



Planning and Access Committee

Meeting: Monday 25th September 2023

Agenda item 4

SUBMITTED BY:

Director of Place

APPLICATION NUMBER:	2023/0134/DET
APPLICANT:	Rowena Ferguson
LOCATION:	Coach House Coffee Shop Church Road Luss
PROPOSAL:	Further application (under section 42) for planning permission for the removal of condition to form outdoor seating area (99/00258/VARCON) to vary Condition No. 5 to allow the serving of food and drink within the front garden area
NATIONAL PARK WARD:	Ward 1 - Cowal and North Loch Lomond
COMMUNITY COUNCIL AREA	Luss and Arden
CASE OFFICER:	Name: Vivien Emery Tel: 01389 722619 E-mail: vivien.emery@lochlomond-trossachs.org

1. Summary and reason for presentation

- 1.1. The proposal is a Section 42 planning application that relates to a Class 3 Shop (coffee shop) previously approved under planning permission 96/0821/DET. Section 42 of the Planning Act applies to applications for a new planning permission for a development but with different conditions from those attached to the previous permission. In this instance the proposal seeks consent for use of the front/side garden area of the premises for the consumption of food and drink.
- 1.2. Luss and Arden Community Council has submitted an objection to the proposal.
- 1.3. In accordance with the National Park Authority's Scheme of Delegation Section 5.6, applications require to be referred to Members for determination where a statutory consultee, including the Community Council, has formally objected on valid planning grounds and where the officer recommendation is to approve.

2. Recommendation

- 2.1. That Members:

APPROVE the application subject to the imposition of the conditions set out in **Appendix 1** of the report.

3. Background

Site Description

- 3.1. The application site is located to the west of Church Road, within the south eastern part of the village of Luss. It comprises an existing coffee shop and associated garden to the front and side (fronting Church Road) and also a small outdoor area to the rear of the building. The site is located within a National Scenic Area and Luss Conservation Area. There are a number of listed properties within the vicinity, including Luss Parish Church. The churchyard is a scheduled monument.
- 3.2. The coffee shop comprises a single storey building of traditional form and design with a one and half storey projecting gable to the front. A number of residential properties are located to the north of the building and application site. To the west the site is principally bound by a high stone wall and garden ground associated with Luss Manse (Category C Listed). To the south is an area of landscaped open space. On the opposite side of Church Road to the east, there are a number of single storey residential properties (all of which are Listed Buildings). Figure 1 below outlines the application site in red. A photograph taken from the north end of Church Road, looking towards the site is contained within Figure 2.



Figure 1: Location Plan



Figure 2: Coffee Shop on right of photograph (taken from north of Church Street)

Description of Proposal

3.3. The original planning permission which established the coffee shop (Ref: 96/0821/DET) was granted by Argyll and Bute Council subject to a number of conditions. One such condition restricted the total number of covers to be provided, however this condition was subsequently appealed and removed – see planning history outlined within Paragraph 3.6 (Note: the original description for the application that is now under consideration application referred to the variation of a condition that restricted the number of covers to allow for further seats to be provided, however following research on the planning history and confirmation that there was no longer a restriction of this type, the description of the proposal has been updated accordingly). The proposal now under consideration specifically relates to a Section 42 application to vary planning permission 99/00258/VARCON. This permission itself varied the conditions relating to the original 1996 consent for the erection of the coffee shop within the site. It was granted subject to a number of conditions including Condition No.5 which states the following:

(5) No commercial activity associated with the use of the premises as a coffee shop shall be undertaken other than inside the building as approved or within the designated rear garden area as approved. In particular, no food or drink shall be served or consumed within the remaining garden areas associated with the premises.

REASON: Whereas the enclosed rear garden area is capable of accommodating outdoor seating without any detriment to the general

amenity of the area and without affecting the character of the area, such activity in the remaining garden area would have an adverse impact on the character of the area.

- 3.4. As previously described, a Section 42 application seeks a new planning permission for a development but with different conditions from those attached to the previous permission. The applicant wishes to remove Condition No.5 to enable the front and side garden areas to be used for the consumption of food and drink. This area of front and side garden is highlighted in green on the site plan below (Figure 3) and can be seen in the photograph contained in Figure 4. The coffee shop currently has approximately 89 covers inside and 44 within the rear garden areas (with the use of the outdoor garden areas is weather dependant) and operates between the hours of 10am and 5pm seven days a week. The original planning permissions do, however, allow it to operate between 9am and 8pm (April to September) and 9am to 6pm (October to March).

