

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 20 JUNE 2003

**03/0095/FL: PROPOSED HOUSING DEVELOPMENT TO FORM 18
DWELLINGHOUSES INCLUDING ALTERATIONS TO LUGAR INSTITUTE
TO FORM 2 HOUSES AND 2 SELF BUILD PLOTS
AT MUIRKIRK ROAD, LUGAR**

APPLICATION BY NORTHKIRK LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for a residential development consisting of 14 new dwellings. The development also includes the partial demolition of the Lugar Institute and the change of use, conversion and alteration of the retained single storey part of the building to form 2 semi-detached dwellings. 2 self-build plots have been indicated within the site, albeit in the absence of detailed house types and position. The total development is therefore for 18 dwellings within the site.

1.2 The 14 new dwellings comprise 6 semi-detached, single storey Type A houses (2 bedroom), 3 detached, single storey Type B-1 houses (3 bedroom), 1 detached, single storey Type B-2 house (3 bedroom), and 4 detached, single storey Type K houses (3 bedroom). All new dwellings will be finished with painted wet dash render walls, artificial slate roof finishes, and smooth cement bands to all window openings.

1.3 The retained single storey part of the Lugar Institute will be converted to 2 semi-detached houses (2 bedrooms). Restoration works proposed include the installation of new timber sash and case windows, the construction of porch features to the entrances located on either end of building, the retention and repositioning of a single chimney, and the formation of a new hipped roof to the western end of the retained building. The hipped roof is proposed to be finished in natural slate to match the existing roof. The applicant has indicated that any slate salvaged from the site will be used.

1.4 The proposals also include the diversion of the existing Craigston Burn to accommodate the proposed new housing development. Due to the presence of a substantial embankment to the rear of the development site, it will be necessary for stabilisation works to be undertaken to address slope 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. A new footpath along the northern site boundary has been shown to connect at either end of the site to the existing path to maintain a right of way.

1.5 An 800mm high boundary wall along the site frontage to Muirkirk Road has been indicated, albeit in the absence of a detailed design. Nevertheless, the applicant has indicated that this wall will be constructed in sandstone salvaged from the demolished portion of the Lugar Institute where feasible.

1.6 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. RECOMMENDATION

2.1 It is recommended that the application should be approved subject to the conditions indicated on the attached sheet and that the decision notice not be issued until the Solicitor to the Council has concluded a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 dealing with the matters itemised in section 8.6 of this report.

3. CONCLUSIONS

3.1 As indicated in Section 5 above, the proposed development is considered to be contrary to the provisions of the adopted East Ayrshire Local Plan. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the planning application should be refused unless material considerations indicate otherwise. As indicated in section 6 above, there are material considerations relevant to this application.

3.2 In terms of the planning application, it is considered that the proposed layout, density and design of the development is acceptable and in accordance with the provisions of the adopted East Ayrshire Local Plan. The proposal will result in the removal of existing shrub cover, but the site in its present condition detracts from the visual amenity of the Lugar Conservation Area. Given the current condition of the Lugar Institute building and its curtilage, and the despoiled site of the former filling station, it is considered that redevelopment of the site will result in a 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 retention and restoration of part of the Lugar Institute building. The current condition of the Lugar Institute, particularly following fire damage which occurred in May 2001 and recent works to make the building safe following vandalism, is such that the costs that would be incurred in the full restoration of the building would be significant. A previous planning application (Ref 00/0154/FL) for partial restoration of the Lugar Institute building in a total development of 22 dwellings was accompanied by information from the applicant that indicated the costs that would be incurred in the full restoration of the building would be significantly greater than could be offset by the associated housing development. Given that the proposed development is for a reduced total of 18 dwellings, and that the condition of the building has deteriorated in the period since the previous application was considered in 2001, it is unlikely that the proposed housing development could financially offset the funding deficit for the restoration of the full remainder of the Lugar Institute. Further, it is considered that the prospects for securing a future use for any part of the Lugar Institute will diminish considerably through time as the building continues to deteriorate.

3.5 The prospects of restoring any part of the building would be poor given its current condition and in the absence of development offsetting restoration costs. There are significant costs involved in both the restoration of the Lugar Institute and for the new residential development proposed and it is considered that potential development cost deficit will not encourage either the present owner or other prospective developers to bring forward renovation 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 recommended that the proposed development should be approved 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 to secure the restoration of the retained part of the Lugar Institute;
- (ii) The securing of appropriate wayleave arrangements relating to access for maintenance of the proposed culvert;
- (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.

