

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 23 OCTOBER 2001

**00/0154/FL: PROPOSED HOUSING DEVELOPMENT TO FORM 24
DWELLINGHOUSES INCLUDING PARTIAL DEMOLITION OF EXISTING
BUILDING (AMENDED APPLICATION)**

**01/0523/LB: PARTIAL DEMOLITION OF BUILDING AND ALTERATIONS AND
CHANGE OF USE TO FORM 2 DWELLINGHOUSES**

LUGAR INSTITUTE AND ADJACENT SITE, MUIRKIRK ROAD, LUGAR

APPLICATIONS BY NORTHKIRK LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought for a residential development consisting of 22 new dwellings. The development also includes the partial demolition of the Lugar Institute and change of use, conversion and alterations to the retained part of the building to form two semi-detached dwellings comprising a total development of 24 dwellings. Listed Building Consent is also sought for the partial demolition of the Lugar Institute and change of use, conversion and alterations to the retained part of the building to form two semi-detached dwellings

1.2 The new dwellings comprise eight semi-detached, two-storey Type C houses (3 bedroom), eight semi-detached, single storey Type A houses (2 bedrooms), 3 detached, single storey Type B houses (3 bedrooms) and 3 detached, single storey Type D houses (3 bedrooms). All new dwellings will be finished in a wet dash render with reconstituted slate roof finishes.

1.3 The retained part of the Lugar Institute will be converted to two semi-detached houses (2 bedrooms). Restoration works include the installation of new timber sash and case windows, the construction of porch features to the entrances, retention and repositioning of a chimney and the formation of a new hip to the roof of the building. The roof alteration is to be finished in natural slate to match the existing roof, utilising slate retained from the site. Materials salvaged from the demolition of the main part of the Institute will be used where appropriate in the restoration works proposed for the remaining part.

1.4 The proposals also include the culverting of the existing Craigston Burn to accommodate the proposed new housing development. Due to the presence of the embankment to the rear of the development site, it will be necessary for the installation of a gabion basket retaining wall to address stability issues. The development is to be served by a new residential road with access being taken from

the A70 Muirkirk Road. The proposal will result in the loss of one tree together with the removal of shrubbery to the rear of the development site.

1.5 It should be noted that part of the proposed development site, adjacent to residential properties at River View and Braehead Place, is in the ownership of the Council.

2. RECOMMENDATIONS

2.1 It is recommended that the Listed Building application should be approved subject to notification of Historic Scotland under the Listed Buildings and Buildings in Conservation Areas (Scotland) Regulations 1987, and subject to the conditions on the attached sheets.

2.2 It is recommended that the application for planning permission should be approved subject to notification to the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997, and subject to the conditions on the attached sheets.

3. SUMMARY OF ANALYSIS

3.1 As indicated in section 5 of the report, the proposed development is considered to be contrary to the provisions of the Adopted Cumnock and Auchinleck Local Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the planning application and the Listed Building Consent application should be refused unless material considerations indicate otherwise. As indicated in section 6 of the report, there are material considerations relevant to this application, but in this regard the proposed development is also contrary to the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications).

3.2 However, in terms of the planning application, it is considered that the proposed layout and density of development is considered acceptable. The proposal will result in the removal of existing shrubbery, but the site presently detracts from the visual amenity and character of Lugar Conservation Area. Given the current condition of the Institute and its curtilage, and the despoiled site of the former filling station, it is considered that redevelopment of the site will result in significant improvement in the general amenity of the area.

3.3 The Lugar Institute has been vacant for some considerable time and in an effort to secure a use for this building, planning and listed building consents for a number of proposals have in the past been granted to enable development to take place. Apart from some demolition work previously granted, these proposals have never been implemented, primarily due to the considerable costs involved in the restoration of the building.

3.4 The present application promotes the demolition of the main part of the building while retaining and restoring the single storey element. The current condition

of the Lugar Institute, particularly following the fire damage that occurred in May 2001, is such that the costs that would be incurred in the full restoration of the building would be significantly outwith economic criteria. The applicant has provided information on feasibility costs of conversion that indicate that it is unlikely that the proposed housing development could financially offset the funding deficit for the restoration of the Lugar Institute. It is considered that the prospects for securing a future for any part of the listed building will considerably diminish as the building continues to deteriorate.

3.5 Given the current ownership of the Lugar Institute, it is unlikely that the necessary finances are available to meet the considerable costs of restoration, more so since the recent fire damage that has occurred to the building. Should the current development proposal fail to receive planning and listed building consent, then the prospects for any part of the building being restored are poor. The fact remains that there are significant costs involved for any owner in both the restoration of the Lugar Institute and for the new residential development and it is considered that the potential development cost deficit will not encourage either the present owner or other developers to bring forward restoration proposals. The result will be that the fabric of the building will continue to deteriorate, particularly since the main part of the building is open to the elements.

3.6 Consequently, it is considered that both applications should be approved. The approval of the planning application should be subject to a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to include the following obligations on the part of the developer:

Section 75 Agreement

- (i) The linking of the proposed housing development and its phasing with the restoration of the retained part of the Lugar Institute such that the restoration is concluded prior to the occupation of the twelfth new dwellinghouse;
- (ii) The securing of appropriate wayleave agreements relating to access for maintenance of the proposed culvert, such wayleaves to be incorporated within the titles of the plots affected by the culverting works;
- (iii) The securing of a factoring arrangement for the maintenance of open space areas within the development site; and
- (iv) The establishment of an alternative route for the existing footpath/right of way that lies within the development site.

Stephen Chorley
Director of Development Services

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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APPLICATIONS BY NORTHKIRK LIMITED

Report by Director of Development Services

1. PURPOSE OF REPORT

1.1 The purpose of the report is to present for determination a full planning application and listed building application which are to be considered by the Development Services Committee under the scheme of delegation because they are larger applications which are contrary to the development plan, are subject to objection and the planning application would, if approved, require notification to the Scottish Ministers.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies on the north side of Muirkirk Road (A70) in Lugar and comprises the site of the Lugar Institute and its curtilage, the site of the former Lugar filling station and land to the west of Braehead Place. The site extends to approximately 1 hectare and is bound to the northwest by a naturalised embankment associated with former mineral workings, to the southwest by an access road and residential properties at Craigston Square, to the southeast by the A70 Cumnock – Muirkirk Road and the River Ayr, and to the east by Local Authority housing at River View and Braehead Place.

2.2 The site is occupied by the Lugar Institute which is a category B listed building that has been disused for some considerable time. The Institute was the subject of a fire in May 2001 which resulted in significant damage including the loss of the roof over the main part of the building. The building is now essentially a shell with few internal features remaining due to the fire, or works necessary to render the building safe.

2.3 The land to the northeast of the Institute was the site of the former Lugar filling station which has now been demolished. Remnants of the forecourt area are still

visible within the development site. The land to the rear of the Institute is characterised with naturalised shrubbery and overgrown with vegetation. The Craigston Burn also crosses through the site although part of it is culverted. There is also an existing informal footpath running through the site leading from Braehead Place to the access lane leading to Lugar Parish Church.

2.4 Overall the site is relatively level except where the land falls down towards the south corner of the site adjacent to Muirkirk Road. The site also lies within Lugar Conservation Area and part of the site (23 square metres) impinges on the Lugar Water (WD19) Listed Wildlife Site.

