers for new housing developments will be required to observe the minimum private open space criteria and standards detailed in Schedule 5 of the Local Plan. The standards quoted may however, be relaxed at the discretion of the Council in respect of the conversion of existing properties where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.”

From the plans submitted by the applicant, the proposal generally meets with the Council’s minimum private open space standards.

6.11 Policy RES 29 states:

“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.”

In this instance, the developer has offered the same level of contribution secured under the previous planning consent 05/1052/FL i.e. £100,000 which is greater than the contribution that would be required under the new developer contributions scheme. This will be secured again by means of a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997.

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

6.12 As indicated in the consultation response from SNH and representations received, parts of the site may be used by bats and red squirrel. If the presence of such species were to be established the development cannot proceed unless a licence is obtained from Scottish Government. Scottish Government interim guidance to planning authorities states that no planning decision may be made until the planning authority can assure itself that a licence may be forthcoming. An application for a licence will fail unless all of 3 tests on acceptability for a licence are satisfied. In summary these tests are:

Test 1: The licence application must demonstrably relate to ... the purpose of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.

It is considered that the licence would be necessary in order to allow work to proceed that is of overriding public interest of a social and economic nature. Furthermore, planning permissions have already been granted for development of this site where it has been reasonably established that the habitat is unlikely to support the protected species identified.

Test 2: "that there is no satisfactory alternative"

With regard to Test 2, it is considered that there is no satisfactory alternative to the granting of a licence as this would impact on the implementation of proposed development in a satisfactory manner.

Test 3: A licence cannot be issued unless Scottish Government is satisfied that the action proposed "will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range" (Scottish Government will, however, seek the expert advice of Scottish Natural Heritage on this matter).

The interim guidance issued to planning authorities indicates that SNH is the main body to advise on whether the granting of a licence would be "detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their

natural range” and so be capable of meeting Test 3. In this case, given the low ecological value of the site to protected species, it is considered that, in line with guidance previously given by SNH, the proposed development would not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.

In this regard it is considered that for the reasons and justifications set out above it is a reasonable expectation that a licence would be granted and that in arriving at this conclusion the Council, as Planning Authority, has fulfilled 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 implications for the Council in the determination of this application. Legal implications will arise through the requirement for a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to secure the potential developer contribution to the Council’s Sports, Leisure and Recreation Fund that the applicant has offered in respect of the proposed development and the possible temporary suspension and/or diversion of the potential right of way within the development site. This potential right of way was highlighted in representations made on the previous application 05/1052/FL. The Section 75 Agreement would also be required to secure the provision of the two new bus stops as indicated in the consultation response from the Roads and Transportation Division.

8. CONCLUSIONS

8.1 As 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. As is indicated at Section 6 of the report, there are material considerations relevant to this application. However it is considered that the representations received can either be addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or are not of sufficient weight to justify refusal of the development.

8.2 The proposal represents a major development located on the fringe of the settlement of Auchinleck and will result in significant change to the locality. This

is particularly relevant as the development will result in the felling of the Dalsalloch Wood. It is considered however that the proposed development, in terms of its scale, layout and design will also make a positive contribution to the townscape in this locality. Although there are no particular statutory or non-statutory natural heritage interests identified within the development site, it is considered that appropriate conditions could be attached to ensure that the potential for disturbance to any protected species that may be present within the site is appropriately addressed.

8.3 Notwithstanding the objections received, it should be noted that the present application under consideration is effectively an amended development scheme embracing the current planning consents for a mixed development of flats and dwellings and around the same layout of development, albeit that the overall number of dwellings proposed has increased by 15 and the number of flats increased by 8 (total increase of 23 units). The main change in respect of the proposed dwellinghouses is essentially the deletion of all the previously approved house types and all the two and a half storey town houses and their replacement by a mixture of semi-detached and terraced, two storey dwellings.

8.4 Nonetheless, the development will make a significant contribution in socio-economic terms, as it will bring much needed investment to the community of Auchinleck. While there are a number of concerns and points of objection raised by some of the local community, on balance it is considered that the positive benefits to the community of Auchinleck that will accrue from the proposed development significantly outweigh the acknowledged negative aspects.

9. RECOMMENDATIONS

9.1 It is recommended that application be approved subject to the conditions listed on the attached sheet. The decision notice should be withheld until the Solicitor to the Council has satisfactorily concluded an agreement with the applicant, under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the developer contribution to the Council's Sports, Leisure and Recreation Fund.