3.7 Upon formalisation of this Section 75 Agreement, the Council as planning authority will be empowered to issue Listed Building Consent (Ref 01/0523/LB) for the partial demolition of the Lugar Institute and alterations to enable the formation of two dwellings.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, and should that decision be on the basis of the principle of housing development at this site, then the application will require to be referred to the Development Services Committee because there would be a significant departure from Council policy.

Alan Neish
Head of Planning and Building Control

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 NORTHKIRK LIMITED

Report by Head of Planning and Building Control

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 Local Planning Committee under the scheme of delegation as the application is in part contrary to the development plan, is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application sites 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, and later works necessary to render the building safe. Recently, the building has suffered from vandalism which has further damaged the already dilapidated structure. East Ayrshire Council's Building Control Division has recently served a Dangerous Building Notice requiring remedial works to be undertaken to the building in the interests of public safety. These remedial works have further lessened the mass of the Institute building.

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 by natural shrub cover and overgrown scrub 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 The site is generally level except where the land falls down towards the southern 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 planning permission is sought for a residential development consisting of 14 new dwellings. The development also includes the partial demolition of the Lugar Institute and the change of use, conversion and alteration of the retained single storey part of the building to form 2 semi-detached dwellings. 2 self-build plots have been indicated within the site, albeit in the absence of detailed house types and position. The total development is therefore for 18 dwellings within the site.

2.6 The 14 new dwellings comprise 6 semi-detached, single storey Type A houses (2 bedroom), 3 detached, single storey Type B-1 houses (3 bedroom), 1 detached, single storey Type B-2 house (3 bedroom), and 4 detached, single storey Type K houses (3 bedroom). All new dwellings will be finished with painted wet dash render walls, artificial slate roof finishes, and smooth cement bands to all window openings.

2.7 The retained single storey part of the Lugar Institute will be converted to 2 semi-detached houses (2 bedrooms). Restoration works proposed include the installation of new timber sash and case windows, the construction of porch features to the entrances located on either end of building, the retention and repositioning of a single chimney, and the formation of a new hipped roof to the western end of the retained building. The hipped roof is proposed to be finished in natural slate to match the existing roof. The applicant has indicated that any slate salvaged from the site will be used.

2.8 The proposals also include the diversion of the existing Craigston Burn to accommodate the proposed new housing development. Due to the presence of a substantial embankment to the rear of the development site, it will be necessary for stabilisation works to be undertaken to address slope 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. A new footpath along the northern site boundary has been shown to connect at either end of the site to the existing path to maintain a right of way.

2.9 An 800mm high boundary wall along the site frontage to Muirkirk Road has been indicated, albeit in the absence of a detailed design. Nevertheless, the

applicant has indicated that this wall will be constructed in sandstone salvaged from the demolished portion of the Lugar Institute where feasible.

2.10 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 Lugar, Logan and Cronberry Community Council states that at a recent meeting a vote was held on the proposed development. 5 voted for the proposed development, with 2 objecting to the proposed development. All present at the meeting wished the gas lamp outside the old Institute building to be retained as part of the proposed development.

Noted. The existing lamp standard is not included in the description of the Lugar Institute listing and is in a poor state of repair. Nonetheless, consideration should be given by the developer to its retention and restoration as a feature of any proposed development. An appropriately worded condition can be attached to any planning permission issued to achieve this objective.

3.2 The Coal Authority and Transco have no adverse comments to make on the proposal.

Noted.

3.3 Scottish Water has not responded to the consultation letter sent.

Noted. On a previous application for the site (Ref 00/0154/FL) for 24 dwellinghouses, Scottish Water raised no objections provided that a totally separate drainage system was utilised. A note can be attached to any planning permission granted for the proposed development advising the applicant to make early contact with Scottish Water.

3.4 East Ayrshire Council Environmental Health Division has advised that they have no objections to the proposed development. With respect to construction works on site, the Division has advised that any potentially noisy operations on site should be limited to normal working daytime hours in order to avoid early morning or evening noise nuisance.

Noted. A condition can be attached to any planning permission granted for the proposed development ensuring that hours of operation on site are limited to between 8am and 6pm on Mondays to Saturdays only. Such a condition would serve to protect residential amenity in the vicinity of the site.

3.5 Scottish Natural Heritage (SNH) has advised that they have no objection to the application as the natural heritage interests affected by the proposal are considered to be of relatively minor importance. The plans indicate that only one mature tree is to be felled and relatively small areas of scrub require removal. SNH has no objection to this clearance of vegetation and have recommended that scrub removal should take place outwith the bird breeding season.

