

## **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 10 SEPTEMBER 2010**

**10/0134/PP: CHANGE OF USE OF AGRICULTURAL LAND TO FORM  
EXTENSION TO EXISTING CEMETERY  
AT KILMAURS CEMETERY, KIRKTON ROAD, KILMAURS  
BY EAST AYRSHIRE COUNCIL**

**Click for Application Details:** <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=10/0134/PP>

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 The proposal comprises the change of use of the agricultural ground to form an extension to the existing cemetery. Given a drainage constraint on the site, lairs are currently proposed for the northern section of the site only with an area at the north east of the site provided for cremation urns. The development also proposes a boundary fence between the lairs and 4 to 12 Kilmarnock Road. The development is partly retrospective in that an initial ground scrape exposing the underlying surface has been undertaken and proposed pathways within the proposed layout have been formed.

#### **2. RECOMMENDATION**

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

#### **3. CONCLUSIONS**

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

3.2 As detailed previously in this report the proposal is considered to be in compliance with the applicable policies in the Development Plan. The material considerations are generally supportive of the proposal with the exception of the objection. However as stated above, the key concerns of the objector are considered to have been adequately addressed.

#### **CONTRARY DECISION NOTE**

Should the Committee agree that this application be refused contrary to the recommendation of the Head of Planning and Economic Development and on

the basis of the principle of the development, then the application will require to be referred to Council as it would represent a significant departure from emerging Council policy.

**Alan Neish**  
**Head of Planning and Economic Development**

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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

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

1.1 The purpose of this report is to present for determination an application for planning permission which is to be considered by the Northern Local Planning Committee under the scheme of delegation as the Council has an ownership interest in the land to which the application relates.

### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site comprises an area of agricultural ground adjacent to the existing Kilmaurs Cemetery extending to 2810 square metres. The site is bounded to the north and north east by dwellings, to the east and south by the existing cemetery and to the west by Gospel Trust meeting hall.

2.2 **Proposed Development:** The proposal comprises the change of use of the agricultural ground to form an extension to the existing cemetery. Given a drainage constraint on the site, lairs are currently proposed for the northern section of the site only with an area at the north east of the site provided for cremation urns. The development also proposes a boundary fence between the lairs and 4 to 12 Kilmarnock Road. The development is partly retrospective in that an initial ground scrape exposing the underlying surface has been undertaken and proposed pathways within the proposed layout have been formed.

### **3. CONSULTATIONS RECEIVED**

3.1 Kilmaurs Community Council has not responded to their consultation at the time of writing.

3.2 East Ayrshire Estates Management is supportive of the proposal.

3.3 East Ayrshire Environmental Health Service has no objections to the development subject to standard comments.

3.4 East Ayrshire Roads and Transportation Service has no objections to the proposal.

3.5 The Scottish Environment Protection Agency originally objected to the proposal due to drainage issues on part of the development site. However, following detailed investigatory work being undertaken and further information provided, SEPA, as a consequence has removed its objection to the development of lairs on the northern part of the proposed site.

***While consent could be granted for the change of use of the whole site, a condition should be attached to any grant of consent to ensure that the use of the southern part of the site for lairs does not commence until adequate drainage details have been agreed with the Planning Authority in consultation with SEPA.***

#### 4. REPRESENTATIONS

4.1 One letter of objection has been received in connection with this application, details of which are summarised below.

4.2 Wooden privacy fencing has already been installed along the boundary with all other adjacent domestic premises but not along the boundary with 14 Kilmarnock Road. Why has my privacy not been given similar consideration?

***The applicant has been in discussion with the objector and has agreed to provide a pathway along the edge of the existing wall to allow for maintenance to be undertaken to the wall. The wall itself provides a good degree of screening and privacy.***

4.3 The work already carried out has resulted in soil being banked up to an average of 30-40 centimetres against the boundary wall with 14 Kilmarnock Road. Potentially this could result in surface water draining back from the graveyard into my property. At the very least it will hasten the structural decline of the boundary wall.

***This issue has been investigated and it was found that no more than 100mm of an increase in level has occurred with no 'loading' of soil against the boundary wall. Drainage is being provided within the adjacent footpath which will allow water to be taken away from the objector's property.***

4.4 From the viewpoint of relatives visiting the proposed cremation urn sites, the existing boundary wall is scarcely an aesthetically pleasing backdrop.

***The existing boundary wall is not in such a condition as to be aesthetically unpleasing and is an existing feature of the site.***

4.5 In no other part of the existing graveyard is there any point where lairs/cremation urns have been located immediately adjacent to a boundary wall with neighbouring domestic premises (14 Kilmarnock Road) as is proposed in the plans submitted.

***The amended plans show the provision of a slabbed area between the cremation urn area and the existing boundary wall. It is considered that adequate separation of uses has been provided as part of the proposals.***

4.6 The objector also highlights the conditions on the previous consent at this site (97/0428/LA) which he considers is not addressed on the submitted plans.