Alan Neish
Head of Planning and Economic Development

23 September 2009
HM/HM
FV/DVM

CONTRARY DECISION NOTE

Should the Committee decide to refuse the application contrary to the recommendation of the Head of Planning and Economic Development and for reasons other than the principle of the development, then there will be no requirement to refer the application to the full Council for consideration.

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 (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications (2009)
8. Previous applications 05/1056/FL and 06/0776/FL

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

Application No: 09/0154/FL

Location	Dalsalloch Wood and former Greyhound Track Mauchline Road AUCHINLECK KA18 2BJ
Nature of Proposal:	Proposed residential development comprising 75 detached / semi-detached / terraced homes and 68 residential apartments including associated roads, open space and landscape infrastructure
Name and Address of Applicant:	Curo Investments Limited C/o Sidon Developments 202 Bath Street GLASGOW G2 4HW
Name and Address of Agent	CM Architects C/o Jewitt Arschavir & Wilkie 38 New City Road GLASGOW G4 9JT

DPO's Ref:
PPO's Ref: Hugh Melvin

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The above FULL application should be granted subject to the following conditions:-

1. The proposed development shall be carried out in accordance with the application form and plans received on 24 February 2009.

REASON – To ensure that development is carried out in accordance with the approved details.

2. Prior to the commencement of development the developer shall undertake further surveys of the Dalsalloch Wood as indicated in the updated Ecological Impact Assessment by Heritage Environmental Limited (dated 05 June 2009) to ascertain the possible presence of protected fauna within the development site. The results of these surveys shall be submitted to the Planning Authority and no works shall commence until the written approval of the Planning Authority, in consultation with SNH, has been granted following assessment of the surveys. The developer shall further implement in full the recommended mitigation measures specified within the Ecological Impact Assessment and, prior to the commencement of works on site, shall submit to and have approved by the Planning Authority, an Environmental Management Procedure in terms of paragraph 7.2 of the Assessment.

REASON – In order to minimise potential impact of the development on natural heritage interests within the development site.

3. Prior to the commencement of development on site, the applicant shall submit to, and have approved by the Planning Authority a Landscaping Plan for the landscaping works to be undertaken on site. In particular, this scheme shall incorporate measures for the protection of those existing trees to be retained within the development site from construction works. The approved scheme shall include details of a programme for the future maintenance and management of all area of hard and soft landscaping including the proposed SUDs area. The scheme shall be implemented during the next available planting season following completion of the houses hereby approved.

REASON – To minimise adverse impact on the trees to be retained within the development site and in the interests of visual amenity.

4. Prior to the commencement of development on site, the applicant shall submit to and have approved by the Planning Authority, samples of the external wall and roof finishing materials to be used in the proposed dwellinghouses.

REASON – In the interests of residential amenity

5. The site shall be served by internal roads that comply with the Roads Development Guide 1996.

REASON – In the interests of public road safety and residential amenity.

6. Junction visibility splay areas of 2.5 metres by 35 metres shall be provided at all internal road junctions with no object greater than 1 metre in height allowed within these areas.

REASON – In the interests of public road safety.

7. No surface water shall be allowed to discharge from driveways onto existing or proposed public roads.

REASON – In the interests of public road safety

8. Parking requirements shall be to the standards specified in the Roads Development Guide 1996 including visitor parking. Prior to the commencement of development on site, the applicant shall provide details of an amended parking layout to achieve a minimum of 108 spaces for the flats (including visitors) and 24 visitor spaces spread evenly throughout the site for the houses.

REASON – In the interests of public road safety and residential amenity.

9. Any garages must be set back a minimum distance of 6 metres from the rear of the footway or service strip.

REASON – In the interests of public road safety.

10. The private driveways shall be paved over their full width for a minimum distance of 2 metres from the rear of the footway or service strip to avoid the overcarry of loose material onto the public road.

REASON – In the interests of public road safety

11. Widened driveways to achieve driveway manoeuvrability shall be provided for off-road car parking.

REASON – In the interests of public road safety

12. The proposed driveway/parking areas shall be not be less than 6m in length by 4.8m wide for a 2/3 bedroom house accessing a garage and 12m length by 2.75m wide where no garage is being provided. Any access gates shall open inwards away from the public road.

REASON – In the interests of public road safety and residential amenity.