2.5 **Proposed Development:** Full permission is sought for a residential development consisting of 22 new dwellings. The development also includes the partial demolition of the Lugar Institute and change of use, conversion and alterations to the retained part of the building to form two semi-detached dwellings comprising a total development of 24 dwellings. Listed Building Consent is also sought for the partial demolition of the Lugar Institute and change of use, conversion and alterations to the retained part of the building to form two semi-detached dwellings

2.6 The new dwellings comprise eight semi-detached, two-storey Type C houses (3 bedroom), eight semi-detached, single storey Type A houses (2 bedrooms), 3 detached, single storey Type B houses (3 bedrooms) and 3 detached, single storey Type D houses (3 bedrooms). All new dwellings will be finished in a wet dash render with reconstituted slate roof finishes.

2.7 The retained part of the Lugar Institute will be converted to two semi-detached houses (2 bedrooms). Restoration works include the installation of new timber sash and case windows, the construction of porch features to the entrances, retention and repositioning of a chimney and the formation of a new hip to the roof of the building. The roof alteration is to be finished in natural slate to match the existing roof, utilising slate retained from the site. Materials salvaged from the demolition of the main part of the Institute will be used where appropriate in the restoration works proposed for the remaining part.

2.8 The proposals also include the culverting of the existing Craigston Burn to accommodate the proposed new housing development. Due to the presence of the embankment to the rear of the development site, it will be necessary for the installation of a gabion basket retaining wall to address stability issues. The development is to be served by a new residential road with access being taken from the A70 Muirkirk Road. The proposal will result in the loss of one tree together with the removal of shrubbery to the rear of the development site.

2.9 It should be noted that part of the proposed development site, adjacent to residential properties at River View and Braehead Place, is in the ownership of the Council.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Scottish Environment Protection Agency states that the applicant has submitted further information in respect of land stability and culvert design. Having considered the report on the stability of the embankment, it is apparent that any re-routing of the existing open watercourse could reduce the stability of the embankment. SEPA agrees with the developer that the best option available for the progression of the development is to culvert the watercourse.

Noted.

SEPA further states that the Council should be aware the provision of a culvert on site could have a detrimental effect on the development in respect of flooding, unless precautions are taken to provide a continual maintenance programme to ensure the entry screens are kept clear, and a flow pathway is provided should the screen block and overflow. From the information submitted by the developer it would appear that it is intended to use the internal roads as a culvert blockage/flood alleviation system. SEPA would request that the Council stipulate the use of a Sustainable Urban Drainage System for all road drainage arising from the development. The applicant should discuss any proposal with SEPA at an early stage to ensure road drainage is treated sufficiently prior to discharge to the Lugar Water.

Conditions and 'notes to applicant' can be attached to any consent granted for the proposed development to meet the requirements of SEPA.

All waste materials generated by the partial demolition of the existing Lugar Institute must be disposed of to a licensed waste disposal site. From the Ground Investigation report, hot spots of contaminated land were also discovered. SEPA would request that all contaminated soils be removed off site to a licensed landfill site and not utilised within the housing development.

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

SEPA has no objections to the proposed development provided the drainage arrangements, disposal of waste materials and the contaminated land issue are dealt with to SEPA's satisfaction.

Noted.

3.2 The Coal Authority indicates that in view of the mining circumstances of the development site, a prudent developer would seek appropriate technical advice before work is undertaken on site.

A note can be attached to any planning consent granted for the development advising the applicant to satisfy himself as to the suitability of the site for construction purposes. The applicant has, however,

submitted a ground investigation report undertaken by a consultant civil and structural engineer, which addresses the mineral stability of the site.

3.3 West of Scotland Water Authority has no objection to make to the proposals provided that a totally separate drainage system is utilised i.e. rainwater and soil drainage kept separate.

A note can be attached to any planning consent granted for the proposed development advising the applicant to make early contact with West of Scotland Water Authority.

3.4 Scottish Power has no objections to the proposed development.

Noted.

3.5 East Ayrshire's Environmental Health Division indicates that the site is fronted by a substantial stone building and until two years ago it was adjoined by a small filling station until its demolition. It is believed that some of the structure to the rear of the Institute building was also demolished at that time. The Division indicates that any demolition work should be undertaken in accordance with the relevant code of practice, with any materials not recycled for use on site to be disposed of to a suitably licensed disposal site. Any hazardous material such as asbestos should be removed and disposed of in accordance with specific legal requirements.

A condition can be attached to any consent granted for the partial demolition works to meet this requirement.

The Division also indicates that some of the ground within the area of the former filling station may have suffered a degree of fuel or oil contamination and some site investigation work would be desirable prior to any commencement of construction.

The applicant has submitted a Ground Investigation Report for the development site that recognises the possibility of ground contamination and contains recommendations to address this issue.

A small watercourse accesses the Lugar Water from the southeast corner of the site. Whilst this may be suitable for the disposal of surface water from the development, precautions should be taken by the developer to ensure that it is adequate for the purpose, especially where it flows underneath the road to join the Lugar Water.

The issues with respect to the existing watercourse and culvert within the development site have been the subject of formal consultation with the Scottish Environment Protection Agency and the Council's Roads Division.

The ground to the rear of the site rises in a large steep embankment. The prospect of site engineering and excavation works in possible close proximity to this

embankment is a little perturbing and opinion should be obtained confirming its structural integrity.

The applicant has submitted a Ground Investigation Report for the development site that assesses the potential for the slope of the embankment to fail. The report recommends the implementation of measures to increase the factor of safety against failure. This would result in the construction of a retaining wall at the toe of the embankment using gabion baskets. The retaining wall would require to be at least 3 metres high and 3 metres wide.

3.6 British GasTransco indicates that there is an existing medium pressure main in proximity to the development site.

A note can be attached to any planning consent granted for the development, advising the applicant to make early contact with Transco.

3.7 East Ayrshire Roads and Transportation Division has noted that SEPA has requested a Sustainable Urban Drainage System for all road drainage. Due to the additional maintenance burden such systems impose on the Council, some form of agreement with the developer may be required in respect of the additional maintenance burden.

The issue of the provision and maintenance of any SUDS system can be addressed through the use of an appropriate condition and a note to applicant on any consent granted.

The Roads Division further indicates that the amended road layout is acceptable subject to the provision of traffic calming measures to the Roads Development Guide 1996. In addition, four plots show only one parking space and there should be a minimum of two. This can be achieved by the provision of a double width driveway.

Conditions can be attached to any planning consent granted for the proposed development to meet the requirements of the Roads Division.

The Roads Division further indicates that the conclusion of the report on the stability of the embankment to the rear of the site was that in its existing state, it is potentially unstable. Two options were suggested to increase the stability of the slope, none of the options have been considered in the developer's application. Until the developer submits proposals to improve and confirm the slope stability to an acceptable level, it would not be acceptable to allow the development to progress.

The applicant has provided amended plans detailing the provision of 3 metres by 3 metres gabion wall that will provide a factor of safety acceptable to the Roads Division. The Roads Division has further indicated that the proposed wall will require to be constructed before any homes are let, and consideration should be given by the applicant to construct the wall prior to the commencement of house building.

Conditions can be attached to any consent granted for the proposal to meet these requirements.

The developer has detailed a 1 metre diameter culvert for the development. This is substantially less than that recommended in the report on the culverting of the watercourse. The culvert should be at least 1.5 metres wide by 1 metre high with a fall of minimum 1:60. With respect to the trash screen detail, the angle of the screen should be 60 to 45 degrees, with screen members to be treated, the access hatch to be lockable with all bolt/padlock fittings/fixings to be vandal proof. A hard standing access from the hammerhead to the screen/headwall is required. The internal road layout should provide for a flow path through the site in the event that the trash screen blocks with debris. House design levels should be at least 500mm above the road level with a steady rise from the road to the houses. No house should be below the level of the flow path. Manhole chambers will require to be provided to the culvert at each change in culvert direction with details to be provided.