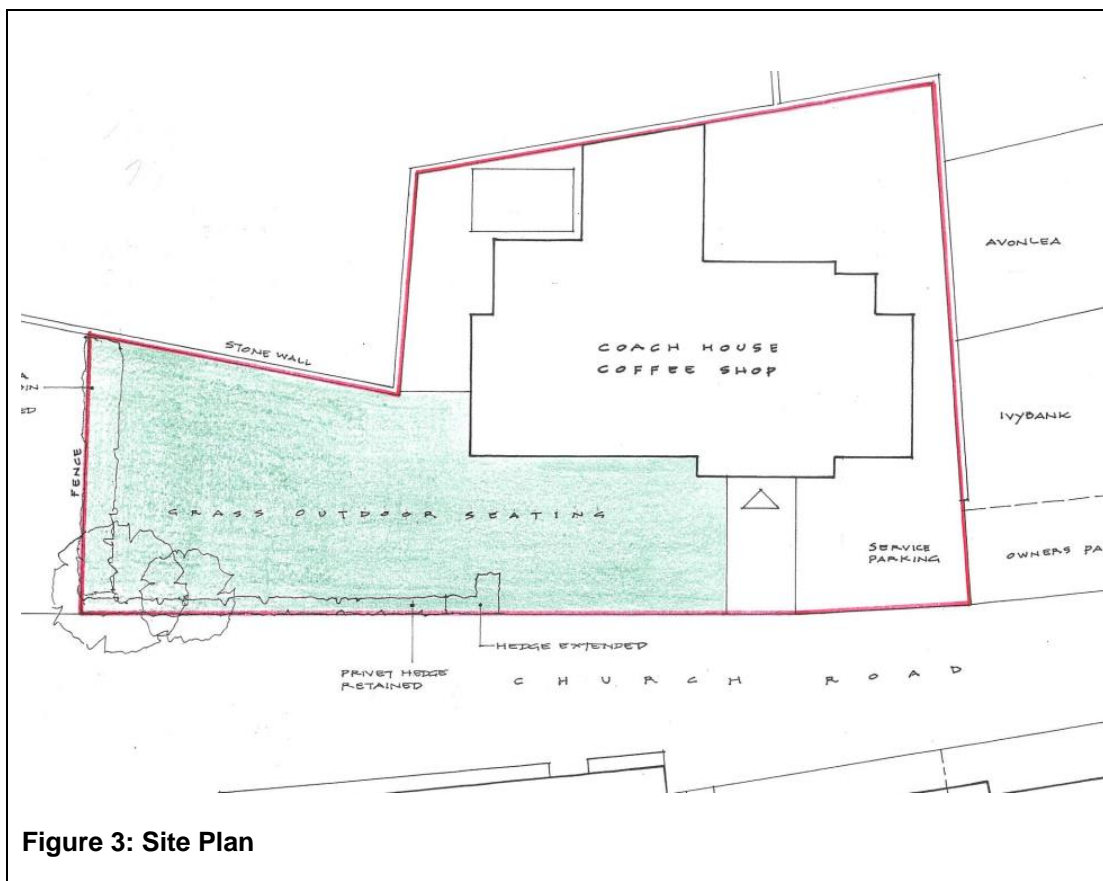




Figure 4: Area of Garden to Front and Side of Coffee Shop which front Church Road

- 3.5. The current Section 42 planning application is retrospective as the garden area in question has been used for outdoor seating since 2020. During the Covid pandemic the Scottish Government encouraged a supportive, pragmatic and flexible approach to temporary developments and changes of use which would enable businesses to diversify or adjust the way they operate – with a particular focus on the use of outdoor space for hospitality business. Planning Authorities were encouraged to allow reasonable, temporary changes during this period through informally relaxing planning controls and agreeing not to take enforcement action against acceptable planning breaches. During this time the applicant utilised the garden area highlighted. The relaxation of planning controls with regard to Covid formally came to an end in September 2022 but the garden has continued to be in use for outdoor seating since then – albeit limited over the winter months. The applicant’s agent was advised that a planning application would be required if the business wished to continue to use this space for serving food and drink.

Planning History

3.6. The planning history of the site is summarised as follows:

96/00821/DET: Erection of Class 3 Shop (Coffee Shop). Approved October 1996 subject to a number of conditions. These included restricting the number of covers to a total of 50 and prohibiting food or drink to be served or consumed within the garden areas.

99/00258/VARCON: Section 42 application for Removal of the condition which limited outdoor seating and to form an Outdoor Seating Area. Approved March 1999. This application approved an outdoor seating area to the rear and varied the wording of a number of other planning conditions on the original consent. In addition to 50 covers inside, it allowed an additional 32 covers in the rear garden area but required that there be no live music played in the rear garden area.

P/PPA/130/44: Planning appeal against the imposition of the condition on 99/00258/VARCON that restricted the number of covers. The appeal was allowed and condition No.4 was varied to remove the reference that restricted the total number of covers inside and to the outside rear.

02/0226/DET: Side and rear extensions to Coach House Coffee Shop. Approved May 2002

2015/0426/DET: Erection of extension to roof to create canopy and erection of glazed canopy. Approved January 2016.

4. Environmental impact and habitat regulations assessment

Environmental Impact Assessment (EIA)

- 4.1. The National Park is identified as a 'Sensitive Area' within the Environmental Impact Assessment (Scotland) Regulations 2011. As a 'Competent Body' the National Park Authority has a statutory duty to consider whether proposals for development should be subject to the EIA process.
- 4.2. In this particular instance it has been determined that an EIA is not required as the proposal is not identified within Schedule 2 of the Regulations.

Habitat Regulations Assessment (HRA)

- 4.3. The Habitats Regulations require that where an authority concludes that a development proposal is likely to have a significant effect on a European site (SPA or SAC) it must undertake an Appropriate Assessment (AA) of its implications for the European site in view of the site's conservation objectives.
- 4.4. In this instance the proposal will not have any impact on a SPA or SAC.