Noted. A note can be attached to any planning permission granted for the proposed development advising the applicant to make early contact with SNH regarding the removal of scrub within the site.

3.6 The Scottish Environment Protection Agency (SEPA) has advised that all foul drainage from the proposed development should be connected to the existing public sewer to the satisfaction of Scottish Water. SEPA has further advised that the developer should select and install a suitable sustainable urban drainage system to treat and minimise the amount of surface water leaving the site.

A condition can be attached to any permission granted for the proposed development to meet SEPA's requirements with regards to an appropriate SUDS arrangement within the site to attenuate and treat surface and roof water run-off. It is considered that the issue of maintenance of any SUDS arrangement incorporated within the development can be secured by means of an appropriate condition attached to any consent granted for the proposed development.

3.7 The Scottish Wildlife Trust (SWT) has not responded to the consultation letter sent.

Noted. On a previous application for the site (Ref 00/0154/FL) SWT also failed to respond to the consultation letter sent. Only a small portion of the site (some 23 square metres) lies within the Lugar Water (WD19) Listed Wildlife Site.

3.8 Historic Scotland is not opposed to the principle of housing to the north of the former Lugar Institute although they are unclear on the appearance of Marley Monarch tiles and the proposed finish for the windows.

Noted. Conditions can be attached to any planning permission granted to secure appropriate roofing materials in slate or a reconstituted slate tile in accordance with the Council's Design Guidance on Listed Buildings and Buildings within Conservation Areas.

Historic Scotland has noted that partial demolition of the Institute building is proposed and that a house is proposed on that part of the site. Historic Scotland

expresses regret that the application does not take a strategic approach to the site by using funding from the wider development to facilitate the conversion of the Institute to residential use. A previously recommended condition requiring the retention of the roofless part of the building (perhaps in a reduced state) is not observed in this proposal. Historic Scotland has recommended that the Council takes a fresh look at the issue of whether any funding can be derived from the housing development to facilitate the conversion of the listed building.

A Structural Report submitted with the previous application for partial demolition of the Lugar Institute (Ref 00/0154/FL) indicated that the building was in a poor state of repair and that the costs required to rehabilitate the entire building were prohibitive and could not be off-set by the other proposed housing development on the site. In the intervening period, further deterioration of the condition of the built fabric of the Lugar Institute has occurred. Given the significant costs that would be involved in the complete restoration of the Lugar Institute it is considered that the proposed development represents an opportunity to at least secure a future use for part of the building.

3.9 East Ayrshire Council Roads and Transportation Division has noted that as part of a previous application for planning permission on the site (Ref 00/0154/FL), the applicant submitted comments compiled by OMNITECH (Scotland) Ltd regarding the stability of the slope at the rear of the site. The conclusion these comments from OMNITECH reached was that the embankment was potentially unstable. Two options were suggested to increase the stability of the slope: a reduction in the angle of the slope itself, or an increase in the mass of soil at the toe of the embankment. Has there been any consideration given to the stability of the existing embankment to the rear of this development? Any slip could affect as a minimum Plots 12, 13, 16, and 17 of the proposed development.

The applicant's consultant engineer has stated that the previous proposal for the site (Ref 00/0154/FL) incorporated dead weight along the base of the embankment in order to stabilise the bing base, in the form of gabion baskets. The current proposal incorporates dead weight at the base of the embankment in the form of an earth bund measuring at least 3 metres by 3 metres. The consultant engineer has further indicated that a field drain will be installed at the toe of the embankment in accordance with the recommendations of Omnitech. The applicant also intends to spray the surface of the embankment to a height of 15 metres from the existing site level with a grass seed slurry specifically developed to stabilise this type of feature. An appropriately worded condition can be imposed should planning permission be granted to ensure that full details of slope stabilisation works shall be submitted and approved in writing with the Council as planning authority prior to works commencing on site.

Further comment supplied by OMNITECH (Scotland) Ltd relative to planning application 00/0154/FL highlighted that any reduction in the mass of the soil at the toe of the embankment would further reduce the factor of safety against failure and would therefore increase the risk of failure in the embankment. This is exactly the effect that re-routing the watercourse along the toe of the embankment would have and is a risky operation as it would undoubtedly increase the instability of the embankment.

The consultant engineer has stated that subsequent to placement of the bund along the base of the bing and taking account of Omnitech's further recommendation that the culvert should be at least 9 metres from the bing base, they are satisfied that the stability of the slope adjacent to the site boundary will remain unaffected and not compromise the proposed residential development within the site.