The applicant has submitted details of the proposed culvert to meet the requirements of the Roads Division. Conditions can be attached to any planning consent granted for the proposed development to meet the requirements of the Roads Division.

A wayleave is essential along the line of the culvert to ensure access by the Council for any maintenance work required. Within this wayleave, no planting of any shrubs, trees or erection of wall fences to be permitted. The Council's Legal Section would require to be consulted to ensure that this requirement is fulfilled. A wayleave access is essential to the headwall at the trash screen location to enable inspection and maintenance work to be undertaken.

It is considered that the requirements of the Roads Division can be secured with the developer through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997.

The proposed culvert will require a design check by the Roads Division where it passes under the hammerhead. The design requirements of the culvert will require to be maintained over its length. Where the new culvert joins the existing culvert, a manhole chamber will be required.

Conditions can be attached to any planning consent granted for the proposed development to meet the requirements of the Roads Division.

3.8 Lugar and Logan Community Council states that it held a meeting on 15 August 2001 regarding the proposals for Lugar institute and surrounding land. Ten community councillors and two members of the public were present and the meeting was very emotive with feelings running high on all grounds. After discussion votes on three motions were taken as follows:

- (i) To accept the plans – Vote: 3 in favour 7 against.

- (ii) Reject the plans on the grounds that the development doesn't tie in with the local plan for 15 houses only, does not adhere to statutory requirements for listed buildings and the houses do not tie in with Conservation status with neighbouring buildings – Vote: 3 in favour 7 against.
- (iii) Seek amendment to reduce the number of houses to 15 to accord with the local plan and to continue with the rest of the plans – Vote: 5 in favour 5 against.

From the information provided by the Community Council, it would appear that no particular position was determined on the proposed developments.

The Community Council also states that it feels that the Council has failed in its statutory duty to explore every avenue before demolishing a listed building.

The Lugar Institute has been vacant for some considerable time and in an effort to secure a use for this building, planning and listed building consents for a number of proposals have in the past been granted to enable development to take place. Apart from some demolition work previously granted, these proposals have never been implemented, primarily due to the considerable costs involved in the restoration of the building. The Council, as Planning Authority, is required to determine proposals put forward by developers. In this case, should the Committee be minded to approve the partial demolition of the Lugar Institute, the application will require to be notified to Historic Scotland.

3.9 Historic Scotland states that although the Inspectorate appreciates that the latest proposal is an attractive development of the ruin, it should be remembered that alterations to a listed building must be assessed in terms of the character and the architectural and historical merit of the existing building, and how the proposal affects those particular aspects of it. In this case the loss of the south-western part of the building means that the proposal does not reflect its former appearance and therefore the loss to the character and merit of the building, and the history of Lugar, will be considerable. The Inspectorate would comment at this stage that the south-western part of the building would appear to be a structurally sound 'box' that is capable of re-roofing and conversion. As such the Inspectorate would maintain its previous view that it has been accommodating in previously sanctioning the demolition of the rear wing and that the normal policy requirements for justifying demolition need to be met by the applicant.

The contribution that the Lugar Institute has made to the community of Lugar is recognised. The present application promotes the demolition of the main part of the building while retaining and restoring the single storey element. The current condition of the Lugar Institute, particularly following the fire damage that occurred in May 2001, is such that the costs which would be incurred in the restoration of the building would be significantly outwith economic criteria. The applicant has provided information on feasibility costs of conversion that indicates a cost of

conversion to residential use of £393,000, with a funding deficit of approximately £187,000. Given the condition of the adjacent site regarding slope stability, ground contamination, culverting of the watercourse and other necessary works, extra over costs of the proposed housing development are estimated at £263,500. Consequently, it is unlikely that the proposed housing development could financially offset the funding deficit for the restoration of the Lugar Institute. It is considered that the prospects for securing a future for any part of the listed building will considerably diminish as the building continues to deteriorate.

3.10 The Scottish Civic Trust wishes to continue its objections to the proposed demolition of the surviving listed building. The Trust refers to its previous letters regarding this site and refers to the letter from the Architectural Heritage Society and wishes to support its objections and comments in full.

Noted.

The Trust is extremely concerned that no supporting information has been submitted to justify the loss of an important 'B' listed building and no detailed structural survey or recent appraisal of possible alternative uses has been undertaken.

The applicant has submitted both structural and financial information in support of the proposal for the partial demolition of the building. Although the applicant has not provided an appraisal of alternative uses, it is considered that other uses would generate less development return on investment, thereby reducing the economic viability of full restoration of the listed building.

In terms of the residential development proposed, the suburban layout and high density should be rethought in this instance. The application will clearly result in over-development of the site and the unnecessary loss of existing vegetation.

It is considered that the proposed layout and density of development is acceptable. The proposal will result in the removal of existing shrubbery, however the site presently detracts from the visual amenity and character of Lugar Conservation Area. Given the current condition of the Institute and its curtilage, and the despoiled site of the former filling station, it is considered that redevelopment of the site will result in significant improvement in the general amenity of the area.

3.11 The Architectural Heritage Society of Scotland states that it is most concerned about the vulnerability of the Lugar Institute designed by Robert Ingram. The Society would remind the Council of its own statutory obligations with regard to ensuring the future of Listed Buildings. We are not re-assured, given the history of Listed Buildings in Cumnock and environs, that this building's future is currently assured.

Noted.

The Society requests consultation copies of the plans for application 00/0154/FL as they have direct relevance to the Listed Building and would greatly affect its setting.

The Society was provided with full consultation copies of both applications that are the subject of this report. The Society has also previously commented on the proposed houses in its consultation letter dated 31 August 2000 at which time it commented that although the wet dash render finish proposed for the dwellinghouses is a more appropriate finish, the issue of concern is one of over development and the loss of more vegetation than is acceptable.

The Society strongly objects to the partial demolition of this 'B' listed building and conversion of its lower section to form two houses. The higher and lower sections of the Institute complement each other and each section is an integral part of its classical design. This building in its entirety should not be lost to Lugar in the light of its architectural, historical, cultural and socio-economic significance.

The contribution that the Lugar Institute has made to the community of Lugar is recognised. The present application promotes the demolition of the main part of the building while retaining and restoring the single storey element. The current condition of the Lugar Institute, particularly following the fire damage that occurred in May 2001, is such that the costs that would be incurred in the restoration of the building would be significantly outwith economic criteria. The applicant has provided information on feasibility costs of conversion that indicates a cost of conversion to residential use of £393,000, with a funding deficit of approximately £187,000. Given the condition of the site regarding slope stability, ground contamination, culverting of the watercourse and other necessary works, extra over costs of the proposed housing development are estimated at £263,500. Consequently, it is unlikely that the proposed housing development could financially offset the funding deficit for the restoration of the Lugar Institute. It is considered that the prospects for securing a future for any part of the listed building will considerably diminish as the building continues to deteriorate.

As the Society opposes any demolition of the two remaining parts of the Institute building, it make only brief comments and objection to the proposed conversion to two dwellings. The Society will be pleased to make constructive comment when there are plans for the conversion and restoration of the entire building for its domestic re-use, particularly as its size and scale make this a feasible proposition.

As is indicated above, the costs of complete restoration of the listed building are likely to be economically prohibitive, and in reality, the prospects of the plans sought by the Society being submitted by any potential developer are significantly diminished.

There are no site boundaries indicated and no indication on the floor plan as to the future use of the ground currently occupied by the fire damaged part of the building. The historic gas lighting standard is not shown. This lack of detail is of some concern when this is an application for a 'B' listed building.

