

**Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle**

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**Reference No:** 11/00464/PP

**Planning Hierarchy:** Local Development

**Applicant:** Bossard's Patisserie

**Proposal:** Change of use of footpath to form outside seating area

**Site Address:** Bossard's Patisserie 1 Gibraltar Street, Oban, Argyll, PA34 4AY

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**DECISION ROUTE**

(i) Local Government Scotland Act 1973

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Use of footpath to form outside seating area associated with cafe
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**(B) RECOMMENDATION:**

Having due regard to the development plan and all other material considerations, it is recommended that planning permission be granted subject to the attached conditions.

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**(C) HISTORY:**

There is no relevant planning property history.

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**(D) CONSULTATIONS:**

Area Roads Manager

Report dated 18 April 2011

No objection subject to conditions re: barriers, duration and layout.

**(E) PUBLICITY:**

The proposal has been advertised in the local press as it affects the setting of a listed building. A site notice was also erected; both share a closing date of 05.05.2011.

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**(F) REPRESENTATIONS:**

None received.

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**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

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| (i) Environmental Statement:   | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement:   | No |
| (iv) A report on the impact of the proposed development                                    | No |
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**(H) PLANNING OBLIGATIONS**

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|---|----|
| (i) Is a Section 75 agreement required: | No |
|---|----|
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|--|----|
| (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: | No |
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**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 13a – Development Impact on Listed Buildings  
LP ENV 19 – Development Setting, Layout and Design

- (ii) **List of other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Scottish Planning Policy (February 2010) – Town Centres and Retailing paragraphs 52 – 65

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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** No

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** Yes

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**(O) Requirement for a hearing (PAN41 or other):** No

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**(P) Assessment and summary of determining issues and material considerations**

Planning permission is sought for the change of use of an area of footpath to form a small outside seating area along the wall of Bossard's Patisserie, 1 Gibraltar Street, Oban. The application only requires committee referral as the Council owns the land.

The proposal falls within the Oban settlement zone where there is a general presumption in favour of appropriate development that underpins the vitality and vibrancy of the town centre.

The proposal accords with Local Plan policy ENV 1 as it is of an appropriate form and scale in an appropriate location. Barriers will be erected to enclose the seating area in

the interests of public safety and to define the cafe customer space from the remaining public footpath. The use of the outside seating area will contribute to the character of Oban, particularly in the summer months; it will also benefit the business by increasing footfall with the seating area in place there remains ample space in this location for safe pedestrian access as well as easy through access for prams and wheelchairs.

Whilst the building adjacent to the patisserie – ‘1 High Street’ or ‘13 Argyll Square’ is a Category B listed building, the outside seating area will have a localised visual impact and will not unacceptably detract from the setting of the listed building.

The Area Roads Manager confirms no objection to the proposal subject to a condition requiring suitable barriers to enclose the seating area. It is highlighted that separate permission to occupy the footway under roads legislation is required from Development and Infrastructure Services, which is appropriately highlighted by a note to the applicant. The Area Roads Manager has recommended that the consent be limited to a period of five years given that it is development involving use of part of the highway, but as occupation of the footway will need to be the subject of an annual permit issued by them, it is not considered necessary to limit permission to a temporary period for planning purposes, as the Council will retain direct control over the duration of the use under roads legislation.

With the above assessment in mind I recommend that planning permission be granted subject the conditions attached to this permission.

Members are advised that a further application for an alternative proposal for a slightly larger external seating area, extending out to an existing notice board (planning reference 11/00710/PP) appears elsewhere on the agenda.

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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**(R) Reasons why planning permission should be granted**

The proposal is acceptable in terms of location, appearance and setting. The proposal raises no adverse privacy or amenity issues, nor unacceptable impacts on pedestrian safety. The formation of the outdoor seating area will contribute to Oban’s cafe culture and vitality. The proposal accords with structure plan policy STRAT DC 1 and local plan policies LP ENV 1, ENV 13a and ENV 19 of the adopted local plan.

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**(S) Reasoned justification for a departure to the provisions of the Development Plan**

N/A

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**(T) Need for notification to Scottish Ministers or Historic Scotland:** No

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**Author of Report: Daniel Addis**

**Date: 31 May 2011**

**Reviewing Officer: Stephen Fair**

**Date: 31 May 2011**

**Angus Gilmour  
Head of Planning**

## CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00464/PP

1. The development to which this permission relates must be begun within three years from the date of this permission.

*Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).*

2. At all times when the external seating area is in use, the external seating area shall be bound by a restrictive barrier at both ends and the outside edge, the details of which shall be submitted to and approved in writing by the Planning Authority, prior to the commencement of the use hereby approved.

*Reason: In the interests of public safety, to ensure that the seating area does not become a thoroughfare and to ensure that the use is contained within the application site.*

3. Unless otherwise agreed in writing by the Planning Authority, the external seating area as identified on the approved plan shall only be used between the hours of 09:30 and 20.00. Outwith these time periods, the tables, chairs and barriers shall be removed from the footway and securely stored.

*Reason: To protect the amenity of the area and to ensure that the use of the pavement as a seating area is restricted to the hours of operation of the cafe.*

4. The development shall be implemented in accordance with the details specified on the application form dated 25/03/11 and the approved drawing reference numbers:

Plan 1 of 1 (Location Plan and Site Plan at scale of 1:2500 and 1:200)

unless the prior written approval of the Planning Authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

## NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the planning authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997(as amended), it is the responsibility of the developer to submit the attached 'Notice of Completion' to the planning authority specifying the date upon which the development was completed.
- The Area Roads Manager has highlighted that in addition to this planning permission separate permission to occupy the footway is required directly from Development and Infrastructure Services under roads legislation. Contact: 01631 569170.