5. Consultations and representations

Responses to Consultations

- 5.1. **Luss and Arden Community Council** have objected to the proposals. They are of the view that the reasons for the condition on the original planning consent remain valid and object on the following grounds:
- Detrimental impact on the areas overall amenity and negative impact on both residents and visitors. The impact on residents has been made clear in the separate objections submitted.
 - The application is contrary to the Park Aims, the Planning (Listed Buildings and Conservation Areas)(Scotland) Act and a number of policies within the Local Development Plan including Overarching Policy 2, Historic Environment Policies 2 and 6 and Natural Environment Policy 1.
- 5.2. **Argyll and Bute Council Environmental Health** have no objections to the proposals subject to conditions relating to noise (restricting the hours of use of the front garden area), lighting and waste.
- 5.3. **Argyll and Bute Council Roads Authority** note that the application does not suggest any alterations to either the existing access or parking provision and has no objection to the proposals.
- 5.4. **West of Scotland Archaeology Service** advise that the site is in a location where there would be some potential for ground disturbance to encounter sub-surface archaeological material relating to the early development of the village. However the nature of the current proposals means that the potential for material of this type to be affected is likely to be minimal as siting tables and chairs on the grassed area outside the coffee shop is unlikely to require any meaningful ground disturbance.

Representations Received

- 5.5. Eleven representations have been received. Nine in objection and two in support of the application. The majority of the letters of objection that have been received are from residents of Church Road. The two letters of support have been received from non-residents of Luss.
- 5.6. In summary the matters raised in **support** are:
- The proposal will not result in an increase in visitor numbers to Luss.
 - The proposal may reduce the number of takeaways and reduce litter.
 - When visiting I have not experienced customers shouting or making noise.
 - Independent businesses should be supported.
- 5.7. In summary the matters raised in **objection** are:

Privacy and Residential Amenity

- Luss has experienced a significant increase in the number of visitors and the community should be protected.
- The reason for Condition 5 was to protect the privacy and amenity of adjoining residential properties – there is no reason this should be lifted. Since the coffee shop opened visitor numbers to Luss have significantly increased and if the application is approved it will exacerbate an already serious problem.
- There is a constant flow of pedestrians on Church Road going to and from the coffee shop and the impacts are unbearable.
- This will significantly increase the number of covers from what was originally approved.
- Not all of the existing garden area is screened by a hedge and visitors to the premises look in neighbouring garden and windows.
- Noise impacts of 60 people using the outside area. The Coffee Shop has up to 128 covers which is a breach of the original planning consent.
- The back gardens of houses on the east side of Church Road are subjected to noise from jet skis, music and groups of people. Their only peace is from the small area of garden that is opposite the Coffee Shop.
- Deliveries take place very early in the morning (sometimes as early as 1 and 2 am) and this could get worse if the number of covers is increased.
- Other recent commercial developments within the vicinity have recently been refused.
- As tables have been in use within the garden since 2020 neighbours have experience of the effects and they consider the main impact to be noise disturbance.

Traffic and Parking

- There is constant flow of vehicles and pedestrians going past neighbouring doors to visit the coffee shop. Residents have experienced visitors to the Coffee Shop garden sitting on their cars.
- Customers often park in the private residential parking area.
- Road Safety issues from children and dogs running onto Church Road.

Impact on Conservation Area

- The tables and chairs are not in keeping with the Conservation Area.

Health and Safety

- Food and drink served in the garden will attract more vermin and seagulls.

5.8. The full content of the representations is available to view on the National Park Authority's Public Access website (<http://www.lochlomond-trossachs.org/planning/> click on view applications, accept the terms and conditions then enter the search criteria as '2023/0134/DET'). It should be noted that when the front/side garden of the Coffee Shop first became operational (during the Covid pandemic when the Scottish Government encouraged a flexible approach to changes of use – see Paragraph 3.5),

a number of complaints were received from local residents regarding the use of the garden and impacts on their residential amenity.

6. Policy context

The Development Plan

- 6.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 states that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. The Development Plan comprises the National Planning Framework 4 (NPF4), Loch Lomond & The Trossachs National Park Local Development Plan (LDP) (adopted 2016) along with Supplementary Guidance (SG).

National Planning Framework 4 (NPF4) (Feb 2023)

- 6.2. NPF4 is the fourth National Planning Framework for Scotland. It sets out the Scottish Governments priorities and policies for the planning system up to 2045 and how the approach to planning and development will help to achieve a net zero, sustainable Scotland by 2045. NPF4 supports the achievement of six overarching spatial principles (just transition, conserving and recycling assets, local living, compact urban growth, rebalanced development, and rural revitalisation) through the planning and delivery of sustainable, liveable and productive places. NPF4 contains 33 policies to guide development management decisions. The following NPF4 policies are relevant to this proposal:

Policy 7 – Historic Assets and Places
Policy 13 – Sustainable Transport
Policy 14 – Design Quality and Place
Policy 15 – Local Living and 20 minute Neighbourhoods
Policy 27 – City, Town, Local and Commercial Centres
Policy 29 – Rural Development
Policy 30 - Tourism

Local Development Plan (2017-2022)

- 6.3. The Local Development Plan (LDP) sets out the vision for how the National Park should change over the next 20 years. The LDP covers the period from 2017 to 2026 and is updated every 5 years.
- 6.4. The following LDP Policies are relevant to the determination of this application:

Overarching Policy 1: Strategic Principles
Overarching Policy 2: Development Requirements
Visitor Experience Policy 1: Location and Scale of new development
Visitor Experience Policy 2: Delivering a World Class Visitor Experience
Transport Policy 2: Promoting Sustainable Travel and Improved Active Travel