The submitted plans for the proposed residential development clearly indicate the boundaries of the development site. The site of the demolished part of the Institute will be used to accommodate the turning head of the residential road and to provide an area of open space as part of the development. The existing lamp standard is not included in the description of the Lugar Institute listing. The standard is in a poor state of repair. Nonetheless, consideration could be given to its restoration and incorporation appropriately within the development site.

The Society notes the re-use and relocation of an existing chimney and proposal to re-use salvaged stone. The existing door on the south elevation on the lower section is wider than the window proposed. The existing opening should not be narrowed because of its fine detailing. Although the plans indicate re-use of stone for window openings, there is no reference to any proposed exterior wall finish. The Society naturally assumes that the stone exterior would remain visible. The plans are however inadequate and there should be clear specification of this for the avoidance of doubt. Further detail of the proposed porch columns is required.

It is considered that the proposals for the alterations and conversion of the lower part of the institute building are acceptable. There are no proposals for the application of any wall finish to the retained part of the building with the existing stone finish being retained and reflected in the proposed restoration works.

The Society remains opposed to any further demolition of the Lugar Institute and requests the Council to become much more pro-active in ensuring its survival, and we trust, early beneficial re-use of the entire building.

Noted.

3.12 The Scottish Wildlife Trust has not responded to the consultation letter.

Noted.

3.13 East Ayrshire Outdoor Amenities Section indicates that there is a path which runs from the rear of houses at Braehead Place to Lugar Parish Church and it would appear that this path has been used continuously in excess of 20 years and may now be classified as a Right of Way.

Slope stabilisation works to be carried out to the existing embankment to the rear of the development site and construction of houses will result in the existing path being removed. However the layout of the residential development site will still afford public access through the development

site to Lugar Parish Church with appropriate link paths to existing access routes. It may however be necessary to pursue a closure and diversion of the path if it is established as a formal Right of Way.

There is also an area of land adjacent to the existing building and the Section would point out that if this is to be designated as an area of open space it would require to be maintained by the developer.

The responsibility for maintenance could be achieved through a factoring arrangement secured through a Section 75 Agreement for the development site.

4. REPRESENTATIONS

4.1 A total of 38 letters of representations have been received regarding the planning application and the listed building consent application, of which 27 are in a pro forma style. A further 9 pro forma letters have been received which, although signed, do not indicate the addresses of the signatories. The Architectural Heritage Society of Scotland and the Scottish Civic Trust have also objected as indicated in Section 3 of this report. The points of objection are summarised as follows:

4.2 MEGA members object to the current proposals to emasculate this fine listed building and to compromise its setting by the erection of an inordinate number of poorly designed houses. Lugar Institute is a building that is still capable of conversion in its entirety. It is adjacent to a Conservation Area and linked to it in many historic ways.

It is considered that while the partial demolition is regrettable, the proposed development would secure the future of part of the Lugar Institute. Given the current condition of the building following the significant fire damage that occurred in May 2001, the prospects for complete restoration to a beneficial use are poor as a result of the significant costs involved in restoration. It is considered that the density of the development is acceptable in land use terms, and is less than that of the existing local authority housing to the north –east of the development site and comparable to the density of the residential area of Craigston Square.

4.3 The Finalised Local Plan identified this area of Lugar as within a conservation area and an area of 1.04 hectares for housing. Fifteen houses were specified. It appears presumptuous and incorrect for the Council to identify such a residential area when part of the site is occupied by the listed building and has a well-established path running through the proposed development.

The comments of the objector on the process of identification of the site within the East Ayrshire Local Plan (Finalised Version with Modifications) for residential purposes is noted.

4.4 The existing path leads from the Brick Row site towards the church to the west and to the playground and the football ground to the east. There is nowhere to divert this path, as the former slag heap is to the rear of the site and the A70 is to the front.

The footpath is not indicated within the Footpaths and Rights of Way in Cumnock and Doon Valley document. However it is recognised that this footpath has been in use for some considerable time. Nonetheless the layout of the residential road and footpaths to be provided within the development site will still allow public access through the development site. A link path is proposed to access the existing access lane to Lugar Parish Church. A similar link to the east can be secured through a Section 75 Agreement with the developer.

4.5 MEGA also objects to a proposal to build houses below a slag heap which appears in places not to be stabilised by regenerated shrub growth. The Council will be well aware of the landslip nearby, where part of the Lugar Sill slipped, narrowly missing children and vehicles.

The applicant has submitted a Ground Investigation Report for the development site that assesses the potential for the slope of the embankment to fail. The report recommends the implementation of measures to increase the factor of safety against failure. This would result in the construction of a retaining wall at the toe of the embankment using gabion baskets. The retaining wall would require to be 3 metres high and 3 metres wide.

4.6 MEGA members note that the proposed development has been advertised as being contrary to nature conservation policies and listed building policies in the Cumnock and Auchinleck Local Plan. We trust that the Council will abide by these democratically decided policies and protect sites that they have a responsibility to safeguard.

The applications will require to be determined in accordance with the development plan and other material considerations as indicated within Sections 5 and 6 of this report.

4.7 Our members believe that the Council's first priority is to ensure the continued survival of the whole of the Lugar Institute and to work with the owner to secure its future through sympathetic conversion of both remaining parts.

The Lugar Institute has been vacant for some considerable time, and despite the approval of applications for its restoration to residential use, no development has taken place. Given the current ownership, it is unlikely that the necessary finances are available to meet the considerable costs of restoration, more so since the recent fire damage that has occurred to the building. Should the current development proposal fail to receive planning and listed building consent, then the

prospects for any part of the building being restored are poor. The fact remains that for any owner there are significant costs involved in both the restoration of the Lugar Institute and for the new residential development and it is considered that potential development cost deficit will not encourage either the present owner or other developers to bring forward restoration proposals. The result will be that the fabric of the building will continue to deteriorate, particularly since the main part of the building is open to the elements.

4.8 The Council should not entertain a large number of indifferent houses which would detrimentally affect the setting of the listed building.

It is considered that the density of development is acceptable given the mix of detached and semi-detached dwellings. The total number of dwellings at 24 exceeds the indicative capacity of the site in the East Ayrshire Local Plan (Finalised Version with Modifications) however the total number of building forms proposed within the development site including the retained part of the Lugar Institute is 15. The density of the development is less than that of the adjacent local authority residential area at River View and comparable to that of the Craigston Square residential area. It is considered that the design, scale and finishes of the proposed development are acceptable for this site.

4.9 Given the amount of traffic passing the south boundary of both application sites, we would question whether 24 houses with high car ownership in such a rural area where there are few job opportunities, is a safe proposition for traffic entering and leaving the site.

The Roads Division has not raised any concerns regarding the proposed access onto the A70 road. The applicant proposes to provide traffic calming measures on the A70 road and the Roads Division is seeking further traffic calming measures within the internal road layout.

4.10 We note that there is a substantial amount of water conveyed through the site in a culvert. Has a structural survey been carried out to ascertain whether the site can be developed near this historic watercourse?

The applicant proposes to divert and extend the culvert within the development site. The open part of the watercourse will also be culverted within the site. This proposal has been the subject of a Ground Investigation Report and the details of the culverting have been the subject of consultation with both SEPA and the Roads Division. No objections have been received from these consultees regarding this aspect of the development.

4.11 Has a structural survey been carried out on the listed building or on the slag heap threatening the site? We can assume that run-off over the years since the bing

was formed will have resulted in local ground contamination below it. Has the Council required the applicant to prove that this site is safe in all these respects?