***The conditions highlighted relate to boundary treatments and landscaping. It is considered that both of these issues are addressed by this application although conditions could be added to any consent to ensure that further details, particularly of any landscaping, are submitted.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 For the purposes of this application the development plan comprises the Adopted East Ayrshire Local Plan (EALP) (2003).

5.2 Policy CS1 relates to the provision and improvement of community facilities and advises that the Council will encourage and support the development of such new facilities to meet local needs.

***The proposal is considered to improve the range of community facilities within the town of Kilmaurs and as such is compliant with this policy.***

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

6.1 The principle material considerations relevant to the determination of this application are the Alteration to the East Ayrshire Local Plan, consultation responses, the letter of objection, the impact on the amenity of the area and the planning history of the site.

### Alteration to the East Ayrshire Local Plan

6.2 Policy CS1 relates to the provision and improvement of community facilities and advises that the Council will encourage and support the development of such new facilities to meet local needs.

***The proposal is considered to improve the range of community facilities within the town of Kilmaurs and as such is compliant with this policy.***

### Consultation Responses

6.3 No issues have been raised in the consultation process which warrant refusal of the application.

### Letter of Objection

6.4 The issues raised by the objector relate primarily to the boundary treatment between his property and the extension to the cemetery. Given the provision of a pathway to allow maintenance, it is considered that the existing wall arrangement will be a sufficient boundary treatment to maintain privacy whilst being aesthetically acceptable.

### Impact on the amenity of the area

6.5 The proposal will not adversely affect the amenity of the surrounding area as it is an extension to an existing facility and appropriate screening and boundary treatments are proposed where the site bounds onto adjacent residential properties.

### Planning History

6.6 Application 97/0428/LA for a proposed extension to existing cemetery was approved subject to conditions on 29 July 1997.

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

7.1 There are no financial implications or legal implications arising from the determination of this application other than in terms of the Council implementing its own development.

## **8. CONCLUSIONS**

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

8.2 As detailed previously in this report the proposal is considered to be in compliance with the applicable policies in the Development Plan. The material considerations are generally supportive of the proposal with the exception of the objection. However as stated above, the key concerns of the objector are considered to have been adequately addressed.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to conditions listed in the attached sheet.**

### **CONTRARY DECISION NOTE**

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

**Alan Neish**  
**Head of Planning and Economic Development**

**RW/HM**  
**31 August 2010**

**FV/DVM**

### **LIST OF BACKGROUND PAPERS**

1. Application forms and plans
2. Statutory Notices and Certificates
3. Adopted East Ayrshire Local Plan
4. Alteration to the East Ayrshire Local Plan with Modifications
5. Planning application 97/0428/LA
6. Letter of objection
7. Consultation responses

Anyone wishing to inspect the above papers should contact David Wilson, Acting Senior Planning Officer on 01563 576779.

**Implementation Officer: Dave Morris**

TP24

**East Ayrshire Council**

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

**Application No: 10/0134/PP**

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Location	Kilmaurs Cemetery Kirkton Road Kilmaurs Kilmarnock
Nature of Proposal:	Change of use of agricultural land to form extension to existing cemetery
Name and Address of Applicant:	Mr Ian Allan Outdoor Amenities Western Road Depot Western Road Kilmarnock KA3 1LL
Name and Address of Agent	EAC Asset Improvement Service Lugar Council Offices Rigg Rd Lugar Cumnock KA18 3JQ

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Officer's Ref: David Wilson  
01563 576779

The above Planning Permission application should be approved subject to the following conditions:

1. Notwithstanding the plans and details hereby approved, details of any proposed landscaping within the site shall be submitted for the written approval of the Planning Authority prior to works recommencing and shall thereafter be implemented as approved on site during the next available planting season.

Reason: In the interests of visual amenity.

2. Notwithstanding the plans hereby approved, details of the height, materials and colour of all boundary treatments shall be submitted for the written approval of the Planning Authority prior to works

recommencing on site and shall be constructed in accordance with such details thereafter and be completed prior to the use commencing.