Options

Transport Policy 3: Impact Assessment and Design Standards of New Development

Historic Environment Policy 2: Conservation Areas

Historic Environment Policy 3: Wider Built Environment and Cultural Heritage

- 6.5. Full details of the policies can be viewed at: <http://www.lochlomond-trossachs.org/planning/planning-guidance/local-development-plan/>

Supplementary Guidance – West Loch Lomondside Rural Development Framework

6.6. The adopted Supplementary Guidance provides support to the policies of the LDP and carries the same weight in the determination of applications. The Supplementary Guidance of relevance to this application comprises the West Loch Lomondside Rural Development Framework. This guidance sets out the strategy for new development within Luss and the surrounding area and provides guidance on how planning policies will be applied. The area strategy comprises several strands including:

- **Increase Economic Activity** within the village, through high quality tourism offering alongside commercial and economic development in Luss, and appropriate rural diversification and economic development in the wider rural area
- **Improved and New Infrastructure** within the village to better manage and orientate visitors and achieve better balance between local residents way of life and coping with influx of large volumes of visitors.

6.7. The Guidance also summarises a number of key issues to be addressed by the development strategy. These include the following:

Jobs and Economy

- Tourism and agriculture dominate the local economy and relative to other parts of the Scottish economy, remuneration in these sectors is relatively low.
- It is felt that the commercial and employment opportunities resulting from visitor numbers are not being fully exploited. In addition, business generated by visitors is seasonal.

Parking

- Lack of, and poor management of, parking within the village with visitors parking along village streets, creating problems for local people and impacting on the visitor experience and perception of Luss.

Visitor Experience and Management

- Luss is a popular destination for day visitors, arriving by car, coach or boat and can experience extreme visitor pressures at peak times (e.g. bank holidays).
- The village can feel swamped by visitors. There is a sense that the village bears the brunt of a major tourist invasion without being rewarded with economic benefits.

Other Material Considerations

National Park Aims

6.8. The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:

- to conserve and enhance the natural and cultural heritage of the area;
- to promote sustainable use of the natural resources of the area;
- to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- to promote sustainable economic and social development of the area's communities.

6.9. Section 9 of the Act states that these aims should be achieved collectively. However, if in relation to any matter it appears to the National Park Authority that there is a conflict between the first aim, and the other National Park aims, greater weight must be given to the conservation and enhancement of the natural and cultural heritage of the area.

National Park Partnership Plan (2018-2023)

All planning decisions within the National Park require to be guided by the Partnership Plan, where they are considered to be material, in order to ensure that they are consistent with the Park's statutory aims. The following outcomes and priorities of the Partnership Plan are relevant:

Priority 2.1 – Landscape and Heritage – protecting views to landmark features

Visitor Experience Priority 6.3 – Water Recreation - Encouraging more participation in established and emerging water recreation activities such as fishing, kayaking, canoeing, open water swimming and board sports by promoting suitable locations and itineraries as well as clear water safety advice.

Visitor Experience Priority 7.1 – Growing Tourism Markets – Encouraging new and established tourism businesses to innovate and collaborate by capitalising on growing markets

Visitor Experience Priority 8.1 – Visitor Management

Rural Development Priority 10.2 – Built Heritage – Conserving and enhancing the built and historic environment.

A draft revised NPPP was approved for public consultation by the National Park Board in March 2023 although this carries very limited weight in decision making at present.

7. Summary of supporting information

7.1. The applicant has submitted a statement in support of the application. This is summarised as follows:

- Since Covid the tourism landscape has changed significantly. Government direction was for customers to remain outside to lower infection risks. Although that advice has now been lifted, it has resulted in a significant change in behaviour. Our customers still wish to purchase takeaways and sit on the front lawn. We wish to continue to offer them that experience.
- This application concerns 60 covers within the front and side garden area. The lawn could be used much more intensively but this number will allow us to maintain the area by moving the tables periodically.
- Recent work suggests that there are in excess of 850,000 visitors to Luss per year with the majority visiting over summer. Residential amenity and privacy within the village is affected by that number of people wandering the streets, passing doors and windows. We are proposing a seating area, much of which is set behind our well-established hedge. This provides effective screening and ensures there is no loss of privacy or detriment to amenity.
- We are only open daytime hours from 10am to 5pm and are unlicensed.
- Within the village centre both the Luss Fish & Chip Shop and the Village Rest have permission for similar out-front seating. Both are fully licensed with longer opening hours.
- We have many good relationships within the village from individuals to organisations and we support the community at every available opportunity.
- Our team of 30 staff is drawn from the area, and their wages contribute to the local economy.
- Granting this seating would allow us to respond to customer demands and assist recovery from the financial drain of Lockdown.
- Failure to approve this application would critically not improve either residential amenity or privacy for locals. Visitors would still be able to purchase a takeaway from us, however they would be left walking around the village adding to the numbers on the streets.

8. Planning assessment

8.1. The key issues for consideration in the determination of this application are:

- Principle of Development
- Residential amenity – noise and disturbance
- Other Environmental Issues
- Traffic and parking
- Impact on the setting of the Luss Conservation Area and Listed Buildings.

Principle of Development

8.2. Luss Coffee Shop is a small business that offers a service to locals and tourists and the proposal requires to be assessed against both relevant

local centre and tourism policies. National Planning Framework 4 (NPF4) Policy 27 (City, town, local and commercial centres) supports development in sustainable locations which provide communities easy access to goods and services. NPF4 Policy 30 (Tourism) supports extended tourist facilities in locations identified by the Local Development Plan. Visitor Experience Policy 1 of the LDP supports improved/expanded visitor facilities which are located within towns or villages. It also supports the small-scale expansion of existing tourism businesses. The proposed expansion of an existing coffee shop of this scale, within a sustainable village location, would therefore be supported in principle by both NPF4 and the Local Development Plan.

