

ANGUS LICENSING BOARD – 16 SEPTEMBER 2021

PREMISES LICENCES – REQUEST TO VARY UNDER THE LICENSING (S) ACT 2005

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present six applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. RECOMMENDATION

It is recommended that the Board consider and determine each application to vary a premises licence as detailed in **Appendix 1**, in terms of one of the following options: -

- (i) to grant the application, subject to Statutory Conditions and any other variation to the conditions to which the licence is subject that the Board may wish to impose;
- (ii) to defer the application to the next Licensing Board; or
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 4.4.

2. BACKGROUND

The Board has received six applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 (“the Act”) which require to be determined by the Board because the matters are not subject to delegation and can only be discharged by the Licensing Board.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

4. LEGAL

4.1 The Act provides that a variation, in relation to a Premises Licence, means any variation of: -

- (a) any of the conditions to which the licence is subject (other than the Statutory Conditions);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence; or
- (d) any other information contained or referred to in the licence,

and includes an addition, deletion or other modification

4.2. If the variation sought is a minor variation, then the variation must be granted and powers have been delegated to the Clerk to approve these minor variation applications. Minor variations are: -

- (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan;

- (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises;
- (c) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and
- (d) any other variation of such description as may be prescribed.

4.3. Section 30 of the Act provides that if the variation(s) being sought are not minor, the Board must hold a hearing to determine the application.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal apply and: -

- (a) if none of them apply, the Board must grant the application; or
- (b) if any of them apply, the Board must refuse the application.

4.4. The grounds for refusal are: -

- (a) that the application must be refused under Section 32(2) of the Act (the Board had previously refused an application to vary a premises licence within the preceding one year), Section 64(2) of the Act (alcohol would be sold for a continuous period of 24 hours from the premises, unless there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period), or Section 65(3) of the Act (if alcohol is to be sold for off sales purposes before 10am or after 10pm, or both);
- (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,
- (c) that, having regard to:
 - (i) the nature of the activities carried on or proposed to be carried on in the subject premises;
 - (ii) the location, character and condition of the premises; and
 - (iii) the persons likely to frequent the premises,
 the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation,
- (d) that, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking into account of the variation), in the locality.

4.5 Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

4.6 Where the Licensing Board refuses the application, the Board must specify the ground for refusal and if the ground relates to a licensing objective, the Board must specify the objective or objectives in question.

(a) The licensing objectives are: -

- (i) preventing crime and disorder
- (ii) securing public safety
- (iii) preventing public nuisance
- (iv) protecting and improving public health; and
- (v) protecting children and young persons from harm

REPORT AUTHOR: Nannette Page, Team Leader

E-MAIL: LAWLicensing@angus.gov.uk

**APPENDIX 1 TO REPORT LB 39/21
ANGUS LICENSING BOARD – 16 SEPTEMBER 2021**

(a) LICENCE NO. 273, SUNNY'S BAR & KITCHEN, 2 Mattocks Road, Wellbank, Dundee, DD53PJ

Name of Applicant – M S Catering Dundee Limited, 2 Mattocks Road, Wellbank, Dundee

Type of Licence: On Sales

The Board are asked to note this application for major variation of a premises licence previously called at the Angus Licensing Board on 12 August 2021. The Board deferred this application as there was no Building Warrant applied for to date.

Description of Variation

1. Core Times

Amend to	On Sales	Monday	11.00 to 23.00
		Tuesday – Thursday	11.00 to 23.30
		Friday	11.00 to 24.00
		Saturday	11.00 to 01.00
		Sunday	11.00 to 23.00
Add Off-Sales		Monday to Sunday	10.00 to 22.00

The Board are asked to note the hours requested are within Board Policy.

2. Capacity

Reduce on sales capacity from 341 to 221 persons
Add off sales capacity of 16.88m²

3. Layout

Altering existing Function Hall to retail unit (Spar) as per layout plan with opening hours -

Monday to Sunday 06.30 to 22.00

There will be no off sale of alcohol prior to 10:00

4. Licence

Change name of premises from Sunny's Bar & Kitchen to Tour & Taste

Comments Received from Building Standards

Building Warrant reference 15/00112/NDOM6 was approved and works carried out for Alterations to Restaurant and Public Bar. The application expired on 31st March 2018 with no Completion submitted. An inspection by our Officers and Scottish Fire & Rescue was carried out on the 12 June 2019 and the applicant was made aware of everything required to regularise the situation at that time including the requirement for urgent works to fire exit doors. To date we have received no further contact regarding these works and believed the business had ceased trading. These works affect the area involved in this application and therefore the Applicant should complete the requirements stated to them in 2019.

In addition to the above it appears no Building Warrant has been applied for the conversion of the function room into a shop. From the plans received a Building Warrant (and subsequent Completion Certificate Acceptance) may be required for these works. It should also be noted that where works are carried out without a building warrant where one is required under the Building (Scotland) Act 2003 this

constitutes an offence. Again, if the Applicant liaises with Kris Ferrier, Building Standards Officer in relation to this he can advise accordingly if additional information is supplied.

As at 4 August 2021 Applicant has since spoken to Building Standards and they were emailed details of what was required. Applicant has since advised that "Spar were sending in their own architect" and the Board would be advised of the outcome.

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from M S Catering Dundee Limited on 8 June 2021 in respect of:

Sunny's Bar & Kitchen, 2 Mattocks Road, Wellbank, Dundee, DD5 3PJ

Background:-

The application is for:

Description of Variation

1. Amendment to Core Times

Amend On Sales to:-

Monday	11.00 to 23.00
Tuesday – Thursday	11.00 to 23.30
Friday	11.00 to 24.00
Saturday	11.00 to 01.00
Sunday	11.00 to 23.00

Current Licensing Hours – On sales

Monday to Thursday	12:00 – 23:00
Friday	12:00 – 00:00
Saturday	12:00 – 01:00
Sunday	12:30 – 23:00

Add Off-Sales

Monday to Sunday	10.00 to 22.00
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The Board are asked to note the hours requested are within Board Policy

2. Amendment to Capacity:

Reduce On Sales capacity from 341 to 221 persons and add an off sales capacity of 16.88m2

3. Amendment to Layout Plan: Alter existing Function Hall to include retail unit

4. Change of Premises Name: Sunny's Bar & Kitchen to Tour & Taste

Building Standards Comments: -

Building Warrant reference 15/00112/NDOM6 was approved and works carried out for Alterations to Restaurant and Public Bar. The application expired on 31st March 2018 with no Completion submitted. An inspection by our Officers and Scottish Fire & Rescue was carried out on the 12 June 2019 and the applicant was made aware of everything required to regularise the situation at that time including the requirement for urgent works to fire exit doors. To date we have received no further contact regarding these works and believed the business had ceased trading. These works affect the area involved in this application and therefore the Applicant should complete the requirements stated to them in 2019.