The other issue to consider is the question of scour. If the watercourse were to be redirected along the toe of the embankment as is proposed, there would be a risk of scour further reducing the mass of soil at the toe of the embankment again increasing the instability of the embankment. The redirecting of the watercourse as shown is not recommended.

The consultant engineer has stated that the previous proposal for the site (Ref 00/0154/FL) incorporated dead weight along the base of the embankment in order to stabilise the bing base, in the form of gabion baskets. The current proposal incorporates dead weight at the base of the embankment in the form of an earth bund measuring at least 3 metres by 3 metres. The consultant engineer has further indicated that a field drain will be installed at the toe of the embankment in accordance with the recommendations of Omnitech. The applicant also intends to spray the surface of the embankment to a height of 15 metres from the existing site level with a grass seed slurry specifically developed to stabilise this type of feature. An appropriately worded condition can be imposed should planning permission be granted to ensure that full details of slope stabilisation works shall be submitted and approved in writing with the Council as planning authority prior to works commencing on site.

Wherever the watercourse is located, clear access to and along its length (possibly wayleave over private property) would have to be shown for assessment and maintenance purposes. Further discussion would be required on this.

It is considered that the requirements of the Roads and Transportation Division in this respect can be secured with the

developer through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997.

A flood risk assessment would be required for a flood event return period of 1 in 200 years. Any flow paths, inundation extent/depth would have to be shown pre/post development. A previous flood risk assessment for a 1 in 100 year flood event demonstrated that overtopping to the existing entry to the existing culvert would occur. How would this affect the surrounding area and what measures are envisaged to counter?

It is proposed to divert the existing watercourse within the site. The applicants engineer has stated that should flooding occur, the existing watercourse is being maintained through the site and they are satisfied that it will provide the preferred route for flooding through the site area, rather than causing general water to the whole site. An appropriately worded condition can be imposed should planning permission be granted to ensure that a full and professionally prepared flood risk assessment is submitted to and approved in writing by the Council prior to works commencing on site.

The Roads and Transportation Division has further indicated that access to the site will require to be taken via internal roads which comply with the Roads Development Guide 1996 and will require Construction Consent from East Ayrshire Council Roads Division This consent would cover details such as road widths, footways, road construction, street lighting, and drainage.

Conditions can be attached to any planning permission granted for the proposed development to meet the requirements of the Roads and Transportation Division in this respect.

4. REPRESENTATIONS

4.1 Four letters of representation have been received objecting to the proposed development. The points of objection are summarised as follows:

4.2 It appears that the new course of the burn will bring the burn 10 or 15 metres from my garage gates and with a right angled bend. There was no information on the file to indicate whether the burn was to be piped underground or left open. This burn does on occasion flow fast with a considerable volume of water from the lochs above. My concerns would be around the possibility of flooding if care was not taken to ensure that the piping or new water course was not of sufficient dimension to contain the water in a low lying area.

See response to 3.9 above.

4.3 Objection is made to the partial loss of the B listed Lugar Institute without proof of its structural stability.

A Structural Report submitted with the previous application for partial demolition of the Lugar Institute (Ref 00/0154/FL) indicated that the building was in a poor state of repair and that the costs required to rehabilitate the entire building were prohibitive and could not be off-set by the other proposed housing development on the site. In the intervening period, further deterioration of the condition of the built fabric of the Lugar Institute has occurred. Given the significant costs that would be involved in the complete restoration of the Lugar Institute it is considered that the proposed development represents an opportunity to at least secure a future use for part of the building.

4.4 Objection is made in respect of over-development with dwellings having inadequate private gardens to the detriment of future residents and existing residents to the east of the site.

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. The private gardens proposed meet standards set out in the adopted East Ayrshire Local Plan. It is considered that the proposed development will not affect the residential amenity of existing dwellinghouses to the east of the site.

4.5 Object to over-development of the site with no provision for public open space or landscaping.

It is considered that the density of the proposed housing development is acceptable given the mix of detached and semi-detached dwellings. Therefore, the proposed development does not constitute over-development of the site. A small area of open space is located towards the north of the site. It has been recommended that a condition be applied to any planning permission granted to ensure appropriate site landscaping and maintenance of public open space and all landscaping. 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 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 RES 19 of the Adopted East Ayrshire Local Plan.

4.6 Object to wholly inappropriate design of proposed new dwellings which neither respect their location in the heart of the conservation area, or proximity to listed buildings.