The proposed development site has been the subject of a Ground Investigation Report that assesses and addresses the slope stability of the embankment, the mineral stability of the site and the potential for ground contamination resulting from the former mineral activities in the locality. This report also considers potential ground contamination from the operation of the former filling station. The report promotes appropriate measures to address the potential issues arising from the development of the application site. The applicant has also submitted an assessment of the structural integrity of the Lugar Institute, which has been updated to take account of the recent fire damage.

4.12 The amended plan for the Institute, whilst going some way towards preservation, does not show, as required by statute, that it has exhausted every avenue in attempting to find alternative use for the complete structure. The unfortunate arson attack increased the cost of restoration and change of use. This increased cost should not be regarded as a valid planning reason for waiving the full application of statutory requirements.

See response to 4.7 above.

4.13 The housing units opted for in the amended plan, though numerically reduced, exceed the recommendation contained in the local action plan.

It is considered that the density of development is acceptable given the mix of detached and semi-detached dwellings. The total number of dwellings at 24 exceeds the indicative capacity of the site in the East Ayrshire Local Plan (Finalised Version with Modifications) however the total number of building forms proposed within the development site including the retained part of the Lugar Institute is 15. The density of the development is less than that of the adjacent local authority residential area at River View and comparable to that of the Craigston Square residential area. It is considered that the design, scale and finishes of the proposed development are acceptable for this site.

4.14 In a high profile site within a Conservation Area, any proposed housing should tie in with the architectural context. Plainly the lack of variety and the bland unattractive facades under consideration in the amended plan contribute little to the conservation status of the area. They will however capitalise from their situation within the Conservation Area.

It is considered that the design, scale and finishes for the proposed new residential development are acceptable for this site.

4.15 The credibility of the developer, Northkirk Limited, must be questioned. They are either unaware of the requirements demanded of them in developing this site, or they are testing the resolve of the Council's planning strategy. It is possible that they lack ideas on how to utilise one of the best sites for development within the District. A fourth option is that they do not have the resources needed to start the project and carry it successfully to completion.

The comments of the objector are not relevant or material to the determination of the applications.

4.16 Partial demolition is a worthless gesture to try to appease previous objectors. The building should be retained and restored. The ownership of the building must be seen as a responsibility and privilege and the Council should ensure that this fine and essential building of Lugar's history is not lost simply to get rid of a perceived problem. Think long term, not short term: the Lugar Institute is a vital part of our local history.

Comments as per 4.7 above.

4.17 The Council should take all necessary steps to ensure that the Institute is secured against any further malicious damage and that the public cannot gain access to any part that may be considered unsafe.

Since the fire damage occurred, the condition of the Lugar Institute has been monitored on a regular basis with appropriate measures being undertaken to secure the building as appropriate.

4.18 Any future decision regarding the Institute should adhere strictly to both the Council's own local action plan and to Government guidance on listed buildings. Any proposal which does not fulfil these requirements should be rejected.

In determining the planning and listed building consent application, full consideration will be given to the provisions of the development plan, government guidance and other material planning considerations as indicated in sections 5 and 6 of this report.

4.19 The proposed dwellings do not present an acceptable frontage onto Muirkirk Road. This frontage is an important feature of a linear village like Lugar. Dwellings should have front gardens to the main road and also include a front door facing Muirkirk Road.

The amended layout plan for the proposed housing development is considered to be acceptable with the retained part of the Institute and two semi-detached houses having front garden areas onto Muirkirk Road.

4.20 Craigston Square is a narrow, private road. The rear gardens of the proposed houses appear to run right to the edge of this road. There are therefore no

opportunities to provide passing places for traffic to and from the church. This will create a danger to the public from vehicles having to reverse back down to and onto the Muirkirk Road. It is unfair to expect residents of Craigston Square to put up with cars and buses, using their privately maintained and recently resurfaced access, as a turning area for the road to the church.

The access road to which the objector refers lies outwith the development site. The issues raised by the objector are not therefore valid planning grounds of objection to the proposed development.

4.21 The burn is shown as being culverted. This is an important feature of the industrial heritage of the village. Covering the burn may also increase the likelihood of blockages and localised flooding. The burn also provides clear drainage at Craigston Square should the need arise. There does not appear to be any provision for this in the revised application scheme.

The applicant proposes to divert and extend the culvert within the development site. The open part of the watercourse will also be culverted within the site. This proposal has been the subject of a Ground Investigation Report and the details of the culverting have been the subject of consultation with both SEPA and the Roads Division. No objections have been received from these consultees regarding this aspect of the development. As part of the surface water drainage for the site, the applicant will require to install a Sustainable Urban Drainage System to the requirements of SEPA and the Council's Roads Division.

4.22 The owner should not be rewarded through financial gain for not properly maintaining the building and allowing its misuse. The importance of the Institute was clearly recognised by Historic Scotland when it overturned the decision of Cumnock and Doon Valley District Council's decision to allow its demolition in a previous application.

Noted.

4.23 The Institute is vital and integral to the integrity of the Lugar Conservation Area, being both important as an attractive and dominant visual focal point for the village. The Institute forms an important element of the listed buildings of Craigston Square, the Lugar manse, Parish Church and Craigston House. Loss of the Institute would reduce the value of these attractive buildings considerably in visual terms.

The present condition of the Lugar Institute is considered to have a significant detrimental impact on the visual and general amenity of Lugar Conservation Area.

4.24 The loss of land for car parking at the parish church will create traffic problems and danger at the A70 when there are church services.

An area of land at the northwest corner of the development site has been used as an informal car park. However, this has been an informal use as the land is not in the ownership of the parish church. Although this area will be lost to the new development proposals, the Roads Division has not raised any concerns regarding road safety issues.

4.25 There is insufficient landscaping to replace the semi-natural shrub woodland proposed to be cleared as part of the development.

The proposed layout will allow for two small areas of open space, but due to requirements of the Roads Division for access to the culvert, no planting will be allowed within wayleave areas. However, as part of the slope stability works, it has been recommended that additional planting of vegetation be carried out that would to some degree offset the loss of existing shrubbery.

4.26 The development will pose a threat to the ability we have at present to gain vehicular access to a car parking area in our rear garden. The proposed housing would appear to be situated in very close proximity to the side of our garden which would make access impossible.

The access to the rear parking area of 1 River View is over land partly in the ownership of the Council and over the site of the former filling station. No legal right of access exists across this land and the access arrangement is an informal one.

4.28 The proximity of the proposed housing to the garden at the side of our house would result in the loss of privacy. If the development is approved, the developer should be requested to erect fencing between our house and the proposed new housing that would ensure at least a measure of continuation of our current privacy.

A condition can be attached to any consent granted for the development to secure the erection of appropriate screen fencing to address the issue of privacy.

4.29 Land around the Institute must be used to help fund restoration and re-use of the building and this restoration should be guaranteed through an appropriate legal agreement.

The land around the Lugar Institute is in three separate ownerships not directly linked to the building and its curtilage. The assembly of this site for development purposes under the current application presents an opportunity to retain and restore at least part of the Institute. Development under separate ownership interests would not realise any prospects for its restoration. The partial restoration of the building and its timing could be secured through a Section 75 Agreement. It would be appropriate for the restoration works to be concluded at a reasonably early stage in view of the condition of the listed building. It is considered

that the restoration should be completed prior to the occupation of the twelfth new dwellinghouse.

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 purpose of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and the Adopted Cumnock and Auchinleck Local Plan, 1992. The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 The proposed development requires to be assessed against the following policies of the Adopted Cumnock and Auchinleck Local Plan:

(i) Policy 15: Character of existing residential areas will be retained and environmental improvements carried out.

It is considered that the residential development of the application site would be consistent with the provision of Policy 15 and that the redevelopment of this brownfield site, which currently detracts from the visual and general amenity of Lugar, will in itself result in environmental improvement.

