
NORTH AYRSHIRE COUNCIL

31st October 2018

Planning Committee

Locality	Kilwinning
Reference	18/00768/PP
Application Registered	31st August 2018
Decision Due	31st October 2018
Ward	Kilwinning

Recommendation	Approved subject to Conditions
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Location	Ayrshire College Lauchlan Way Kilwinning Ayrshire KA13 6DE
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Applicant	The Bridge Church
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Proposal	Section 42 application for non-compliance with condition 15 of planning permission ref. N/01/98/0524 to enable the installation of a pedestrian gate on south west perimeter fence on the boundary of the west car park (retrospective)
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1. Description

Planning permission was granted 4th December 1998 (Ref: 98/00487/PP, Alt Ref: N/01/98/0524) for the erection of a college building with a new vehicular and pedestrian access onto Lauchlan Way and car parking. The permission has been implemented. The permission is subject to several conditions including Condition 15 which is as follows;

'That there shall be no direct vehicular or pedestrian access between the development and Dalry Road' (the A78).

The reason for this condition is that it was to meet the requirements of the Trunk Roads Authority.

In January 2018, the Council received a complaint that a gate had been formed in the western boundary fence of the college. This provided pedestrian access between the college and Dalry Road, in breach of Condition 15. Following discussions with the college, the gate was permanently shut.

This application seeks to vary Condition 15 to allow use of the gate. The application is made by a church located at the corner of Dalry Road and Howgate, to the south-west of the college. The church installed the gate, with the agreement of the college, to provide access for their parishioners between the church building and the college car park.

The application site lies within the Town Centre of Kilwinning as identified by the adopted Local Development Plan. It is considered that the relevant policy of the LDP is the General Policy.

2. Consultations and Representations

The application was subject to statutory neighbour notification procedures. There have been two objections which can be summarised as follows:

1. There has been no material change in circumstance since the condition was imposed in 1998.

Response: The policy context, including the Council's planning policies and the Trunk Road Authority's advice, has changed since 1998. An assessment of the proposal in this context is given below.

2. There are no difficulties getting into or out of the junction with Dalry Road. Residents and home owners use the access road at all times of the day and night. The area at the southern end is often utilised by hearses and associated traffic. At the times the church is used, Sunday and some weekday evenings, it is outwith peak traffic times. If traffic movements and dangerous driving on Dalry Road is to be considered as a justification for the proposal then a traffic survey should be carried out. Proactive ushering of gate users was only witnessed once and a large congregation for a service had blocked the road.

Response: It is noted that the church is used outwith peak times and the comments regarding the junction are also noted. The objector appears to be content with the existing access arrangements. This application seeks to allow use of the gate so that users of the church can park in the college grounds, accessed from Lauchlan Way. This would minimise vehicles associated with the church using the access road and junction with Dalry Road. It should be noted that there is no restriction on vehicles associated with the church using the access road. Management of pedestrians between the gate and the church would be a matter for the church.

3. The gate will not be restricted to the church and will become a thoroughfare for the general public and a shortcut from the town. The access road could become a car park for users of the college when the college car park is busy. Limited use of the gate would appear to be entirely at the discretion of the church. The last time it was in operation it was not closed properly.

Response: It should again be noted that there is no restriction on vehicles for the church using the access road and a large congregation may cause difficulty for other road users whether or not the use of the gate is permitted. The use of the gate could however direct some vehicular traffic to use the college grounds away from Dalry Road. The use of the gate could also be restricted by condition to a time when the college is not open, which would be based on the Transport Scotland comments below.

4. The gate has in the past been left open, swinging freely onto the road and allowing the general public to pass through. When opened the distance between the gate and the access road is only some 0.6m. The access road is unlit at night and rough surfaced, which is a danger to users of the access road particularly the manoeuvring of coaches and hearses. The access road is also used by bin lorries. There are no pavements in the access road and other pavements in the area are treated against adverse weather.