Residential Amenity

- 8.3. NPF4 Policy 30 (Tourism) states that for new or extended tourist facilities, proposals will take into account compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors. Overarching Policy 2 of the Local Development Plan states that development proposals should not conflict with nearby land uses and must avoid any significant adverse impacts of noise, loss of privacy/sunlight. Residential amenity, and in particular issues relating to noise, disturbance and privacy, is a key consideration in the assessment of the application and it has been raised as a concern in all the representations objecting to the proposal.

- 8.4. The Coach House Coffee Shop is a well-established business within the village of Luss and has been operating from its premises at Church Road since 1998. It is located within a residential street and is the sole commercial property on Church Road. The section of garden where seating is proposed is bound by a hedge to the east (along the boundary with Church Road), a fence/hedge to the south, a high stone wall to the west and the gable end and front garden of the coffee shop to the north. The existence of the hedge along the boundary of Church Road provides partial screening of the residential properties on the other side of the road. Food and drink will be served via the front door of the coffee shop. Figure 5 below shows a photograph of the outdoor seating area taken at a recent site visit.



Figure 5: View of Outdoor Seating

8.5. As previously described, a planning condition currently prohibits the serving of any food or drink within the front/side garden areas associated with the premises. It is proposed to remove this condition to allow an outdoor seating area for up to 60 people. A key determining factor in the consideration of the proposal is whether additional noise and activity resulting from the development is of significant harm to residential amenity as to justify refusal of the application. In this case, the development primarily affects the front aspect of 6 residential properties on Church Road (4 of which are located across from the site). Residents of all these properties have objected on grounds of residential amenity. These properties are located directly adjacent to the public road (as there is no footpath) with some having small areas of gardens facing Church Road. All have larger areas of garden ground to the rear of their properties. These gardens back onto a public footpath and a small area of beach adjacent to the shores of Loch Lomond. An aerial view of the site and the dwellings opposite is outlined in Figure 6 below.



Figure 6: Aerial View with proposed outdoor seating area highlighted in yellow

- 8.6. With regards to noise and general increase in activity, cognisance must be given to existing activity/noise sources in the locale to form a baseline from which to assess the impact of increased activity. Luss attracts over 850,000 visitors per year. The streets, businesses and loch shore in Luss can therefore be extremely busy, particularly during peak season. The main thoroughfare through the village is along Pier Road as this is the main walking route from the public car park to the loch shore. Church Road joins Pier Road at a point approximately 25 metres from the Coffee Shop and is also a popular walking route for visitors exploring the Conservation Village. Given the nature of the residential properties on Church Road, which are sited either on or very close to the roadside, they

experience visitors looking into their gardens and front windows (this has been verified by several of the objectors).

- 8.7. Whilst acknowledging existing levels of visitor numbers within the locality, it is also important to note that the Scottish Government has recognised that the pandemic generated an increased appetite for outdoor socialising, eating and drinking. Despite a Scottish climate, this has prevailed beyond the pandemic. In this context it is further notable that the Scottish Government has gone on to, very recently, introduce new permitted development rights to enable business to retain and establish moveable outdoor furniture on roads and pavements - thereby no longer requiring an application for planning permission, but retaining road safety and licencing controls. Development is only permitted where the furniture would not cause an obstruction on the public road. This is unlikely to be possible on Church Road given the lack of pavements, however it is important to note that the Scottish Government has now permanently relaxed previous planning controls for outdoor seating.
- 8.8. The area of garden subject to this planning application has been utilised for serving food and drink since covid lockdown rules were relaxed. The coffee shop's openings hours are 10am to 5pm seven days a week and the premises is not licensed. Given the proposal is retrospective, the effects of the use of the front/side garden area have been able to be assessed by planning officers on different days of the week (including weekends) and during different weather conditions. The operation of the outdoor area has been observed at times when only a few tables have been occupied and at times of almost full occupancy. Existing noise sources such as boat/jet ski noise from Loch Lomond and the number of visitors using the beach area and exploring the village on foot were also observed during site visits. Noise levels resulting from customers within the outdoor seating area were generally low and there was no evidence of noise levels that would significantly impact upon the use or enjoyment of neighbouring residential premises. On visits where the seating area was at its busiest it was noted that Church Road was also busy with other tourists. It is also noted that for those properties on Church Road that do have front gardens, these are public facing and already subject to a level of noise and disturbance from members of the public exploring the streets. A relatively small section of the Manse garden to the west has a common boundary with the site however a high stone wall along this boundary of the site provides adequate screening. Residents are already likely to experience impacts on their amenity due to existing visitor numbers to the village. It is considered that, given the level of daytime activity within Church Road, the use of the coffee shop front/side garden (subject to several safeguarding conditions as set out later in this report) would not be materially harmful in terms of noise and disturbance. Conditions recommended include carefully defining the consented area, restricting the total number of covers to a maximum of 50, prohibiting the playing of music, prohibiting the cooking of food outside and limiting the opening hours of the outdoor area.