(ii) Policy 24: Opposition to loss of residential properties to other uses.

The proposed development would not conflict with the provisions of Policy 24.

(iii) Policy 78: Presumption against development in or having an adverse effect on sites of nature conservation.

A small part of the development site (some 23 square metres) lies within the Lugar Water (WD19) Listed Wildlife Site. The development proposals will result in the removal of an area of semi-natural shrubs to allow for the diversion of the existing culvert within the site. Therefore the proposed development could be considered to be contrary to Policy 78. However given the area of encroachment, it is considered that there would be no adverse effect on the integrity of the Listed Wildlife Site. The Scottish Wildlife Trust has not responded to the consultation letter in respect of this matter.

(iv) Policy 85: Presumption against the demolition or partial demolition of listed buildings unless the properties are proven to be structurally unsound and incapable of economic repair.

Prior to the damage that occurred as a result of the fire in May 2001, the structural report indicated that the Institute building was not structurally unsound, but an assessment of the costs of restoration to a residential use were found to be considerable. The present position with regard to the structural stability is that the front and gable walls of the fire-damaged section are stable, but the rear wall is in a very sensitive condition and could be liable to movement under extreme conditions in the short term (e.g. high winds) or collapse in the longer term due to weathering erosion.

The applicant has provided information on feasibility costs of conversion that indicates a cost of conversion to residential use of £393,000, with a funding deficit of approximately £187,000. Given the condition of the overall site regarding slope stability, ground contamination, culverting of the watercourse and other necessary works, extra over costs of the proposed housing development are estimated at £263,500. Consequently, it is unlikely that the proposed housing development could financially offset the funding deficit for the restoration of the Lugar Institute. It is considered that the prospects for securing a future for any part of the listed building will considerably diminish as the building continues to deteriorate.

However, the building is not presently unsound and therefore the partial demolition would be contrary to Policy 85, even if it is considered to be incapable of economic repair.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other material considerations in the assessment of this application are as follows: National Planning Policy Guidance (NPPG), East Ayrshire Local Plan, Finalised Version with Modifications (EALP), the impact on the amenity of the area/adjacent properties and Memorandum of Guidance on Listed Buildings and Conservation Areas (Historic Scotland 1998) and the representations received.

6.2 The Adopted Cumnock and Auchinleck Local Plan is considerably out of date and does not reflect current Government Policy Guidance and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the EALP shall be considered a prime material consideration.

6.3 The proposed development requires to be assessed against the following policies of the EALP:

(i) RES1: The Council will encourage and support the residential development of Development Opportunity Sites identified for housing purposes on the individual Local Plan maps. The sites identified will be reserved for residential and associated recreational and amenity open space development.

The Lugar and Logan Local Plan map identifies a Development Opportunity Site with a capacity of 15 dwellings. The proposed development will result in a total of 24 dwellings and this could be considered to be contrary to the notional capacity indicated within the EALP. However, the Development Opportunity Site does not include the site of the former filling station and the proposed application site extends in part outwith it.

It is considered that the density of development is acceptable given the mix of detached and semi-detached dwellings. The total number of building forms proposed within the development site including the retained part of the Lugar Institute is 15. The density of the development is less than that of the adjacent local authority residential area at River View and Braehead Place, and is comparable to that of the Craigston Square residential area.

It is therefore considered that the proposed development would not represent a significant departure from Policy RES1.

(ii) RES19: 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 make provision for the future maintenance of these areas. Developers will be expected to pay due regard to indicative basic standards within the Local Plan, although the precise type, size, location and design of open space will be dependent on the extent of open space provision in the vicinity and the recreational and amenity needs of the wider area.

Although the proposed layout provides for minimal open space provision, open space provision for developments of less than 30 houses is at the discretion of the Council. A significant area of public open space lies approximately 40 metres to the east of the application site which also incorporates an area of active recreational open space. In this respect it is considered that the proposed development does not conflict with the provisions of Policy RES19.

(iii) ENV1: The Council will seek to protect, preserve and enhance all heritage resources requiring conservation including listed buildings and Conservation Areas and their respective settings.

(iv) ENV2: The Council will actively encourage the retention, renovation and re-use of listed buildings. There will be a presumption against the demolition or partial demolition of all such properties.

It is considered that, given the significant costs that would be involved in the complete restoration of Lugar Institute, and the conclusions that can be drawn from the passage of time and the unimplemented consents, the proposed development represents an opportunity to at least secure a

future use for part of the building. In the event that planning and listed building consent is refused, the inhibitive costs of restoration will deter further proposals for the redevelopment of the site. Nonetheless, the partial demolition of the property is contrary to Policies ENV1 and ENV2.

(v) ENV4: The Council will seek to ensure that all development, within or affecting the setting of a Conservation Area or affecting the appearance or setting of a listed building, is sympathetic to the area or building concerned in terms of its layout, size, scale design, siting, material and colour of finish.

Notwithstanding the proposal for the partial demolition of the listed building, it is considered that the proposed new housing development is acceptable in terms of the provisions of Policy ENV4. It is considered that the restoration proposals for the remaining part of the Institute are also of an acceptable standard.

(vi) ENV10(iii): The protection and enhancement of areas of nature conservation interest within the local plan area will be achieved in that development likely to adversely affect listed wildlife sites will be resisted and all sites of recognised nature conservation will be safeguarded whenever possible. Where development is approved, appropriate measures should be taken to conserve and manage as far as possible the sites' biological or geological interest and to provide for replacement habitats where damage is unavoidable.

A small part of the development site (some 23 square metres) lies within the Lugar Water (WD19) Listed Wildlife Site. The development proposals will result in the removal of an area of semi-natural shrubs to allow for the diversion of the existing culvert within the site. Therefore the proposed development could be considered to be contrary to Policy ENV10(iii). However given the area of encroachment, it is considered that there would be no significant adverse effect on the integrity of the Listed Wildlife Site.

In terms of the EALP, the proposed development represents a minor departure from Policies RES1 and ENV10(iii) and would represent a significant departure from Policies ENV1 and ENV2

6.4 NPPG 18 "Planning and the Historic Environment" states that a Planning Authority, when considering an application for development, requires to have a special regard to the desirability of preserving listed buildings.

See response to section 6.3(iv) above.

6.5 The Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 in respect of demolition states that it is Government policy that no worthwhile building should be lost to our environment unless it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of keeping it. The continuing erosion of the national heritage, very often as a

result of neglect, is still a matter for concern and planning authorities are urged, in considering applications for consent to demolish, to presume in favour of the preservation of listed buildings except where a strong case can be made after full consideration of the following factors:

(i) Importance

The Lugar Institute is of both architectural and historical importance. However, in its current state of disrepair, it detracts significantly from the visual and general amenity of Lugar and its conservation area.

(ii) Condition

Prior to the damage that occurred as a result of the fire in May 2001, the structural report indicated that the Institute building was structurally sound, but an assessment of the costs of restoration to a residential use were found to be considerable. The present position with regard to the structural stability is that the front and gable walls of the fire-damaged section are stable, but the rear wall is in a very sensitive condition and could be liable to movement under extreme conditions in the short term (e.g. high winds) or collapse in the longer term due to weathering erosion.

(iii) Alternative Uses and New Uses for Old Buildings.

The proposed development would seek to establish a residential use for the retained part of the listed building. It is considered that the only viable use relative to a full restoration of the listed building would be residential as this would be the only viable form of development within Lugar that could reduce the development cost deficit from the significant costs of restoration.