Response: The installation of the gate was unauthorised as it was undertaken without planning permission. The gate has been shut at request of the Council since April this year. In terms of road safety, the access road is not adopted by the Council and Transport Scotland, as the relevant Roads Authority, has offered no objection (see below). A condition requiring the gate to be re- hung could be attached to any permission if granted.

Consultations

Transport Scotland (Trunk Roads Authority) - do not object subject to a condition restricting the use of the gate so that is only open during college holidays and at weekends during term times.

Response: Noted. A condition could be attached to restrict the use within specified hours.

NAC Regeneration (Access Officer) - no objection. They are supportive of this is access terms.

Response: Noted.

3. Analysis

The relevant criteria of the General Policy against which the proposal is to be assessed is (a) Siting, Design and External Appearance, (b) Amenity and (d) Access, Road Layout and Parking Provision.

With respect to criterion (a), the gate has been inset in the existing boundary and has a metal frame with mesh panels to match the fence. The appearance of the gate is considered to be in keeping with the area and as such is in accordance with criterion (a) of the General Policy.

With respect to criterion (b), the gate gives access between a car park and an unclassified road leading onto Dalry Road (the A78). The unclassified road gives access from Dalry Road to the rear of residential properties at its northern end, a coach hire premises, funeral parlour and the church. The gate would allow pedestrian traffic from the car park onto the access road. However, it would be some 30m from the nearest residential property to the north and users of the gate are likely to proceed south to the church and access to Dalry Road. A condition could be imposed restricting the days and hours which the gate could be used to further protect residential amenity. As such it is considered that the proposal accords with criterion (b) of the General Policy.

With respect to criterion (d) the Transport Scotland, the trunk roads authority, at whose request the original permission was imposed, do not object subject to the gate only being open during college holidays or at the weekend during term time. Transport Scotland state

that the original condition was to prevent users of the college parking/dropping-off on Dalry Road, and still has concerns regarding this issue but understand that outwith college opening times, there would be benefits to the area to allow the use of college car park with pedestrian access to Dalry Road. Such a condition would help ensure free movement on the A78. The Council's Access Officer also has no objection and supports pedestrian access in general. A condition could also be attached to any permission, requiring the gate to open into the car park and therefore reduce any impact onto the access road when the gate is open. As the relevant Roads Authority has no objection to the proposal, subject to a condition, it is considered that the proposal accords with criterion (d) of the General Policy.

The original planning permission had 14 other conditions. However, given the age of the permission and that the conditions mainly required specific pieces of work to be carried out, it is not considered that they have any ongoing relevance and would not be implicated by grant of this permission.

In view of the foregoing and subject to a condition restricting the times of access, the proposals accord with the relevant LDP policies and planning permission can therefore be granted.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. The use of the gate hereby approved shall be opened only on Saturday and Sundays or any day of the week outwith college term time. At all other times the gate will remain locked shut, unless otherwise agreed in writing by North Ayrshire Council, as Planning Authority.

Reason

To meet the requirements of Transport Scotland as Trunk Roads Authority.

Condition

2. That within 3 months of the date of this decision, the gate shall be altered to open inwards towards the Ayrshire College car park and thereafter maintained to the satisfaction of North Ayrshire Council, as Planning Authority.

Reason

To ensure the gate does not cross the access road when opened.

Condition

3. Notwithstanding the provisions of Class 7 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, no gate may be constructed, erected or altered between the grounds of Ayrshire College and the access road to the rear of the properties on the east side of Dalry Road, without the express permission of North Ayrshire Council, as Planning Authority.

Reason

To maintain control over further access between the site and the A78 in recognition of the concerns of Transport Scotland as Trunk Roads Authority.

A handwritten signature in black ink, appearing to read 'Karen Yeomans', written in a cursive style.

Karen Yeomans
Executive Director
Economy & Communities

For further information please contact Mr Iain Davies on 01294 324320.

Appendix 1 – Location Plan

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