Following amendments to the original proposal, it is considered that the design, scale and finishes of the proposed new residential development are acceptable for this sensitively located site.

4.7 The number of housing units has been reduced and a degree of flexibility has been introduced with the inclusion of two self-build plots, however the units remain standard plan and exterior finish, this does not match the conservation nature of the housing within the village, nor do they reflect the list B status of the Institute, a status from which they will capitalise and therefore which they should enhance. Impending legislation on standards of insulation and other environmental improvement could be included in the plan. This would raise the status of the development.

See response to 4.6 above

4.8 There is no indication that a SUDS scheme will be included in the development – necessary given the fact that it lies so close to the junction of the River Lugar and its tributary the Craigston Burn. The latter forms part of an important wildlife corridor between the river and the Brickwork Lochs.

A condition can be attached to any permission granted for the proposed development to meet SEPA's requirements with regards to an appropriate SUDS arrangement within the site to attenuate and treat surface and roof water run-off. It is considered that the issue of maintenance of any SUDS arrangement incorporated within the development can be secured by means of an appropriate condition attached to any consent granted for the proposed development.

4.9 Without criticism of the firm of architects involved in this project, they are not listed by RIAS as a firm with necessary skills and experience in dealing with buildings of historical note. Therefore, it is possible that the development within the Institute may be 'lowest cost driven' and therefore may not represent best value to the community.

The applicant's architect has stated that their practice is listed by the RIAS as a firm with conservation and historic building skills. The application requires to be assessed on its merits against the development plan and other material considerations, rather than the costs of implementation.

4.10 There is no evidence that architectural consultation to the highest standard has been undertaken. This is a very important consideration given that a major portion of the structure is to be removed and that the remaining portion will require extensive reconstruction.

The application requires to be considered on its merits, on the basis of the information submitted.

4.11 Given the delicate nature of the work proposed, if this proposed development is permitted, it would seem essential that insurance cover be provided by the developer sufficient to set to rights any damage which may occur to the Institute.

Should planning permission be granted for the proposed development, any deviation from the approved plans with respect to the Lugar Institute would constitute a breach of planning control and would require to be dealt with as a separate matter. Nevertheless, the partial renovation of the building and its timing could be secured by means of the formalisation of a Section 75 Agreement under The Town and Country Planning (Scotland) Act 1997.

5. ASSESSMENT AGAINST THE 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).

East Ayrshire Local Plan (2003)

5.2 The proposed development requires to be assessed against the following policies of the adopted East Ayrshire Local Plan :-

(i) RES1: The Council will encourage and support the residential development of the 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 houses at the Lugar Institute. The principle of housing development at this location therefore accords with the adopted Local Plan. The proposed development will result in a total of 18 dwellings and this is marginally in excess of the notional capacity indicated within the adopted East Ayrshire Local Plan. However, the Development Opportunity Site does not include the site of the former filling station and the application site includes this additional area. Additionally there has been agreed by the Development Service Committee on 2001 a very similar residential development on this site relating to 24 dwellings.

It is considered that the density of the proposed development is acceptable given the mix of detached and semi-detached dwellings proposed. The total number of building forms proposed within the development site including the retained part of the Lugar Institute is 12. The density of the proposed development is less than that of the adjacent residential area at River View and Braehead Place, and is comparable to that of the Craigston Square residential area.

(ii) RES 19: 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, once formed, to the satisfaction of the Council. Developers will be expected to pay due regard to the indicative standards set out in Schedule 3 of the Local Plan in preparing their proposals, although the precise type, size, location and design of the open space will be dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area.

Although the proposed layout provides for a small amount of open space provision, open space provision for developments of less than 30 housing units is at the discretion of the Council and should take account of existing open space provision in the vicinity of the site. 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 RES 19.

(iii) RES 22: All developers will require to observe the minimum private open space criteria and standards detailed in Schedule 4 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 to flats where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

The appropriate private open space standard detailed in Schedule 4 of the Local Plan is one and a half times the ground floor area (subject to a minimum amount of open space of 100 square metres) for detached and semi-detached houses. All the proposed new dwellings and the conversion of the retained portion of the Lugar Institute to form 2 dwellings comply with these private open space standards. The 2 self-build plots proposed would require to be assessed on their own merits in terms of private open space standards should details be received following the determination of this application.

(iv) ENV 1: The Council will seek to protect, preserve and enhance all heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Scheduled Ancient

Monuments and Archaeological and Industrial Archaeological sites and landscapes.