13. Visibility sightline splay areas of 4.5m by 90m will require to be formed and maintained at the access point onto Runnels Road, with no obstruction greater in height than 1m allowed within the splay areas formed.

REASON – In the interests of public road safety

14. A 2.0 metres wide footway to East Ayrshire Roads specification shall be constructed along the public road frontages of the site, from the existing public footway on Mauchline Road to the railway bridge on Runnels Road.

REASON – In the interests of public road and pedestrian safety and to connect the existing public footpath network in the locality of the development site.

15. Access to the new and existing pumping station and gas governor etc from Runnels Road shall be taken via a standard driveway access crossing to East Ayrshire Roads specification. Visibility sightline splays of 2.5 metres by 90 metres shall be provided at these locations and any gates will require to be set back at least 6.0m from the edge of the carriageway.

REASON – In the interests of public road safety

16. A footpath and associated street lighting to East Ayrshire Roads specification shall be provided linking the development to Mauchline Road, opposite Arran Drive. Dropped kerbs and tactile paving will be required on both sides of Mauchline Road in the vicinity of the footpath link.

REASON – In the interests of public road and pedestrian safety and to connect the existing public footpath network in the locality of the development site.

17. The proposed foul drainage of the site shall be to the complete satisfaction of the Scottish Environment Protection Agency and Scottish Water.

REASON – In the interests of public health and safety.

18. Prior to the commencement of development on site, the applicant shall submit details of the proposed sustainable urban drainage system for the approval of the Planning Authority in consultation with Scottish Water and SEPA. The SUDs system shall be so designed as to act as an integral part of the landscaping of the site and be complimentary to the proposed adjacent area of public open space and the Marie Curie Garden. The details of the SUD system shall include any proposed safety fencing or means of enclosure and details of the proposed future maintenance regime.

REASON – In the interests of visual amenity and pollution prevention.

19. Notwithstanding the terms of condition 18 above, the proposed SUD system to be created in the site shall be designed in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland. In particular, given the scale of the proposed development, the SUDs scheme shall be designed to

accommodate primary and secondary treatment of surface water from residential roads prior to discharge to the water environment.

REASON – In order to prevent pollution of water courses.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (Scotland) Order 1992, (or any Order or enactment replacing this), any future garages to be erected within the development site shall be of permanent construction and finished to match the dwellinghouses to which they relate.

REASON – To enable the Planning Authority to retain control over future development of the site in the interests of residential and visual amenity.

21. Prior to the commencement of development on site, the applicant shall submit to and have approved by the Planning Authority details of the proposed site entrance feature as indicated on Drawing No. A4/(P-)002.

REASON – In the interests of visual amenity.

22. Construction works on site shall not be carried out prior to 0800 hours and after 1700 hours on Mondays to Fridays, 0800 hours and after 1300 hours on Saturdays and not at any time on Sundays.

REASON – To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interest of residential amenity.

23. During the construction phase of the development, the applicant shall ensure that the existing public roads bounding the application site are maintained free from mud or other materials carried from the site, by means of mechanical brushing to the satisfaction of the Planning Authority.

REASON – In the interests of public road safety.

24. The felling of trees on site shall be undertaken outwith the bird breeding season (March to July inclusive).

REASON – In the interests of protection of breeding birds.

25. All waste materials generated by this development that require to be removed such as construction, demolition materials and surplus excavated material, shall be removed from the site by licensed waste carriers to a site that has either an appropriate waste management licence or is registered with SEPA as exempt from licensing.

REASON – In the interests of public health and safety.

Notes to Applicant

1. East Ayrshire Council Roads and Transportation Division has advised that Construction Consent will be required for the construction of the residential roads and footpaths, street lighting etc. The Division can be contacted on Tel 01563 555337. The internal roads must comply with the Roads Development Guide 1996. 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 Transco regarding the possible protection/diversion of its apparatus which lie in or adjacent to the application site.



<p>Title/Location Mauchline Road</p> <p> Auchinleck</p> <p> Application No. 09/0152/FL</p>	<p>East Ayrshire Council</p> <p>Planning & Economic Development Division.</p> <p>6 Croft Street Kilmarnock KA1 1JB</p> <p>Tel: (01563) 576790 Fax: (01563) 576774</p> <p>E-Mail : Planning@east-ayrshire.gov.uk</p>
<p>Key</p> <p> Application Site</p>	<p>Com Date: 02/10/09 Checked By</p>



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