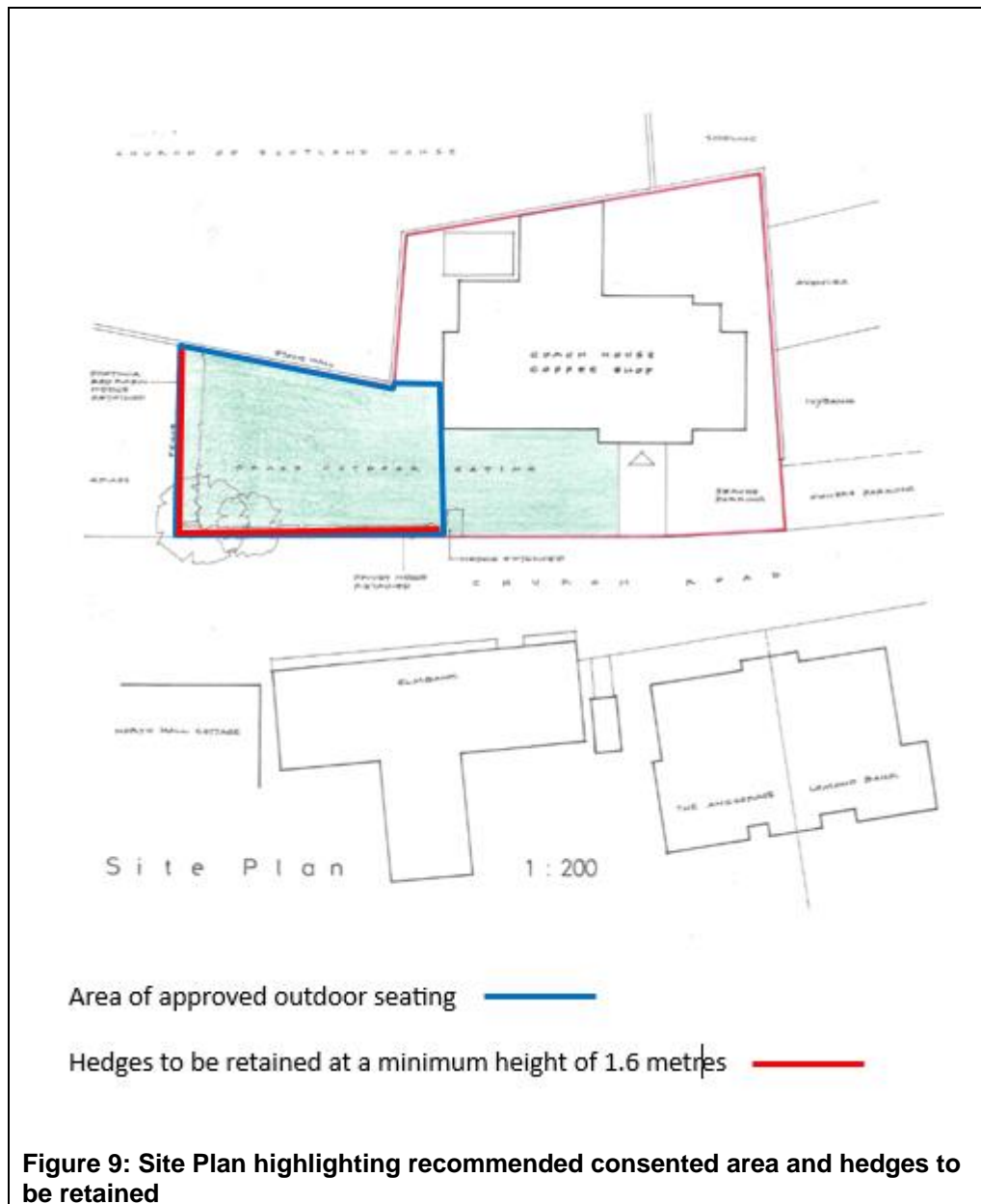
- 8.9. It is acknowledged that there would be some noise generated by customers of the coffee shop eating and drinking outdoors. However this has to be considered in the context of an already busy environment at popular visitor times and the ambient noise that this generates. It is also recognised that the observations undertaken to date by officers assessing the use of the outdoor space are inevitably 'snapshots in time'. Nevertheless, with the suggested conditions applied to any permission, it is considered that the proposal would not give rise to a level of general noise and disturbance at an intensity that would be disruptive or intrusive. Consequently, the proposal would not significantly harm the amenity of neighbouring dwellings.
- 8.10. In addition to noise, consideration must be given to impacts on the privacy of nearby residential properties. As described in paragraph 8.4, the majority of the proposed seating area is partially screened by existing hedges (the hedge along the boundary with Church Road is shown in Figure 7 below) or high stone wall (along the boundary of the garden with the Manse). As a result, when seated, only some front windows of properties on Church Road are visible and, of these, only the upper part of the windows can be seen. This is not the case for the area of garden directly to the front of the coffee shop and adjacent to the front door, where no hedge exists. Customers using this area would be looking directly across to front windows and the small areas of front gardens opposite. Some windows/gardens would be visible at an angle only, however residents of these properties would be looking directly over to the coffee shop, at a distance of approximately only 7 metres, (albeit across a public roadway) to customers eating and drinking. The current outdoor seating within this area (shown in Figure 8 below) would result in unacceptable impacts on the privacy and amenity of these properties. For these reasons the use of this area of garden is not considered to be acceptable and a condition is recommended to ensure that no serving of food and drink takes place within that part of the garden i.e. the section of garden where no hedge exists. The applicant has confirmed their agreement to this compromise on the area that can be used for outdoor seating. A further condition, with regard to the retention of the existing hedges, at a height not less than 1.6 metres (to protect the privacy of other residential homes) is also recommended (Figure 9 below outlines the consented area and the hedges to be retained). It should be noted that the applicant also intends to slightly extend the hedge along Church Road and westwards into the existing garden and should also be secured through a condition.



