

**PROPOSED CLOSURE/DIVERSION OF PUBLIC PATH  
ROUTE BETWEEN CORRAN ESPLANADE AND CHARLES STREET AND GEORGE  
STREET, OBAN**

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**A) INTRODUCTION**

This report advises of the requirement to close/divert pedestrian rights of way crossing the site of the Argyll Hotel, Oban in connection with permitted works of demolition and redevelopment of the site for a new hotel building.

**B) RECOMMENDATION**

It is recommended that:

- 1) The Director of Customer Services be authorised to make a public path extinguishment or diversion order under Sections 34 and 35 of the Countryside (Scotland) Act 1967, as appropriate, in respect of the rights of way indicated on the attached plan, on securing from the owner/prospective developer of the site in question agreement to meet the Council's full costs in promoting such an order;
- 2) In the event, following advertisement, that representations are made by the public against such an order, that the matter be remitted to the Committee for further consideration;
- 3) In the event that the order is unopposed, that it be referred to Scottish Ministers for confirmation.

**C) BACKGROUND**

Members will recall listed building consent having been granted for the demolition of the derelict Argyll Hotel and planning permission having been given for the redevelopment of the site for a replacement hotel building. One of the complications with the redevelopment of the site is the existence of a pend through the building to be demolished, which could not be readily incorporated into the replacement building without separating the ground floor of the new building into two unconnected sections, which would be most undesirable in the context of a modern hotel. Whilst a pend is still required to provide service access to the rear of the new hotel, the adjacent Oban Inn and existing property to the rear on Charles Street, this is to be situated in an alternative position at one end of the building (adjacent to the Oban Inn) where it would not impinge to the same degree on the functionality of the new hotel.

Planning permission 10/01831/PP gave cognisance to this situation via the requirements of condition 8, which states:

*Prior to work starting on site, the applicant shall secure either the diversion or extinguishment of any public access rights through the development site by way of a Stopping up or Diversion Order in accordance with the appropriate statutory process. No obstruction of the route afforded by the Pend (notwithstanding the demolition of the building incorporating that Pend) should take place until the required Stopping up or Diversion Order has been sought and has taken effect. For the avoidance of doubt, such works shall be undertaken at the expense of the developer.*

The applicant has now approached the Director of Customer Services requesting that the statutory process be commenced on his behalf.

#### **D) PROCEDURE**

The Countryside (Scotland) Act 1967 provides that a Planning Authority may promote public path extinguishment or diversion orders, as appropriate, when it appears expedient to them on the grounds that either a path is not needed, or that it should be diverted in order to secure the efficient use of land.

In this case, the Pend forms an integral part of the building to be demolished, and provides a means of access for servicing and access to areas of backland to the rear of the hotel. By virtue of its connection with other passages, it also affords the opportunity of a through pedestrian route from the Corran Esplanade to George Street via a passage linking to the top of the public staircase at the side of the Regent Hotel; that staircase also providing an alternative pedestrian link between the two roads. Whilst there is no evidence that this route though the backland at the rear of the hotel is widely used, if indeed it is used at all, it is prudent to seek its closure/diversion as part of the redevelopment of the site, not least to avoid the eventuality that some party might seek to establish public rights following the demolition of the existing building, which would be an impediment to the implementation of the consent for the new building.

Whilst the permitted redevelopment proposals secure alternative rear service access to the new hotel and other existing buildings, and if necessary could secure a continued through route for pedestrians to George Street, in the interests of the future safety of users and the security of premises, it would be preferable to take the opportunity stop-up the through route rather than to divert it if a stopping-up order were to prove uncontested. However, in the event that a stopping-up order were to be contested, there would be the opportunity to fall back on a diversion order incorporating the new pend and the service access route to the rear of the hotel. In the event of objections, Committee would have the opportunity to consider the substance of those, and the alternative routes already available, to decide whether to seek Scottish Ministers' confirmation of such an order, or whether, in the circumstances, to seek to pursue the alternative of a diversion order.

The process is one which requires advertisement by way of newspaper and site notices so there is opportunity for interested parties to make representation to the process. In the event that representations are received the matter would be subject to further consideration by Members. In the event of an uncontested order it would be referred onto Scottish Ministers for confirmation.

As the order is required to enable the implementation of a planning permission the landowner/prospective developer would be expected to meet the Council's full costs in promoting such an order.

## **E) IMPLICATIONS**

Policy: None Financial: None Personnel: None Equal Opportunities: None

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