In addition to the above it appears no Building Warrant has been applied for the conversion of the function room into a shop. From the plans received a Building Warrant (and subsequent Completion Certificate Acceptance) may be required for these works. It should also be noted that where works are carried out without a building warrant where one is required under the Building (Scotland) Act 2003 this

constitutes an offence. Again, if the Applicant liaises with Kris Ferrier in relation to this he can advise accordingly if additional information is supplied.

Update as at 4 August 2021: Applicant has since spoken to Kris Ferrier and they were emailed details of what was required. Mariam Hyatt has since advised that "Spar were sending in their own architect" and the Board would be advised of the outcome.

I have contacted Building Standards regarding the above but there have been no further developments on this. An update will be provided by the Building Standards Manager at the Board.

I duly submit this report for consideration of Board Members.

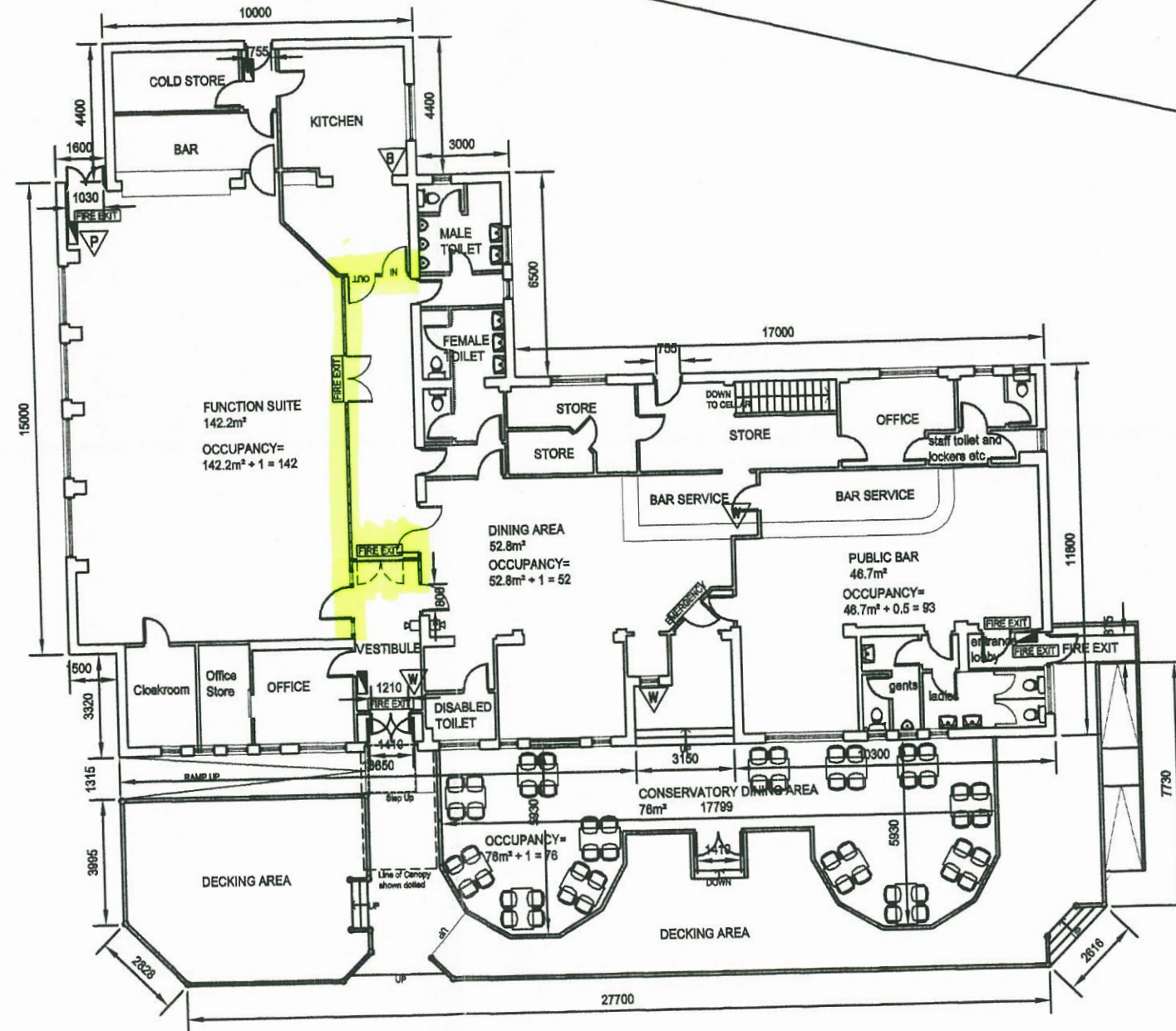
Nicky Corletto
Licensing Standards Officer
Angus Council

Approx 2m
wind corridor.

LEGEND

- 9 litre WATER FIRE EXTINGUISHER
- FIRE BLANKET
- 4kg POWDER EXTINGUISHER
- FIRE ALARM SOUNDER
- BREAK GLASS UNIT
- ILLUMINATED FIRE EXIT SIGN
- EMERGENCY LIGHT WITH BATTERY BACKUP
- ACCESS AREAS FOR CHILDREN AND YOUNG PERSONS
- RESTAURANT SEATING

PRIVATE ACCESS ROAD



THE WELLBANK INN
LICENSING
DRAWING.