Figure 7: Existing hedge along part of boundary with Church Road



Figure 8: Outdoor seating area with no hedge screening



8.11. As well as assessing impacts on nearby residential properties, consideration must also be given to whether the proposal will result in a material increase in visitor numbers to a scale that could exacerbate the visitor pressures currently experienced in and around the village. The West Loch Lomondside Rural Development Framework identifies Luss and its environs as an area that experiences significant visitor pressure, and the Partnership Plan notes that more intense management is required to reduce the impacts of high levels of visitor pressure and recreation use. The majority of coffee shop customers are likely to be visiting Luss to experience the historic village and its natural environment rather than to specifically visit the coffee shop as a destination. In the context of existing visitor numbers, it is not considered that the expansion on this scale of

this existing small business will result in any material change on the impacts of visitor pressures currently experienced within the village.

Other Environmental Issues

8.12. In addition to impacts of noise, disturbance and privacy, a number of objectors have raised concerns regarding the siting of bins, odour and presence of vermin. These are issues that would be covered by Environmental Health controls. It should be noted that Argyll and Bute Council as Environmental Health Authority have not raised any objections to the proposals. They do recommend a number of conditions and these include that any waste be disposed of in lidded receptacles. An informative is recommended in this regard.

8.13. Concerns have also been raised with regard to the timing of deliveries and in particular milk deliveries that are made during early unsociable hours. Given the small scale of the proposed development relative to an established business it is not anticipated that any material increase in the number of deliveries will be necessary.

Roads and Accessibility

8.14. The majority of public parking for the village of Luss is located within two large car parks – one publicly owned (by Argyll and Bute Council) and one privately owned (by Luss Estates). There is limited on street parking within the village and there has been longstanding traffic related issues with residents and businesses often being unable to park near their properties. These issues worsened during the pandemic and the lifting of lockdown. As a result, Argyll and Bute Council has introduced a temporary traffic order which introduced parking restrictions and parking permits for residents and businesses. The Council has since approved a permanent traffic order and it is understood that they intend to implement this soon and it will be enforced following the completing of signage and lining works.

8.15. A small parking area that can accommodate a few cars is located within the boundaries of the Coffee Shop to the north east of the main entrance. A condition on the 1996 consent required there to be no provision for any vehicle parking within the curtilage of the coffee shop other than for service deliveries. It is understood that the small parking area is used for deliveries and has also been used for accessible parking. Traffic management arrangements within Luss will continue to encourage (and soon require) visitors to park within the off-street public car parks. The Roads Authority has no objection to the proposals. It is noted that objectors have raised issues with coffee shop customers parking within resident only bays. This is an enforcement issue for the Roads Authority.

Impact on Character of Conservation Area and Listed Building

- 8.16. This site is located within Luss Conservation Area and is within the setting of a number of listed buildings on the other side of the Church Road as well as the church itself. Additionally the churchyard is a scheduled monument. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires planning authorities to have special regard to the desirability of preserving any listed building, its setting or any special features of historic or architectural interest it possesses. Furthermore Section 64(1) of that Act requires the planning authority to have special attention to the desirability of preserving or enhancing the character or appearance of any conservation area. NPF Policy 7 is in line with the Historic Environment Policies of the Local Development Plan and requires the the character and appearance of the conservation area to be preserved or enhanced. It also requires development affecting the setting of a listed building to preserve its character/historic interest and to have no significant adverse impacts on the integrity of the setting of a scheduled monument.
- 8.17. The importance of the area of ground which is the subject of this application, in forming part of a larger area of open space in the village, is discussed within the draft Luss Conservation Area Appraisal where it states that one “key open space in the village is at the core of the village formed by the garden to the manse and the cemetery and the grassed area to the south of the café.” It is not considered that the siting or appearance of the tables and chairs would have a negative impact on setting of any listed buildings, or on the appearance of the conservation area as the open space would still be retained. Restricting the total number of covers to 50 will ensure that the open space character of the garden is retained, particularly when viewed from the north, and a condition is recommended in this regard. Views towards the site from the church would be screened by the existing mature hedging.
- 8.18. It is important to recognise that the special interest and character of historic assets is not simply about their visual quality. Historic Environment Scotland explain in their Managing Change Guidance on Setting that this includes how a place is *experienced*, and less tangible factors such as function. The draft Luss Conservation Area Appraisal discusses that the biggest physical threat to the conservation area is the large number of visitors. As assessed in paragraph 8.11 above, given the overall scale of the proposal (with a restriction of number of covers to a maximum of 50), it is not considered there will be any material change on the impacts of visitor pressures currently experienced within the village. The proposal will not have any impacts on the setting of nearby listed buildings and it will preserve the character of the Conservation Area. It is therefore considered that the proposals would comply with relevant built heritage policies of both NPF4 and the Local Development Plan.