(v) ENV 2: The Council will actively encourage the retention, restoration, renovation and re-use of listed buildings, unlisted buildings in Conservation Areas and other locally important, especially traditional older properties, throughout the area. There will be a presumption against the demolition or partial demolition of all such properties.

It is considered that, given the poor condition of the Lugar Institute and the significant costs that would be involved in its complete restoration, the proposed development represents a viable opportunity to at least secure a future use for part of the building. In the event that the planning permission is refused, it is likely that the costs of restoration will serve to deter future proposals for the redevelopment of the site. Whilst the partial demolition of the Lugar Institute is contrary to Policies ENV1 and ENV2, it should be noted that the Development Services Committee on 2001 agreed a very similar residential development on this site of 24 dwellings.

(vi) ENV 4: 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, materials and colour of finish. Wherever possible, all proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

Notwithstanding the proposal for the partial demolition of the listed building, it is considered that, following amendments to the original proposal, the proposed new housing development is acceptable in terms of the provisions of Policy ENV 4. It is also considered that the restoration proposals for the retained part of the Lugar Institute building are of an acceptable standard.

(vii) ENV 10 (iii): The protection and enhancement of areas of nature conservation interest within the Local Plan area will be achieved in that development likely to affect local nature reserves and provisional wildlife sites will be resisted and all sites of recognised nature conservation value will be safeguarded wherever possible. Where development is approved for such sites, 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 or features where damage is unavoidable.

A small part of the 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 adopted East Ayrshire Local Plan, the proposed development represents a minor departure from Policy ENV 10 (iii) and would represent a departure from Policies ENV 1 and ENV 2. However, in all cases, these departures from the Development Plan formed a part of a previous application which the Development Services Committee agreed to approve in 2001. That application was notified to the Scottish Executive in accordance with the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997 because of the policy situation and the Council's ownership interest in the site. The Scottish Executive subsequently indicated that they did not intend to call the application in for determination and authorised the Council to determine the application as it saw fit. Consequently, it is not considered that this proposal requires to be notified to the Scottish Executive.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the letters of representation, and the planning history of the site.

Consultations

6.2 The consultation responses have been summarised in Section 3 of this report.

Representations

6.3 Several of the points of objection can be addressed by the imposition of appropriately worded conditions should planning permission be granted. Consequently, it is considered that the points of objection are not of sufficient weight to justify refusal of the application.

Planning History

6.4 An application by Strathclyde Regional Council for Listed Building Consent for the demolition of the Lugar Institute (Ref CD/85/175) was refused on 31 October 1985.

6.5 An application by D Gibson for Listed Building Consent for the partial demolition of the Lugar Institute (Ref CD/88/364) was approved on 25 May 1988.

6.6 An application by D Gibson for Listed Building Consent for the conversion of the Lugar Institute to provide 7 flatted dwellings (Ref CD/91/267) was approved on 09 April 1992.

6.7 An application by D Gibson for planning permission for the conversion of the Lugar Institute to provide 7 flatted dwellings (Ref CD/91/268) was approved on 09 April 1992.

6.8 An application by D Gibson for Listed Building Consent for the demolition of the rear hall at the Lugar Institute (Ref 98/0035/LB) was approved on 16 December 1998.

6.9 An application by Northkirk Limited for Listed Building Consent for the complete demolition of the Lugar Institute (Ref 00/0189/LB) was withdrawn on 02 August 2001.

6.10 An application by Northkirk Limited for Listed Building Consent for the partial demolition of the Lugar Institute and alterations to enable the formation of two dwellings (Ref 01/0523/LB) was considered at the meeting of the Development Services Committee on 23 October 2001. Whilst the Committee were minded to grant Listed Building Consent, formal consent was never issued. This was due to the fact that a Section 75 Agreement under The Town and Country Planning (Scotland) Act 1997 was never formally concluded in relation to planning permission application 00/0154/FL (see section 6.11 below) which would have secured the linking of the proposed development and its phasing to secure the restoration of the retained part of the Lugar Institute. The listed building application was subject to notification to the Scottish Ministers with confirmation having been given at that time that the Scottish Ministers did not intend to issue a direction restricting the grant of listed building consent for this development.

6.11 An application by Northkirk Limited for planning permission for housing development to form 24 dwellinghouses including partial demolition of the existing building (Ref 00/0154/FL) was considered at the meeting of the Development Services Committee on 23 October 2001. Whilst the Committee were minded to grant planning permission, a formal decision was never issued. This was due to the fact that a Section 75 Agreement under The Town and Country Planning (Scotland) Act 1997 was never formally concluded. The application was subject to notification to the Scottish Ministers with confirmation having been given at that time that the Scottish Ministers did not intend to issue a direction restricting the grant of planning permission for this development.