MAY 2015

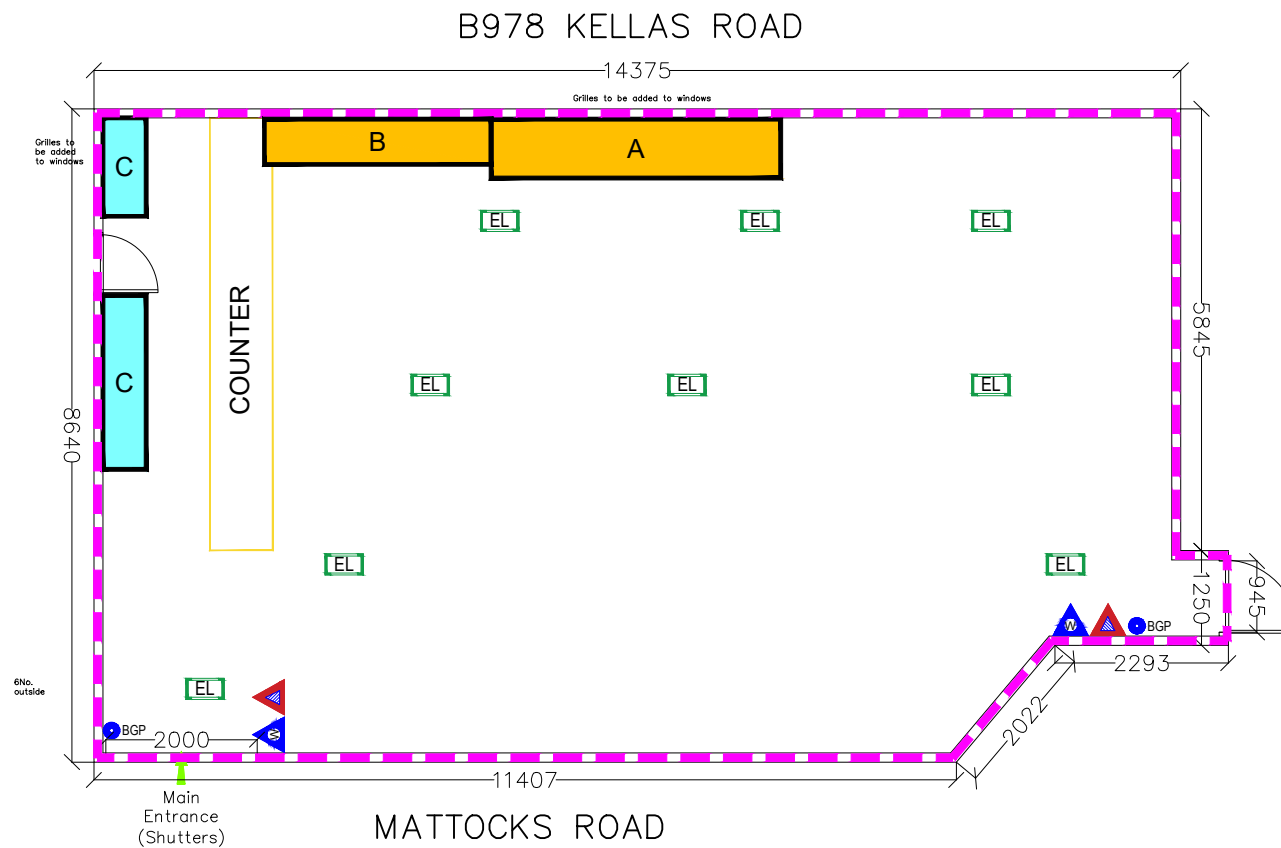
MATTOCKS ROAD

This plan was granted on 26 June 2015
by Angus Licensing Board in respect of a
variation of premises licence at Wellbank
Inn, 2 Mattocks Road, Wellbank, DD5 3PJ.

Sean C. Hunter

Clerk

SPAR Wellbank			
DISPLAY SHELVING			
Shelf	Width Metres	Height Metres	Display Capacity Sqm
A	3.75	1.60	6.00
B	3.00	2.00	6.00
Subtotal - m ²			12.00
DISPLAY SHELVING BEHIND COUNTER			
Shelf	Width Metres	Height Metres	Display Capacity Sqm
C	3.75	1.30	4.88
Subtotal - m ²			4.88
TOTAL DISPLAY CAPACITY - m ²			16.88



WELLBANK
LICENSING LAYOUT 1:100

THE CONTENTS OF THIS PROPOSAL, INCLUDING ALL IDEAS, DRAWINGS, ARTWORK, GRAPHICS & LAYOUTS ARE THE PROPERTY OF CJ LANG PROPERTY DEPARTMENT. ALL INFORMATION AND OTHER INTELLECTUAL PROPERTY RIGHTS FORMING ANY PART OF THIS PROPOSAL SHOULD NOT BE USED BY ANY PERSON, INCLUDING THE CLIENT, WITHOUT THE PRIOR WRITTEN CONSENT OF CJ LANG & SON LTD SCOTLAND.

THE CONTRACTOR TO CHECK DIMENSIONS AND NOTIFY ANY DISCREPANCIES OR ERRORS IMMEDIATELY TO CJ LANG & SON LTD SCOTLAND.

NOTES

* THIS PLAN IS INTENDED TO COMPLY WITH THE REQUIREMENTS OF THE LICENSING (SCOTLAND) ACT 2005 AND IN PARTICULAR THE PREMISES LICENSE (SCOTLAND) REGULATIONS 2007, S12007/452.

ANY ADDITIONAL INFORMATION PROVIDED ON THESE PLANS OUTWITH THAT WHICH IS REQUIRED IN RESPECT OF THE LEGISLATION AND REGULATIONS REFERRED TO IS FOR INFORMATION ONLY AND SHOULD NOT BE TAKEN TO FORM PART OF THE LAYOUT PLAN FOR ANY OTHER PURPOSE.

CHILDREN AND YOUNG PERSONS HAVE ACCESS TO ALL PUBLIC PARTS OF THESE PREMISES.

ALL ACTIVITIES DETAILED AT QUESTION 5 OF THE OPERATING PLAN PERTAINING TO THESE PREMISES WILL TAKE PLACE IN THE PUBLIC AREAS OF THE PREMISES, WITH THE EXCEPTION OF RECORDED MUSIC (SPAR RADIO) WHICH WILL BE PLAYED AND AUDIBLE THROUGHOUT THE SHOP PREMISES.

LEGEND

- EMERGENCY LIGHTING POINTS
- AUTOMATIC FIRE ALARM SMOKE
- FIRE EXTINGUISHER - DRY FOAM
- FIRE EXTINGUISHER - CARBON DIOXIDE
- FIRE EXTINGUISHER - WATER
- FIRE ALARM AUDIBLE WARNING
- FIRE ALARM CALL POINT
- ALCOHOL WITH PUBLIC ACCESS
- ALCOHOL WITH NON PUBLIC ACCESS
- EXTENT OF LICENSED AREA

Project:
SPAR WELLBANK
13 Kellas Road,
Wellbank, Dundee
DD5 3PE

Title:
LICENSING (SCOTLAND) ACT 2005
LAYOUT PLAN

Drawing No:
IND 3500

Scale: 1:100@A3	Date: 16.02.21	Area:	Store No:
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Drawn by: LW	Checked by: TB	Rev: -
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Head Office
78 Longtown Road
Dundee
DD4 8JU
Phone : 01382 512 000
Fax : 01382 508 222

(b) LICENCE NO. 406, GREY HARLINGS HOTEL, 5 TRAILL DRIVE, EAST LINKS, MONTROSE, DD10 8SW

Name of Applicant – Framework Property Development Limited, 5 Traill Drive, East Links, Montrose, DD10 8SW

The Board are asked to note this application for major variation of a premises licence previously called at the Angus Licensing Board on 12 August 2021. The Board deferred this application for further clarification from Building Standards, who now have no objections to this application.

Type of Licence: On Sales

Description of Variation

1. Core times

Amend to	Monday to Thursday	11.00 to 23.00
	Friday to Sunday	11.00 to 24.00

The Board are asked to note the hours requested are within Board Policy.

2. Layout

- (a) Extend area currently licensed as gazebo to include the decked area it sits on.
- (b) Extend outdoor licensed seating area to include benches on grass within a portion of the grassy area as per layout plan.

3. Outdoor Area

The applicant has agreed to have the following conditions imposed in respect of the outdoor area:

- 1. Patrons shall not be permitted to use the external drinking areas beyond 21.00.
- 2. No music shall be provided in the external drinking areas.
- 3. No music of amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking areas.