Economic Benefits

- 8.19. Key strategies within the West Loch Lomondside Rural Development Framework include increasing economic activity in the village through

high quality tourism offering and commercial development whilst achieving a better balance between local residents way of life and the influx of large volumes of visitors. Policy 29 of NPF4, Rural Development supports development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy. This has to be balanced against compatibility with the surrounding area and appropriate scale of development to ensure there is no adverse impacts from increase in visitor numbers. Residential amenity has been assessed earlier within the report and it has been concluded that subject to appropriate conditions, there will be no detrimental impacts upon the amenity of existing residents. The coffee shop is a well-established business within Luss and it contributes to the offering of services to both residents and visitors alike. The applicant has indicated that she employs up to 30 people. It is considered that the expansion of the business, on the scale proposed, will make a modest but positive contribution to the local economy.

9. Conclusion

- 9.1. Key policies within NPF4 and the LDP support the expansion of existing businesses within sustainable locations. They also require the consideration of the contribution to the local economy as well as the compatibility within the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors.
- 9.2. The expansion of a well established local business will make a positive contribution to the local economy, however this requires to be balanced against the potential impacts on the privacy and amenity of neighbouring properties. The retrospective nature of the proposal has enabled the assessment of these impacts whilst the outdoor seating area has been in use.
- 9.3. The popularity of Luss as a visitor destination has continued to increase and it is recognised that the amenity of some Luss residents is already impacted upon as a result of visitor numbers. Careful consideration has been given to the concerns raised within the letters of objection (with issues raised addressed within relevant sections of the report) however it has been concluded that (subject to the recommended conditions), the provision of outdoor seating to the front/side of the coffee shop would not have a significant impact upon the amenity of nearby residents. Whilst the condition on the 1999 consent was imposed to protect the character of the area, outdoor eating and drinking has now become much more commonplace and this is recognised in the Scottish Governments recent removal of permitted development rights as explained within paragraph 8.7. Maintaining the residential amenity and privacy of residents is however crucial and a number of conditions to manage the operation of the seating area will be necessary. These include , carefully defining the consented area (a reduced area screened by the established hedging), restricting the total number of covers to a maximum of 50, prohibiting the playing of music/amplified sound, restricting opening hours and ensuring

physical separation/screening from the existing hedge. These conditions will mitigate any potential negative impacts on local residents. It has been recognised that the lack of any boundary treatment directly to the front of the coffee shop does however result in unacceptable overlooking of front gardens/windows of some properties and seating within this area would not be acceptable.

- 9.4. In the context of the significant number of visitors to Luss each year, the total anticipated number of additional visitors to the coffee shop is very small. The proposal serves to increase and enhance the tourism offer for those who would elect to visit Luss (and the shores of Loch Lomond) in any event. In reality therefore, the outdoor area is unlikely to generate a discernible increase in overall numbers or associated traffic impacts. The scale of the proposal would not exacerbate the overall impacts of visitor pressure within Luss, nor impact on the character or appearance or the “experience” of the Conservation Area. Furthermore, traffic management within the village directs visitors to existing car parks rather than on street parking and there are no concerns relating to parking or road safety.
- 9.5. All representations received from individuals and the Community Council’s objections to the development have been fully considered and are addressed in adjustments to the development as proposed or will be secured by planning condition. Therefore, there are no material considerations that would outweigh the Development Plan policy conclusions stated above
- 9.6. The proposal is in accordance with the Development Plan and other material considerations do not outweigh this conclusion. Therefore, the proposal is recommended for approval, subject to imposition of conditions (detailed in Appendix 1).

10. Appendix 1 Conditions

1. **Restriction on Outdoor Seating Area:** Commercial activity associated with the use of the premises as a coffee shop (on land fronting Church Road), shall only be undertaken within the area outlined in blue on the approved site plan. Within the area highlighted in blue the number of total covers shall not exceed 50 and for the avoidance of doubt no outdoor cooking shall take place within the site.

REASON: To protect the amenity of nearby residential properties and in the interests of preserving the character of the Conservation Area.

2. **Hours of Use:** The outdoor seating area hereby approved shall only operate between the hours of 10am and 5pm on any day. The coffee shop, including all other external areas previously authorised, shall only operate between the hours of 9.00am and 8.00pm over the summer months from 1st April to 30th September in any one year and between 9.00am and 6.00pm at all other times.

REASON: To protect the occupants of nearby dwellings from excessive noise/disturbance associated with the implementation of this permission.

- Retention/Planting of Hedge:** The existing hedges along the boundary of the site with Church Road, as highlighted in red on the approved site plan, shall be retained and maintained at a minimum height of 1.6 metres at all times. Details of the new section of hedge outlined on the approved site plan shall be submitted to and approved in writing by the Planning Authority and thereafter planted within the planting season following the date of this development.

REASON: To protect the privacy of occupants of nearby dwellings and in the interests of preserving the character of the. Conservation Area.

- Amplified Music:** No amplified or other music shall be played within any outdoor areas.

REASON: To protect the occupants of nearby dwellings from excessive noise/disturbance associated with the implementation of this permission.

- External Lighting:** No external lighting should be installed within the approved outdoor seating area unless with prior written agreement from the Planning Authority. Prior to their installation full details to include the location, type, angle of direction and wattage [degree of illumination as expressed by Ev and Eh] of the lighting shall be submitted to and agreed in writing by, the Planning Authority.

REASON: In order to avoid light pollution in the interests of the visual and residential amenity of the area in accordance with Overarching Policy 2 of the Local Development Plan.

11. Informatives

- Waste:** To protect the amenity of the immediate area any waste generated as a result of activities in the front garden area shall be disposed of in lidded receptacles.