With respect to the history noted under paragraph 6.10 above, the decision by the Development Services Committee is still valid and, in the absence of intervention by Historic Scotland, this consent can be issued on securing the restoration of the retained part of Lugar Institute through the requisite Section 75 Agreement. With respect to the history indicated under paragraph 6.11 above, it

should be noted that the present application represents an amended, reduced scheme to the proposals which the Development Services Committee was minded to grant.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 The Council will be selling part of the site to the applicant. For the reasons indicated in Paragraph 5.2, it is considered that there will not be any requirement 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.

7.2 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 East Ayrshire Local Plan. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the planning application should be refused unless material considerations indicate otherwise. As indicated in section 6 above, there are material considerations relevant to this application.

8.2 In terms of the planning application, it is considered that the proposed layout, density and design of the development is acceptable and in accordance with the provisions of the adopted East Ayrshire Local Plan. The proposal will result in the removal of existing shrub cover, but the site in its present condition detracts from the visual amenity of the Lugar Conservation Area. Given the current condition of the Lugar Institute building and its curtilage, and the despoiled site of the former filling station, it is considered that redevelopment of the site will result in a 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 retention and restoration of part of the Lugar Institute building. The current condition of the Lugar Institute, particularly following fire damage which occurred in May 2001 and recent works to make the building safe following vandalism, is such that the costs that would

be incurred in the full restoration of the building would be significant. A previous planning application (Ref 00/0154/FL) for partial restoration of the Lugar Institute building in a total development of 22 dwellings was accompanied by information from the applicant that indicated the costs that would be incurred in the full restoration of the building would be significantly greater than could be offset by the associated housing development. Given that the proposed development is for a reduced total of 18 dwellings, and that the condition of the building has deteriorated in the period since the previous application was considered in 2001, it is unlikely that the proposed housing development could financially offset the funding deficit for the restoration of the full remainder of the Lugar Institute. Further, it is considered that the prospects for securing a future use for any part of the Lugar Institute will diminish considerably through time as the building continues to deteriorate.

8.5 The prospects of restoring any part of the building would be poor given its current condition and in the absence of development offsetting restoration costs. There are significant costs involved in both the restoration of the Lugar Institute and for the new residential development proposed and it is considered that potential development cost deficit will not encourage either the present owner or other prospective developers to bring forward renovation 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 recommended that the proposed development should be approved 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

- (v) The linking of the proposed housing development and its phasing to secure the restoration of the retained part of the Lugar Institute;
- (vi) The securing of appropriate wayleave arrangements relating to access for maintenance of the proposed culvert;
- (vii) The securing of a factoring arrangement for the maintenance of open space areas within the development site; and
- (viii) The establishment of an alternative route for the existing footpath / right of way that lies within the development site.

8.7 Upon formalisation of this Section 75 Agreement, the Council as planning authority will be empowered to issue Listed Building Consent (Ref 01/0523/LB) for the partial demolition of the Lugar Institute and alterations to enable the formation of two dwellings.

9. RECOMMENDATION

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

notice not be issued until the Solicitor to the Council has concluded a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 dealing with the matters itemised in section 8.6 of this report.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, and should that decision be on the basis of the principle of housing development at this site, then the application will require to be referred to the Development Services Committee because there would be a significant departure from Council policy.

Alan Neish
Head of Planning and Building Control
09 June 2003
RD/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Previous planning and listed building consent applications.

Any person wishing to inspect the background papers listed above should contact Mr Robert Duncan on 01563 555483.

Implementation Officer: Dave Morris

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 03/0095/FL

Location	Muirkirk Road, Lugar
Nature of Proposal:	Proposed housing development to form 18 dwellinghouses including alterations to Lugar Institute to form 2 dwellinghouses and 2 self build plots
Name and Address of Applicant:	Northkirk Ltd 14 Walnut Road Kilmarnock KA1 2HF
Name and Address of Agent	Thomson McCrea 9 Old Bridge Street Ayr KA7 1QA

DPO's Ref: [Robert Duncan]
PPO's Ref: [Hugh Melvin]

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

1. There shall be no commencement of the development hereby approved on site until such time as a full and professionally prepared flood risk assessment has been submitted to and agreed in writing by the Head of Planning and Building Control, the contents of which shall confirm the following:-

(a) that the development hereby approved shall not be adversely affected by any 1 in 200 year flood event; and

(b) that the development hereby approved shall not result in any adverse flooding effects off-site in the event of a 1 in 200 year flood event.