4. Children's Conditions

(a) Terms - Currently state - "non-resident children will be permitted in the restaurant, lounge, inner and outer halls and the guest house grounds"

Amend terms to now be "accompanied by a responsible adult"

(b) Times - Currently state – "non-resident children and young persons will be allowed entry to the guest house between 07.00 and 21.00"

In addition to the above add in

- (i) and hotel grounds 07.00 to 21.00
- (ii) And – Local children's conditions to apply in accordance with activity/service provided on the premises.

5. Capacity

Increase from 30 persons to 150 persons

Objection Received

Copy of objections received on behalf of Dr Kevin Prudhoe and Dr Tracy Prudhoe by Brodies, Solicitors are attached.

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from Framework Property Development Ltd on 1st July 2021 in respect of:

Grey Harlings, 5 Traill Drive, East Links, Montrose, DD10 8SW

Background:-

The Licensing Board at their meeting on 12th August 2021 considered this application and deferred it for further information from Planning in regard to the 6ft timber fence enclosing the garden area and Building Standards in regard to the increase in capacity.

The application is for:

- 1. Amendment to core hours:** Monday to Thursday 11:00 to 23:00
Friday to Sunday 11:00 to 24:00

Current Licensing Hours – On sales

Monday to Thursday	11:00 – 22:00
Friday & Saturday	11:00 – 24:00
Sunday	11:00 – 24:00

The Board are asked to note the hours requested are within Board Policy.

- 2. Amendment to Layout:** to extend the area currently licensed as gazebo to include the decked area it sits on and to extend outdoor licensed seating area to include benches on grass within a portion of the grassed area

The applicant has previously agreed to the standard undernoted conditions being attached to the licence if granted, in respect of the outdoor area.

1. Patrons shall not be permitted to use the external drinking areas beyond 21.00.
2. No music shall be provided in the external drinking areas.
3. No music of amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking areas.

3. Amendment to Children and Young persons' access and Conditions

(a) Terms: The current Children and Young Person's access conditions state - "non-resident children will be permitted in the restaurant, lounge, inner and outer halls and the guest house grounds"

The applicant wants to amend those terms to - "be accompanied by a responsible adult"

(b) Time: Currently state – "non-resident children and young persons will be allowed entry to the guest house between 07:00 and 21:00"

Addition to above – and hotel grounds 07:00 to 21:00

And – Local children's conditions to apply in accordance with activity/service provided on the premises.

- 4. Increase in Capacity:** Increase from 30 persons to 150 persons

Current position





Manager, Building Standards has confirmed that there are no issues in regard to the increase in capacity

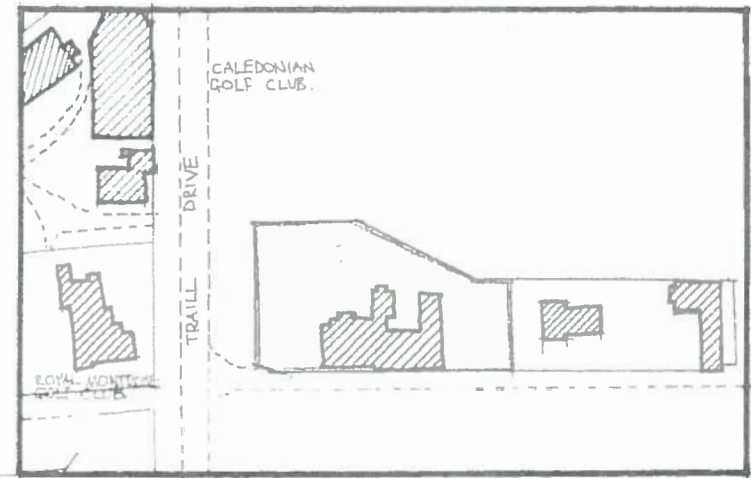
I duly submit this report for consideration of Board Members.

Nicky Corletto
Licensing Standards Officer
Angus Council

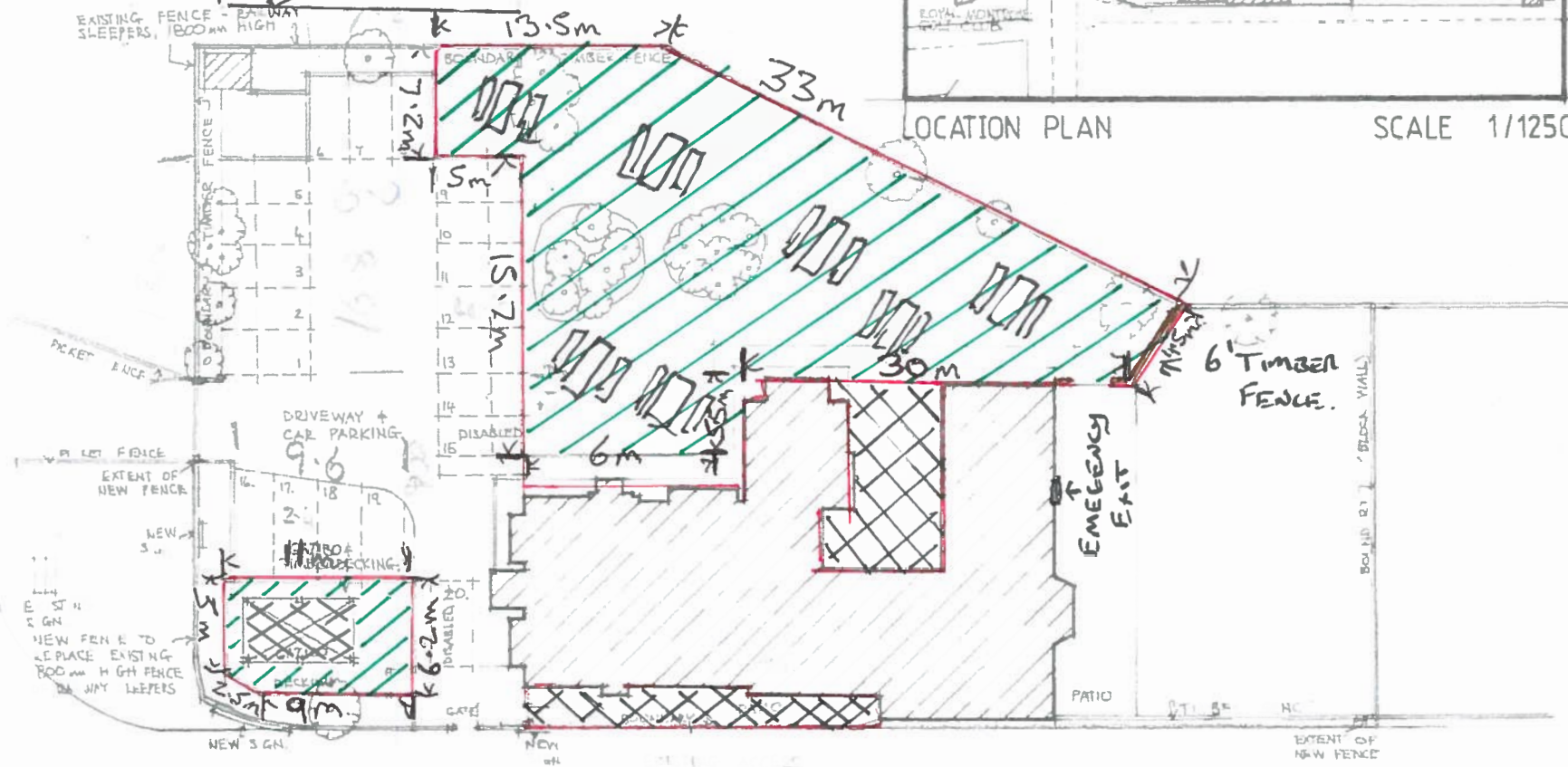
GREY HARLINGS GUEST HOUSE TRAILL DRIVE, MONTROSE SITE PLAN & LOCATION PLAN DATE AUGUST 2015