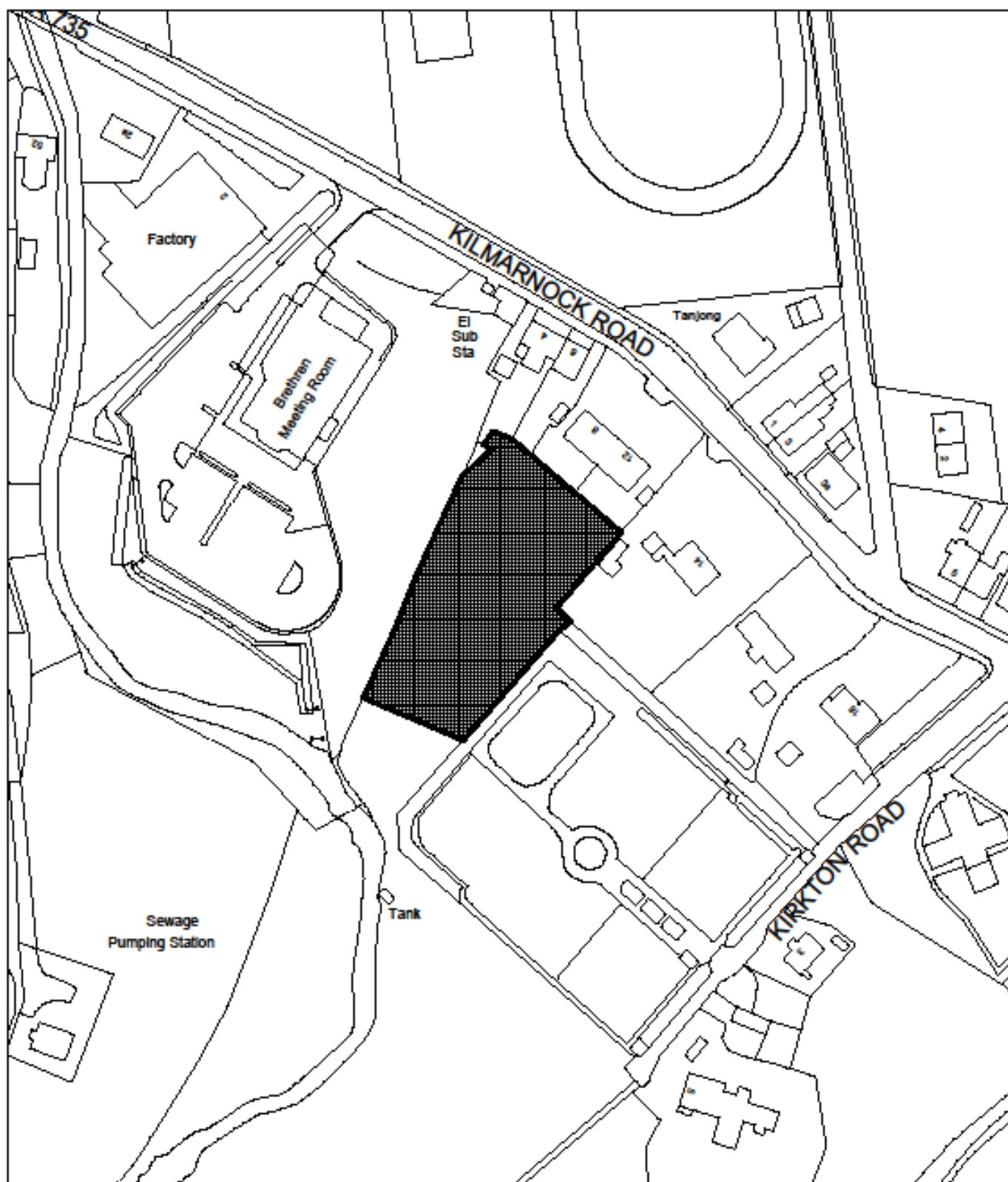
Reason: In the interests of visual amenity and to maintain the character and setting of the area.



3. No burial lairs shall be formed in the area hatched red on approved plan 09/068/NS/XW-01 until full drainage details have been submitted to and approved by the Planning Authority, in consultation with the Scottish Environment Protection Agency.

Reason: To ensure that adequate drainage arrangements are in place in the interests of protecting the water environment and public health.

#### Reason for the Decision

The proposal is compliant with the development plan and the material considerations, on balance, do not indicate that the application should be refused.



<p><b>Title/Location</b></p> <p><b>Kirkton Road</b></p> <p><b>Kilmaurs</b></p> <p><b>Application No. 10/0134/PP</b></p>	<p><b>East Ayrshire Council</b></p> <p>Department of Neighbourhood Services          Planning &amp; Economic Development Service.          6 Croft Street          Kilmarnock KA1 1JB          Tel: (01563) 576790 Fax: (01563) 576774          E-Mail : <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a>          Com Date: 10/09/2010</p>
<p><b>Key</b></p> <p> <b>Application Site</b></p>	<p style="text-align: center;"></p>



To be Developed  
 Not to be Developed

Secondary       Cemetery  
 Other             In Use / O.S.  
 Transfer Area   

**East Ayrshire Council**  
 Technical Services,  
 Council Offices,  
 Kilmarnock,  
 KA16 3JG.  
 Tel: 01563 55-6224  
 Fax: 01563 55-6225



**Project:**  
 Proposed Cemetery Extension

**Location:**  
 Kirkton Road, Kilmarnock

**Client:**  
 Neighbourhood Services

**Drawing No:**  
 Location Plan

**Project No.:** 09/068/NS/XW

<b>Scale:</b> 1 : 600	<b>Date:</b> 09/08/10	<b>Rev:</b> G. S.
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**Drawing No. 09/068/NS/XW-01**