REASON – To ensure that no development works are undertaken which will either be adversely affected by flooding or will adversely affect land off-site by reason of flooding.

2. Notwithstanding the approved plans, prior to works commencing on site the proposed re-routing of the Craigston Burn and slope stabilisation works 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 diverted watercourse and slope stabilisation works shall be submitted to and approved in writing with the Planning Authority prior to any works commencing on site.

REASON – In the interests of amenity and public safety and to ensure that no development works are undertaken which would result in the slippage of land

3. Any domestic 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. Before any work commences on site, details of a sustainable urban drainage system and its maintenance following installation shall be submitted to, and agreed in writing with the Planning Authority. The sustainable urban drainage system shall thereafter be installed on site prior to the erection of any of the dwellinghouses located within the development site.

REASON – To ensure that adequate drainage is provided

5. 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 domestic garages erected within the site shall have pitched roofs and be externally constructed in materials to match the dwellinghouses to which they relate.

REASON – In the interest of visual amenity

6. Notwithstanding the 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

7. 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

8. No construction works, building or other operations shall take place on the site outwith the hours of 0800 to 1800 Monday to Saturday and not at any time on a Sunday.

REASON – In the interest of residential amenity

9. 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

10. 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 visual amenity

11. 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 the commencement of any development on site. 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.

12. 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

13. 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.

14. Notwithstanding the plans hereby approved the roofs of the dwellinghouses shall be covered in natural slates or a reconstituted slate tile of a type to be agreed in writing with the Council as planning authority prior to the commencement of works on site.

REASON – In the interest of visual amenity and to maintain the visual quality of the area

15. 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

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

REASON – In the interests of public road safety

17. All individual private driveways within the site shall be suitably surfaced for a minimum distance of 2.0 metres from the rear of the footway 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

18. The gradient of each individual private driveway shall not exceed 1 in 10.

REASON – In the interests of public road safety

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

REASON – In the interests of public road safety

20. 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 dwelling.

REASON – In the interests of public road safety

21. 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 agreed in writing with the Council as planning authority.

REASON – In the interests of visual amenity

22. 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 Council as planning authority.

REASON – In the interests of amenity and public safety

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 in orange on the approved plan reference number A00/541/7/A. The fencing shall enclose either :-

(b) 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. Notwithstanding the submitted plans, visibility splay areas of 2.5 metres by 35 metres shall be provided at all internal road junctions within the site with no obstructions to visibility greater than 1 metre in height being allowed within these areas thereafter.

REASON – To enable drivers of vehicles within the site to have a clear view over a length of road sufficient to allow safe usage

25. Notwithstanding the submitted plans, and prior to the commencement of any development on site, visibility splay areas of 4.5 metres by 90 metres shall be provided at the junction of the access to the development with the A70 public road with no obstruction to visibility greater than 1 metre in height being allowed within these areas thereafter.

REASON – To enable drivers of vehicles within the site to have a clear view over a length of road sufficient to allow safe usage

26. Prior to the commencement of works on site, the developer shall agree a traffic calming scheme within the development and on the A70 Muirkirk Road with the Council as Planning Authority and the Roads Authority. Such a scheme shall include details of the timing of implementation of the traffic calming measures.

REASON – In the interests of road and public safety

➤ **NOTES TO APPLICANT**

- (1) The applicant is advised to contact Scottish Water, 35 Glenburn Road, Prestwick, Ayrshire, KA9 2NS, with regard to water and drainage provision.
- (2) The applicant is advised to contact SEPA, 31 Miller Road, Ayr, KA7 2AX, Tel 01292 294000, regarding drainage of the site.
- (3) The developer shall make early contact with Scottish Water and the Scottish Environment Protection Agency 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 in the CIRIA manual on SUDS.
- (4) 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.
- (5) The applicant is advised to contact Transco, 95 Kilbirnie Street, Tradeston, Glasgow, G5 8JD, with regard to the protection of Transco apparatus.
- (6) 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.
- (7) 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.
- (8) The applicant is advised to contact Scottish Natural Heritage, 19 Wellington Square, Ayr, Tel 01292 261 392 with regard to shrub removal within the site.
- (9) This site is known/suspected to be contaminated. You should be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer. The local planning authority has determined the application on the basis of the information available to it. This does not necessarily mean that the land is free from contamination.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON**

VIEWING PLEASE CONTACT (01563) 555320.