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-  Boundary Licensed Area
-  OUT DOOR DRINKING AREA
-  Proposed Drinking Area
-  TABLE Layout



LOCATION PLAN SCALE 1/1250



SITE PLAN SCALE 1/250

OUR REF JVB/ADB/PRU10
YOUR REF LA 18/45TC

The Clerk
Angus Licensing Board
Angus House
Orchardbank Business Park
Forfar
Angus
DD8 1AN



BY EMAIL smeatond@angus.gov.uk

23 July 2021

Dear Sir

**LICENSING (SCOTLAND) ACT 2005 ("the Act")
GREY HARLINGS GUESTHOUSE ("the Premises")
PREMISES LICENCE NUMBER 406 ("the Premises Licence")
APPLICATION FOR VARIATION OF PREMISES LICENCE ("the Application")**

On behalf of and as instructed by our clients, Dr Kevin Prudhoe and Dr Tracy Prudhoe residing at Little Harlings, 5A Traill Drive, Montrose, we hereby give notice of objection in terms of Section 22(1) as applied by Section 29(4) of the Act to the Application.

We note that the Application seeks to:

- 1 Extend the area currently licensed as a gazebo to include the adjoining decked area and extend the outdoor licensed seating area to include benches within a portion of the grassed area;
- 2 change on sales hours from 22:00 Monday to Thursday to 23:00 Monday to Thursday;
- 3 allow Children and Young Persons access to the additional external area; and
- 4 increase the occupancy capacity of the Premises from 30 persons including staff, guests and residents to 150 persons.

We note that there are conditions attached to the Premises Licence:-

- Outdoor drinking is permitted within the patio area to the east of the Premises, the courtyard and gazebo. These areas are shown outlined and hatched black on the plan attached to this letter (Appendix IV);

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56083335v2

- alcohol consumption in any other outdoor area of the Premises is prohibited;
- patrons shall not be permitted to use the external drinking areas beyond 21.00. No music shall be provided in the external drinking areas; and
- no music or amplified sound should be provided anywhere within the Premises with the intention of being heard within the external drinking areas.

The grounds of objection are:-

In terms of Section 30(5)(c) of the Act, having regard to the nature of the activities carried on or proposed to be carried on in the Premises, the location, character and condition of the Premises and the persons likely to frequent the Premises, for the reasons given below the Premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation and in terms of Section 30(5)(b) of the Act the grant of the Application would be inconsistent with the following licensing objectives:-

Preventing Crime and Disorder/Preventing Public Nuisance

Our clients have resided at Little Harlings since December 2013, their property is located immediately adjacent to the Premises. In that time they have been increasingly disturbed by activities carried on at the Premises including noise, light pollution and anti-social behaviour.

In the past, **outdoor** functions have taken place and our clients have had cause to complain to the Premises' operators due to noise from customers, including audible swearing, live music being performed and disturbance from lights erected in the external area. Despite our clients speaking with the operators on occasions when they have been disturbed, the nuisance has continued. In July 2020 our clients made a complaint to the Licensing Board with regard to the serving of alcohol in unlicensed areas of the Premises and the installation of a speaker and television in the external area, contrary to the conditions attached to the Premises Licence.

These are not the actings of a responsible operator complying with the terms of their Premises Licence. Our clients' enjoyment of their property and its related amenity are being materially prejudiced and interfered with by the operation of the Premises. Our clients apprehend, particularly given the prior history of disturbance from the Premises and the operator's attitude, that the situation will be exacerbated if the extent of the external area and the occupancy capacity (which it is intended to increase *fivefold*) are increased in terms of the Application.

Securing Public Safety

The proposed increase in occupancy capacity will result in more pedestrians accessing the blind corner of a busy single-track road with no footway or street lighting. The parking of vehicles is already an issue and any increase in traffic volumes will create a safety risk to pedestrians, particularly if large numbers of patrons are leaving the Premises at the same time at the end of a function or event.

We would also draw the Licensing Board's attention to the planning status of the Premises in order that matters can be raised with the planning authority if considered appropriate.

The Application appears to contravene the terms of planning consent (17/00676/FULL) dated 21 December 2017 in respect of the Premises which states:

"A scheme which shall ensure that the grassed area located between the building and neighbouring property to the north known as Little Harlings shall not be used in association with or by any persons attending any function or event at the premises. The scheme shall include provision of a boundary enclosure or similar barrier that will prevent access to that area during any function or event. The approved boundary enclosure or barrier shall be formed before the use commences. The grassed area shall be used for no purpose other than garden ground for permanent residents of the building."

There is no complete boundary enclosure or barrier to prevent the prohibited grass area being used. There is an incomplete fence, with a paper "no entry" notice next to the obvious access point, that does not prevent Children (which the Application seeks now to permit) or patrons taking access - refer to Appendix I.

The said planning consent imposes certain conditions, namely:

"A noise management plan. This shall include measures to restrict the hours of use of outdoor areas associated with the business. Thereafter, the use hereby approved shall be operated only in accordance with the approved noise management plan;

All amplified sound associated with the approved use shall be inaudible within any adjacent residential properties."

The grassed area referred to in the planning consent, which is to be used for no purpose other than garden ground for permanent residents, forms part of the area which the operators are now seeking to licence as shown in the amended layout plan accompanying the Application. There is no planning consent for a beer garden and certainly not for the capacity now being proposed.

The proposed eating/drinking areas are also outwith the café/restaurant areas that were granted planning permission - refer to attached plan at Appendix II. As part of the planning application, the operators stated that the maximum seating capacity inside was 50 persons, we would query how and where the extra 100 persons will be accommodated. There does not appear to be any proposals to increase the sanitary provision to support the increase in capacity. This is a 9 bedroom hotel and does not warrant the extensive increase to the external area that is proposed.

The planning condition of 20 car parking spaces was based on a much smaller development, where the restaurant utilised indoor areas only - refer to Appendix 3. Much larger areas are now being proposed and with an increase in numbers to 150 persons, an already congested area will become even more so, which, as stated above, will increase the safety risk to pedestrians.

In terms of the current Premises Licence the permitted external drinking areas are the patio area to the east of the Premises, the courtyard and gazebo. This again is contrary to the current planning permission, which

states these areas are for guests of the Premises only. Appendix II shows the area for restaurant/café use that was subject to the planning condition. The Application proposes staff, guests and residents accessing these areas and the much larger grassy areas to the west of Grey Harlings.