6.6 Planning History: There have been a number of applications relating to the Lugar Institute as follows:

- (i) CD/85/175: Listed Building Consent for the demolition of Lugar Institute – application by Strathclyde Regional Council: Refused on 31 October 1985.
- (ii) CD/88/364: Listed Building Consent for the partial demolition of Lugar Institute – application by D. Gibson: Approved on 25 May 1988.
- (iii) CD/91/267: Listed Building Consent for the conversion of Lugar Institute to provide 7 flatted dwellings – application by D. Gibson: Approved on 09 April 1992.
- (iv) CD/91/268: Conversion of Lugar Institute to provide 7 flatted dwellings – application by D. Gibson: Approved on 09 April 1992.
- (v) 98/0035/LB: Listed Building Consent for the demolition of the rear hall at Lugar Institute – application by D. Gibson: Application approved on 16 December 1998.

- (vi) 00/0189/LB: Listed Building Consent for the complete demolition of Lugar Institute – application by Northkirk Limited: Application withdrawn on 02 August 2001.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 The Council will be selling part of the site to the applicant and is obliged to notify the Scottish Executive under the Town and Country Planning (Notification of Planning Applications) (Scotland) Direction 1997 if it intends to grant planning permission and there is either a substantial body of objections or the proposed development is deemed to be contrary to the Adopted Local Plan.

As discussed in Sections 4 and 5 of this report, the planning application is contrary to the Adopted Local Plan and there are a significant body of objections. As a consequence should the Committee be minded to approve the application, it will require to be notified to the Scottish Ministers.

7.2 The Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997 requires that works to a grade A or B listed building or involving the demolition of buildings which are listed or which lie within the curtilage of a listed building, must be referred to Historic Scotland prior to the issue of Listed Building Consent.

The proposals relate to a Category 'B' Listed Building and notification to Historic Scotland will therefore be required prior to the issue of any Listed Building Consent.

7.3 In respect of the planning application, further legal implications will arise through the requirement for a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997, with regard to the requirements contained within section 8.6 of this report.

8. CONCLUSIONS

8.1 As indicated in section 5 above, the proposed development is considered to be contrary to the provisions of the Adopted Cumnock and Auchinleck Local Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the planning application and the Listed Building Consent application should be refused unless material considerations indicate otherwise. As indicated in section 6 above, there are material considerations relevant to this application, but in this regard the proposed development is also contrary to the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications).

8.2 However, in terms of the planning application, it is considered that the proposed layout and density of development is considered acceptable. The proposal will result in the removal of existing shrubbery, but the site presently detracts from the

visual amenity and character of Lugar Conservation Area. Given the current condition of the Institute and its curtilage, and the despoiled site of the former filling station, it is considered that redevelopment of the site will result in significant improvement in the general amenity of the area.

8.3 The Lugar Institute has been vacant for some considerable time and in an effort to secure a use for this building, planning and listed building consents for a number of proposals have in the past been granted to enable development to take place. Apart from some demolition work previously granted, these proposals have never been implemented, primarily due to the considerable costs involved in the restoration of the building.

8.4 The present application promotes the demolition of the main part of the building while retaining and restoring the single storey element. The current condition of the Lugar Institute, particularly following the fire damage that occurred in May 2001, is such that the costs that would be incurred in the full restoration of the building would be significantly outwith economic criteria. The applicant has provided information on feasibility costs of conversion that indicate that it is unlikely that the proposed housing development could financially offset the funding deficit for the restoration of the Lugar Institute. It is considered that the prospects for securing a future for any part of the listed building will considerably diminish as the building continues to deteriorate.

8.5 Given the current ownership of the Lugar Institute, it is unlikely that the necessary finances are available to meet the considerable costs of restoration, more so since the recent fire damage that has occurred to the building. Should the current development proposal fail to receive planning and listed building consent, then the prospects for any part of the building being restored are poor. The fact remains that there are significant costs involved for any owner in both the restoration of the Lugar Institute and for the new residential development and it is considered that the potential development cost deficit will not encourage either the present owner or other developers to bring forward restoration proposals. The result will be that the fabric of the building will continue to deteriorate, particularly since the main part of the building is open to the elements.

8.6 Consequently, it is considered that both applications should be approved. The approval of the planning application should be subject to a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to include the following obligations on the part of the developer:

Section 75 Agreement

- (i) The linking of the proposed housing development and its phasing with the restoration of the retained part of the Lugar Institute such that the restoration is concluded prior to the occupation of the twelfth new dwellinghouse;
- (ii) The securing of appropriate wayleave agreements relating to access for maintenance of the proposed culvert, such wayleaves to be incorporated within the titles of the plots affected by the culverting works;

- (iii) The securing of a factoring arrangement for the maintenance of open space areas within the development site; and
- (iv) The establishment of an alternative route for the existing footpath/right of way that lies within the development site.

9. RECOMMENDATIONS

9.1 It is recommended that the Listed Building application should be approved subject to notification of Historic Scotland under the Listed Buildings and Buildings in Conservation Areas (Scotland) Regulations 1987, and subject to the conditions on the attached sheets.

9.2 It is recommended that the application for planning permission should be approved subject to notification to the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997, and subject to the conditions on the attached sheets.

**Alan Neish
Head of Planning and Building Control**

HM/HM
04 October 2001
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Forms and Plans.
2. Statutory Notices/Certificates.
3. Consultation Responses
4. Letters of Representation.
5. Adopted Cumnock and Auchinleck Local Plan.
6. East Ayrshire Local Plan Finalised Version with Modifications.
7. Approved Ayrshire Joint Structure Plan.
8. Memorandum of Guidance on Listed Buildings and Conservation Areas, 1998.
9. NPPG 18: Planning and the Historic Environment
10. Previous planning and listed building consent applications

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

Implementation Officer: Dave Morris

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 00/0154/FL

Location	Lugar Institute and adjacent site, Muirkirk Road, Lugar
Nature of Proposal:	Proposed housing development to form 24 dwellinghouses including partial demolition of existing building (amended application)
Name and Address of Applicant:	Northkirk Limited 14 Walnut Road Kilmarnock
Name and Address of Agent	Thomson McCrea 9 Old Bridge Street Ayr

DPO's Ref: [Hugh Melvin]
PPO's Ref; []

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 submitted on 06 March 2000 as revised by the amended house type plans received by the Planning Authority on 15 May 200 and the amended site layout plan and detailed plans of the conversion of the retained part of the Lugar Institute, all received on 06 August 2001

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

2. Any existing public utility apparatus located within the verge will require to be protected beneath the proposed access. No surface water shall be allowed to discharge onto the public road.

REASON – In the interests of public road safety.

3. Any garages shall be set back a minimum distance of 6 metres from the rear of the footway.

REASON – In the interests of public road safety.

4. The access to each plot shall be by means of a standard footway crossing constructed in accordance with the East Ayrshire Council Roads Development Guide 1996.

REASON – In the interests of public road safety.

5. All individual driveways within the site shall be suitably surfaced for a minimum distance of 2 metres to ensure that no surface water discharges or loose material is carried out onto the public road.

REASON – In the interests of public road safety.

6. The gradient of each driveway shall not exceed 1:10

REASON – In the interests of public road safety.

7. Any access gates shall open inwards only, away from the public road.

REASON – In the interests of public road safety.

8. Notwithstanding any specification on the approved plans or application form, two off road car parking spaces shall be provided for each dwelling, such provision to be made prior to the occupation of each respective dwellinghouse.

REASON – In the interests of public road safety.

9. All drainage shall comply with the requirements of the West of Scotland Water Authority and the Scottish Environment Protection Agency. There shall be no commencement of development on site until such time as West of Scotland Water Authority has confirmed in writing that there is in place appropriate off-site drainage and sewerage infrastructure sufficient to accommodate the houses granted by this consent.