If the Application is granted, in addition to the current Premises Licence conditions we would request the following conditions:

The area between the Premises and Little Harlings' boundary wall, including the grassed area adjacent to the Premises' rear wall as well as the patio area to the rear, should be used only by permanent residents of the Premises.

This grassed area should be permanently and completely blocked by a structure such as a solid fence, to prevent guests including Children inadvertently accessing this area.

No indoor or outdoor functions allowed to keep the noise to a tolerable level.

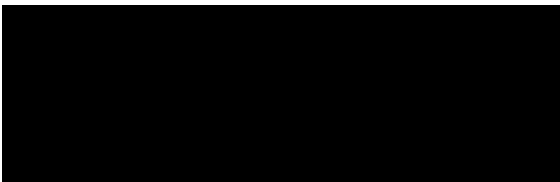
Guest numbers to be capped at 50 persons, in line with the planning permission application.

Limit additional tables to 3 with a maximum of 6 persons at each table, only using the area near the car park in accordance with planning permission application of 50 persons and to limit noise.

On sales to end at 10 pm Monday to Thursday as per current Premises Licence, again to control noise.

In summary, the proposal is too intensive for the size of the plot and too close to our clients' family home to prevent increased noise and disturbance which will further materially affect enjoyment of their property. We request that the Licensing Board give due consideration to our clients' objections and refuse or, at least, condition any grant of the Application.

Yours faithfully

A large black rectangular redaction box covering the signature area.

On behalf of Brodies LLP

Appendix I

Image of current beer garden from our client's boundary wall. This clearly shows the incomplete enclosure/barrier and proximity of beer garden to our client's residence.



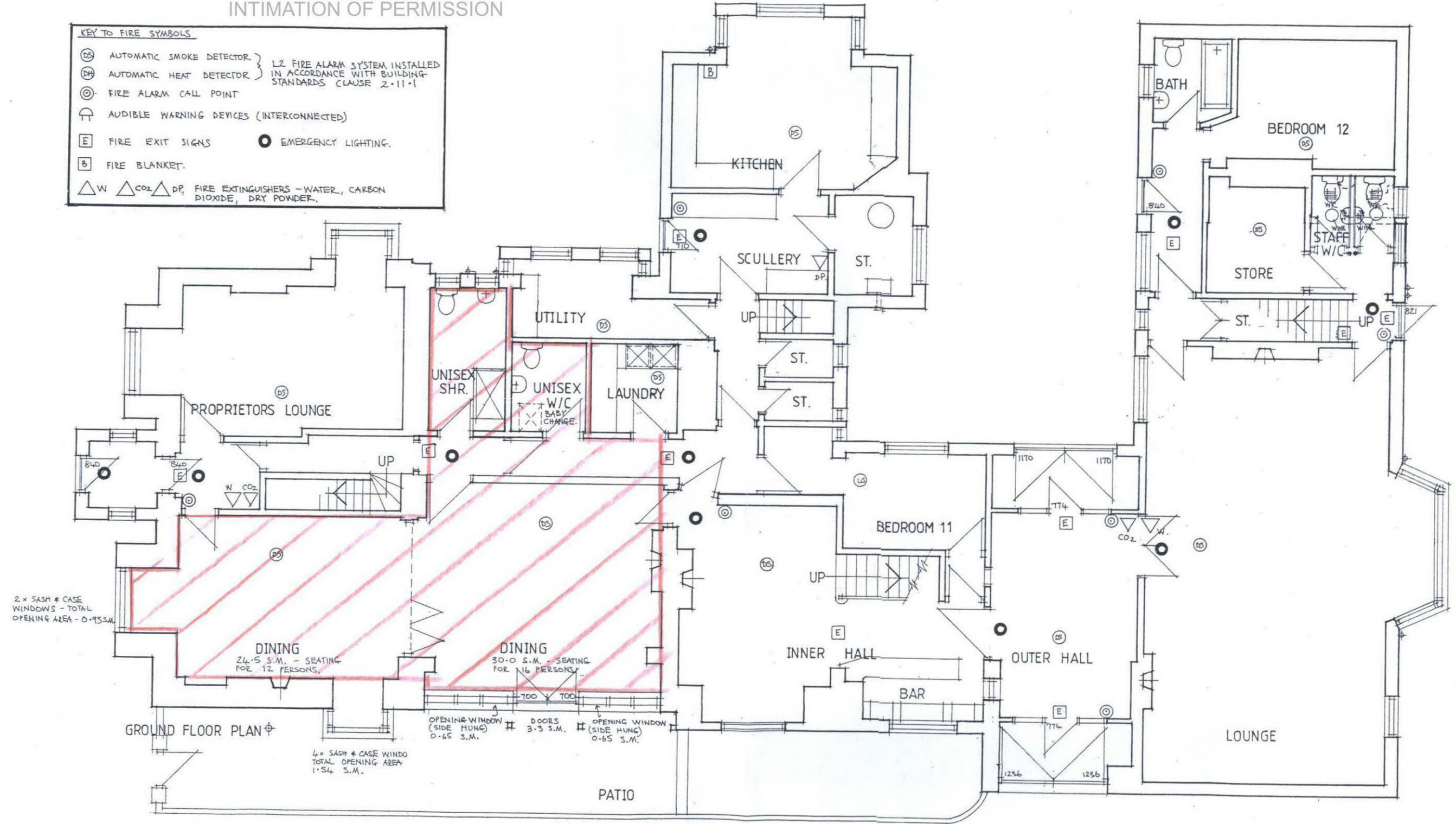
Town & Country Planning (Scotland) Act 1997 As Amended

APPROVED ON BEHALF OF THE ANGUS COUNCIL
SUBJECT TO THE CONDITIONS SET FORTH IN
INTIMATION OF PERMISSION

Appendix II

KEY TO FIRE SYMBOLS

- (DS) AUTOMATIC SMOKE DETECTOR
- (DH) AUTOMATIC HEAT DETECTOR
- (C) FIRE ALARM CALL POINT
- (A) AUDIBLE WARNING DEVICES (INTERCONNECTED)
- (E) FIRE EXIT SIGNS
- (B) FIRE BLANKET
- (W) (CO2) (DP) FIRE EXTINGUISHERS - WATER, CARBON DIOXIDE, DRY POWDER.
- (L) L2 FIRE ALARM SYSTEM INSTALLED IN ACCORDANCE WITH BUILDING STANDARDS CLAUSE 2.11.1
- (EL) EMERGENCY LIGHTING.



 AREAS UTILISED FOR CAFE & RESTAURANT.



Memorandum

Place Directorate – Technical & Property Services
Roads & Transport Business Unit

TO: SERVICE MANAGER, PLANNING

FROM: INTERIM SERVICE MANAGER, ROADS

YOUR REF:

OUR REF: JDH/AG/ TD1.3

DATE: 25 SEPTEMBER 2017

SUBJECT: **PLANNING APPLICATION REF. NO. 17/00676/FULL – PROPOSED CHANGE OF USE OF GUEST HOUSE TO HOTEL, RESTAURANT & OCCASIONAL FUNCTION VENUE AT GREY HARLINGS GUEST HOUSE TRAILL DRIVE, MONTROSE FOR GREY HARLINGS GUEST HOUSE**

I refer to the above planning application which is similar to a previous application, Ref. No. 15/01143/FULL.

The site is located on the north side of Traill Drive, Montrose adjacent to Montrose Links golf course. Access to the car parking area is from Traill Drive and an additional pedestrian access leads onto the adjacent private road between the building and the golf course.

The National Roads Development Guide, adopted by the Council as its road standards, is relative to the consideration of the application and the following comments take due cognisance of that document.

Parking

In accordance with the Council's car parking standards the following rates are applicable:

<u>Development</u>	<u>Parking Provision</u>
Hotels	1 space per 2.5 beds
Restaurants	1 space per 5 square metres

The submitted drawing showing the ground floor plan as existing shows two available areas for the restaurant with a combined floor space of 55 square metres. This equates to a requirement for 11 car parking spaces.

The submitted drawing showing the first floor as existing indicates shows that the proprietor uses three of the hotel bedrooms for family use. The Council's standards for residential development require the provision of 2 car parking spaces for houses with 3 bedrooms.

The total number of bedrooms for the hotel on both plans is 12 no. However, with the reduction of bedrooms for the proprietor that leaves the total number of bedrooms for the hotel at 9 no. In accordance with the above standard for hotels, a minimum of 4 no. additional car parking spaces should be provided.

In addition to the above, car parking for disabled users is required at 3 no spaces. The overall car parking requirements are listed in the table below:

<u>Area</u>	<u>Parking Spaces</u>
Dining	11
Hotel	4
Disabled	3
Residence	2
Total	20

To date, no details have been provided which adequately explain how the occasional function aspect of the application will be operated and how that will affect the parking requirements. In order to fully assess the application against the Council's parking standards I would require to know whether or not the function activities will take place within the restaurant area alone or extend to other areas on the premises. And, if the function activities are limited to, or extend to areas other than the restaurant, will the restaurant remain open to outside customers at the same?

Road Safety

I note that there have been a number of objections to this application with respect to road safety on the private road between the building and the golf course. In this respect the Grey Harlings' Mission Statement states that:

"All suppliers delivering to the premises have been and will continue to be instructed to enter through the car park and not to use the side street as a drop off point".

On that basis there is no reason to suppose that the impact of traffic generated by the development will cause a degree of detriment to the safe use of the minor side road to a significant level or at least to a level which would merit refusal of the application on road safety grounds.




I have considered the application in terms of the traffic likely to be generated by it, and its impact on the public road network. As a result, I do not object to the principle of the application but would ask that further information be provided to explain the rationale of operations during function events, as discussed in the parking section above.

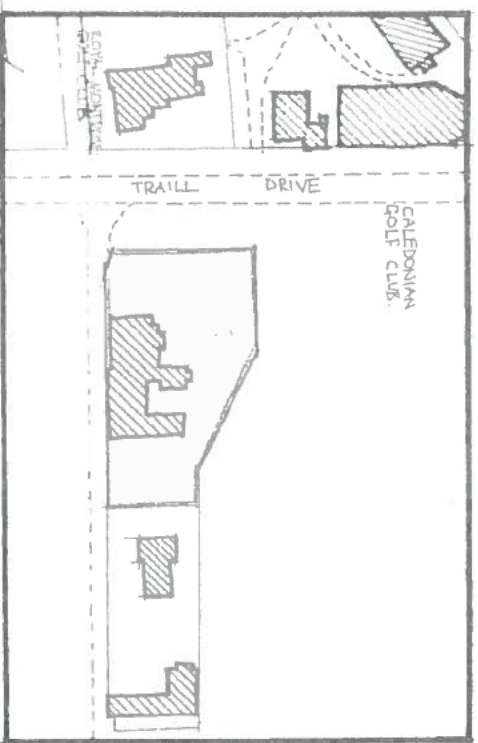
I trust the above comments are of assistance but should you have any queries, please contact Adrian Gwynne on extension 3393.



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Boundaries Licensing Area

-  **OUT DOOR DRINKING AREAS**
-  **Proposed Drinking Areas**
-  **TABLE LAYOUT**



LOCATION PLAN

SCALE 1/1250



SITE PLAN

SCALE 1/1250

EXTENT OF NEW FENCE

**APPENDIX 1 TO REPORT LB 39/21
ANGUS LICENSING BOARD – 16 SEPTEMBER 2021**

(c) LICENCE NO. 231, BROWN HORSE HOTEL, 62 MARKET STREET, BRECHIN, DD9 6BD

Name of Applicant – Southesk Developments, 46/48 Clerk Street, Brechin, DD9 6AY

Type of Licence: On and Off Sales

The Board are asked to note this application for major variation of a premises licence previously called at the Angus Licensing Board on 12 August 2021. The Board deferred this application for further clarification regarding planning permission and whether this would be required for the beer garden.

Description of Variation

1. Core times

Amend to	On Sales	Monday to Thursday	11.00 to 23.00
		Friday and Saturday	11.00 to 01.00
		Sunday	12.00 to 23.00
	Off Sales	Monday to Saturday	11.00 to 22.00
		Sunday	12.00 to 22.00

The Board are asked to note the hours requested are within Board Policy.

2. Activities

- (a) Add beer garden to 1/3 of car park as per layout plan.
- (b) Remove accommodation

3. Any Other Activities

Add possible charity/fundraising activities, quiz, disco and annual Music Festival.

The applicant has agreed to the following conditions being included in the licence in respect of the outdoor area:

- (a) Patrons shall not be permitted to use the external drinking areas beyond 21.00.
- (b) No music shall be provided in the external drinking areas.
- (c) No music of amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking areas.

4. Children's Conditions

- (a) **Times** - amend to read from 12.00 to 14.30 and 17.00 to 20.30 for meals only
- (b) **Ages** - amend to read "infant to 17 years old"
- (c) **Parts of premises** - now to read restaurant, toilet's and car park/beer garden
- (d) **Terms** – in addition to "accompanied by a responsible adult"
add in for food only outside for charity/fund raising matters - parental supervision needed.

5. Capacity

Increase from 205 persons to 220 persons

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from Southesk Developments Ltd on 29th June 2021 in respect of the:

Brown Horse Hotel, 62 Market Street, Brechin, DD9 6BD

Background:-

The Licensing Board at their meeting on 12th August 2021 considered this Major Variation application and deferred it for further information in relation to whether converting a car park into a beer garden was permitted or if planning permission should be sought.

The application is for:

- 1. Amendment layout:** To create a permanent "Beer Garden" taking up around one third of the existing car park area

Amendment to Operating Plan: Removal of accommodation.