REASON – To ensure that adequate drainage is provided.

10. Before any work commences on site, details of a sustainable urban drainage system and its maintenance following installation shall be submitted to, and approved by the Planning Authority. The sustainable urban drainage system shall thereafter be installed on site, prior to the erection of any of the dwellinghouses in the development site.

REASON – To ensure that adequate drainage is provided.

11. Notwithstanding any specification on the approved plans or application form, and before any work is commenced on site, samples of all external finishing materials to be used in the proposed development shall be submitted to and approved by the Planning Authority.

REASON – In the interest of visual amenity

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any other order or enactment replacing this, all detached garages erected within the site shall have pitched roofs and shall be externally constructed in materials to match the dwellinghouses to which they relate.

REASON – In the interest of visual amenity

13. Notwithstanding any specification on the approved plans and before any work commences on site, details of the height, location and construction of all fences, walls and other means of enclosure shall be submitted to and approved by the Planning Authority. Provision shall be made for the erection of a screen fence along the north-eastern boundary of the site adjacent to existing dwellinghouses at River View and Braehead Place.

REASON – In the interest of visual and residential amenity.

14. Any screen fencing to be erected shall not project forward beyond the front building line of any of the dwellinghouses.

REASON – In the interest of visual amenity

15. During the construction of the dwellinghouses, no building or other operations shall take place on the site outwith the hours of 08:00 to 18:00 Monday to Saturday and at any time on a Sunday.

REASON – In the interest of residential amenity.

16. The road and footpath fronting each plot shall be made up to basecourse level prior to the occupation of the dwellinghouse on the respective plots.

REASON – In the interests of residential amenity.

17. All materials from the partial demolition of the Lugar Institute, where not salvaged and retained for re-use within the proposed development, shall be disposed of to a licensed waste disposal site to the complete satisfaction of the Planning Authority.

REASON – In the interests of amenity and public safety.

18. Any contaminated soils encountered within the development site shall be removed from the site and disposed of to a licensed waste disposal site to the complete satisfaction of the Planning Authority.

REASON – In the interests of amenity and public safety.

19. The proposed gabion retaining wall, to be constructed as part of the development proposals, shall be constructed on site prior to the commencement of construction of the proposed new dwellinghouses.

REASON – In the interests of public safety.

20. The proposed culverting of the Craigston Burn shall be carried out to the requirements of East Ayrshire Council's Roads Division and to the satisfaction of the Planning Authority. Full details of the culvert and associated structures shall be submitted to and approved by the Planning Authority prior to the commencement of works on site.

REASON – In the interests of amenity and public safety.

21. The proposed boundary wall fronting the development site shall be constructed in sandstone salvaged from the partial demolition of the Lugar Institute or from natural matching sandstone sourced externally, and shall be completed within three months of the completion of restoration works to the retained part of the Lugar Institute.

REASON – In the interests of amenity.

22. A landscaping scheme including details for the treatment and maintenance of the boundary of the site and areas of public open space shall be submitted to and approved by the Planning Authority prior to commencement of any development. The landscaping shall be implemented not later than the next appropriate planting season after the development has been carried out. The landscaping shall be maintained in accordance with the approved maintenance regime at all times thereafter. Any trees removed without consent of the Planning Authority, or seriously damaged at any time thereafter, shall be replaced by trees of similar size or species as may be agreed in writing with the Planning Authority.

REASON – To ensure that adequate landscaping is provided, to an adequate standard, and that it is subsequently maintained, in the interests of residential and visual amenity.

23. No demolition, site clearance or building operations shall be commenced until chestnut pale fencing of a height not less than 1.2 metres has been erected around the trees shown on the approved plan reference number A00/541/4. The fencing shall enclose either:
- (a) the area described by the limit of the spread of the branches of the tree; or
 - (b) a radius of 5 metres from the trunk of the tree, whichever is the greater.

Such fencing shall be maintained during the course of construction, and no storage, site structure, parking or any other operation shall be permitted within the area thereby enclosed.

REASON – To ensure that the existing mature trees adjacent to the site are protected during the construction phase.

24. The existing redundant gas lighting column shall be retained and restored, if possible, to be relocated within the open space area fronting onto Muirkirk Road as a feature within the redeveloped site.

REASON – In the interests of amenity.

25. With respect to the retained part of the Lugar Institute, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development)

(Scotland) Order 1992 or any other order revoking and re-enacting that Order, no extensions or garages shall be erected within the two plots created as a result of the proposed development unless a further specific planning application is submitted to and approved by the Planning Authority.

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

NOTES TO APPLICANT

- (1) The applicant is advised to contact the West of Scotland Water Authority, 35 Glenburn Road, Prestwick, KA9 2NS, with regard to water and drainage provision.
- (2) The developer shall make early contact with the Scottish Environment et Protection Agency and West of Scotland Water to confirm their 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 within the CIRIA Manual on SUDS.
- (3) The Council does not currently have a general agreement with WOSWA 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 applicant is advised to contact Transco, Plant Location Protection, 95 Kilbirnie Street, Glasgow, G5 8JD, with regard to the protection of Transco apparatus.
- (5) The applicant is advised to contact the Coal Authority, 200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG, with regard to the mineral stability of the site.
- (6) The applicant is advised to contact East Ayrshire Council Roads and Transportation Division, Greenholm Street, Kilmarnock, KA1 4DR, with regard to securing necessary construction consents.

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 01/0523/LB

Location	Lugar Institute, Muirkirk Road, Lugar
Nature of Proposal:	Partial demolition of building and alterations and change of use to form 2 dwellinghouses
Name and Address of Applicant:	Northkirk Limited 14 Walnut Road Kilmarnock
Name and Address of Agent	Thomson McCrea 9 Old Bridge Street Ayr

DPO's Ref: [Hugh Melvin]
PPO's Ref; []

The above [Listed Building Consent](#) 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 submitted on 06 August 2001

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

2. During the demolition works, all salvageable stone, slates, rainwater goods and other features and materials shall be preserved for use within the restoration works to the retained part of the Lugar Institute.

REASON – In the interests of amenity.

3. The proposed new windows for the retained part of the Lugar Institute shall be of timber construction with traditional sash and casement method of opening.

REASON – In the interests of amenity.

4. The proposed boundary wall fronting the development site shall be constructed in sandstone salvaged from the partial demolition of the Lugar Institute, and shall be completed within three months of the completion of restoration works to the retained part of the Lugar Institute.

REASON – In the interests of amenity.

5. The existing redundant gas lighting column adjacent to the Lugar Institute shall be retained and restored, if possible, to be relocated within the open space area fronting onto Muirkirk Road as a feature within the redeveloped site.

REASON – In the interests of amenity.

6. The entrance door to both the proposed dwellinghouses shall be of timber construction, the details of which shall be submitted to and approved by the Planning Authority prior to any works commencing on site.

REASON – In the interests of amenity.

7. The details of the materials to be used in the portico supports and rainwater goods shall be submitted to and approved by the Planning Authority prior to any works commencing on site.

REASON – In the interests of amenity.

8. Prior to works commencing on site, the applicant shall submit to and have approved by the Planning Authority, details of the colours to be used in external painterwork to windows, doors and other external timber finishing.

REASON – In the interests of amenity.

9. No part of the demolition hereby approved shall be implemented until the Planning Authority have had sight of a let contract for the conversion of the retained part of the listed building or have been presented with and have agreed alternative evidence confirming the early restoration of the retained building.

REASON: To ensure that there are no demolition works to the listed building prior to the provision of evidence of early implementation of the proposed restoration works to the listed building.

AGENDA