- 2. Amendment to core licensing hours for on sale hours:** Amend terminal hour to 23:00 on Sunday to Thursday and amend commencement hour to 12 noon on a Sunday

Current Licensing Hours – On sales

Monday to Thursday	11:00 – 00:00
Friday & Saturday	11:00 – 01:00
Sunday	12:30 – 00:00

Current Licensing Hours – Off Sales

Monday to Saturday	11:00 – 22:00
Sunday	12:30 – 22:00

Current position

I have contacted Planning on several occasions for a response. I have yet to hear from them.

I duly submit this report for consideration of Board Members.

Nicky Corletto
Licensing Standards Officer
Angus Council

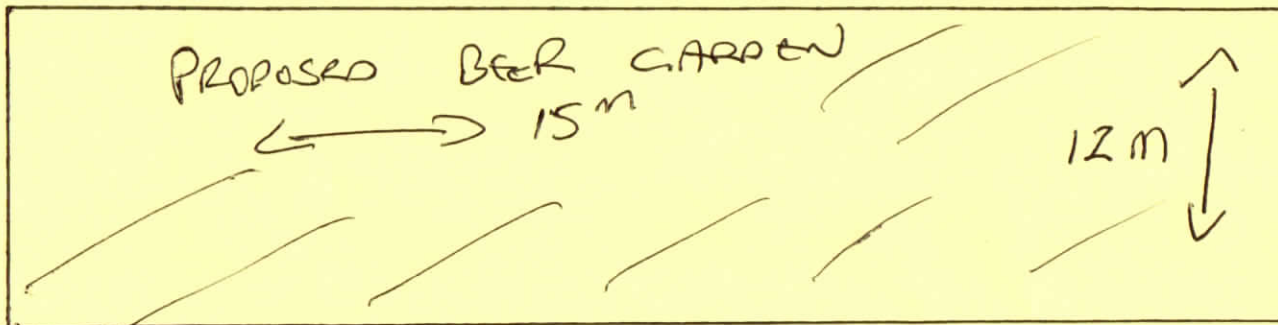
← CURRIK ST →

EXIT / ENTRANCE

← CAR PARK 21m TOTAL →

DRINK STORE - 10 BZASOL

STORE + BACK KITCHEN



↑ CAR PARK 32m TOTAL ↓

↑ WALKWAY ↓

KITCHEN

TOILETS

GATE

ENTRANCE RESTAURANT

← Brown Horse Hotel →

MARKET ST. ← → MARKET ST

(d) LICENCE NO. 37, OLD MASONS ARMS, 135-139 EAST HIGH STREET, FORFAR, DD8 2EQ

Name of Applicant – Maria Stewart

Type of Licence: On and Off Sales

Description of Variation

1. Core times –

Amend terminal hour on Friday and Saturday from 01.00 to 02.00

The Board are asked to note the hours requested are out with Board Policy.

2. Other Activities

To add:-

- (a) Karaoke
- (b) Pub Quiz
- (c) Psychic Nights
- (d) Poker Nights

Objection Received

A letter of objection received from Police Scotland dated 13 July 2021 will be submitted to members.

Environmental Health Comments

With reference to the above application, Environmental Health note that the application extends operating hours to 2am and adds Karaoke to the list of activities. The existing licence already includes live and recorded music which the licensee is already expected to control to acceptable levels. That being the case this service would not object to this variation.

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from Maria Stewart on 13 July 2021 in respect of:

Old Mason's Arms, 135-139 East High Street, Forfar, DD8 2EQ

Background: -

The application is for:

1. Amendment to operating plan:

- (a) Amend terminal hour from 1am to 2am Friday and Saturdays; and
- (b) and addition of Karaoke, pub quiz, psychic nights and poker nights as an activity

The Board are asked to note the hours requested are out with Board Policy.

Police Scotland have submitted an objection to the application based on the Licensing Objective Preventing Public Nuisance.

Noise nuisance complaint recently received.

I duly submit this report for consideration of Board Members.

Nicky Corletto

Licensing Standards Officer, Angus Council

(e) LICENCE NO. 6, THRUMS HOTEL, 25 BANK STREET, KIRRIEMUIR, DD8 4DE

Name of Applicant – Firm of D & S Clark, Thrums Hotel, 25 Bank Street, Kirriemuir, DD8 4DE

Type of Licence: On and Off Sales

Description of Variation

1. Core Hours

Amend Sunday to commence at 11.00 for on and off Sales

The Board are asked to note the hours requested are within Board Policy

2. Activities

(a) to include within and out with core hours

- (i) conference facilities
- (ii) theatre
- (iii) indoor/outdoor sports
- (iv) outdoor drinking

(b) to include out with core hours

- (i) restaurant
- (ii) bar meals
- (iii) receptions
- (iv) club meetings
- (v) recorded music
- (vi) televised sport

All activities out with core hours to be capable of commencing at 07.30

3. Other Activities

Include

- (a) comedians and magicians
- (b) business meetings
- (c) Service of breakfasts, teas, coffees and takeaway food - till end of food service
- (d) Pool for indoor sports

4. Children and Young Persons – Include

- (a) Times:** - Residents all times premises are open
Accompanied non-resident children and young persons until 21.00
- (b) Parts:** - Whole premises except no access to bar servery

5. Capacity

The addition of the external area shall not increase the capacity of the premises and shall remain at a total of 160 persons. (45 persons external).

6. Layout

The addition of a permanent external area.

Police Scotland submitted a letter of representation dated 26 August 2021, a copy of which is attached.

Environmental Health Commented

Environmental Health have clarified with the applicant's agent that the application will not include quiz or comedy nights or any external sports in the outside drinking area. We would therefore advise that this service would have no objections to this application subject to the standard conditions relating to outdoor drinking areas.

Building Standards Commented

As this is a permanent variation to the license, the 'covered seating' area and French doors require a Building Warrant prior to erection and a Completion Certificate Acceptance prior to occupation.

An email was sent which details our advisory note on the 21st April 2021 to state the works detailed in Planning Application 21/00063/FUL would require a Building Warrant and Completion Certificate and to date this has not been received.

It should be noted that as shown the proposals in the layout plan attached do not comply with the Technical Handbook (Non-Domestic) in terms of, but not limited to, escape from the existing building. The Applicant should contact our section.

The above comments from Building Standards has been forwarded to the Agent who is acting on behalf of applicant. To date there is no further update.

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from The Firm of D & S Clark on 16th August 2021 in respect of: **Thrums Hotel, 25 Bank Street, Kirriemuir, DD8 4DE**

Background:-

The application is for:

- 1. Amendment to operating plan:** To include activities both within and out with core licensed hours.
- 2. Amend Core Hours:** Amend commencement hour for Sundays to 11am daily for both on and off sales
- 3. Amendment to Children & Young Persons Access**
- 4. Amendment to Layout Plan:** Addition of external area

The Board are asked to note the amendments requested are all within Board Policy.

Environmental Health have no issue with the application but are looking for the standard outdoor conditions noted below to be added in relation to the external drinking area:

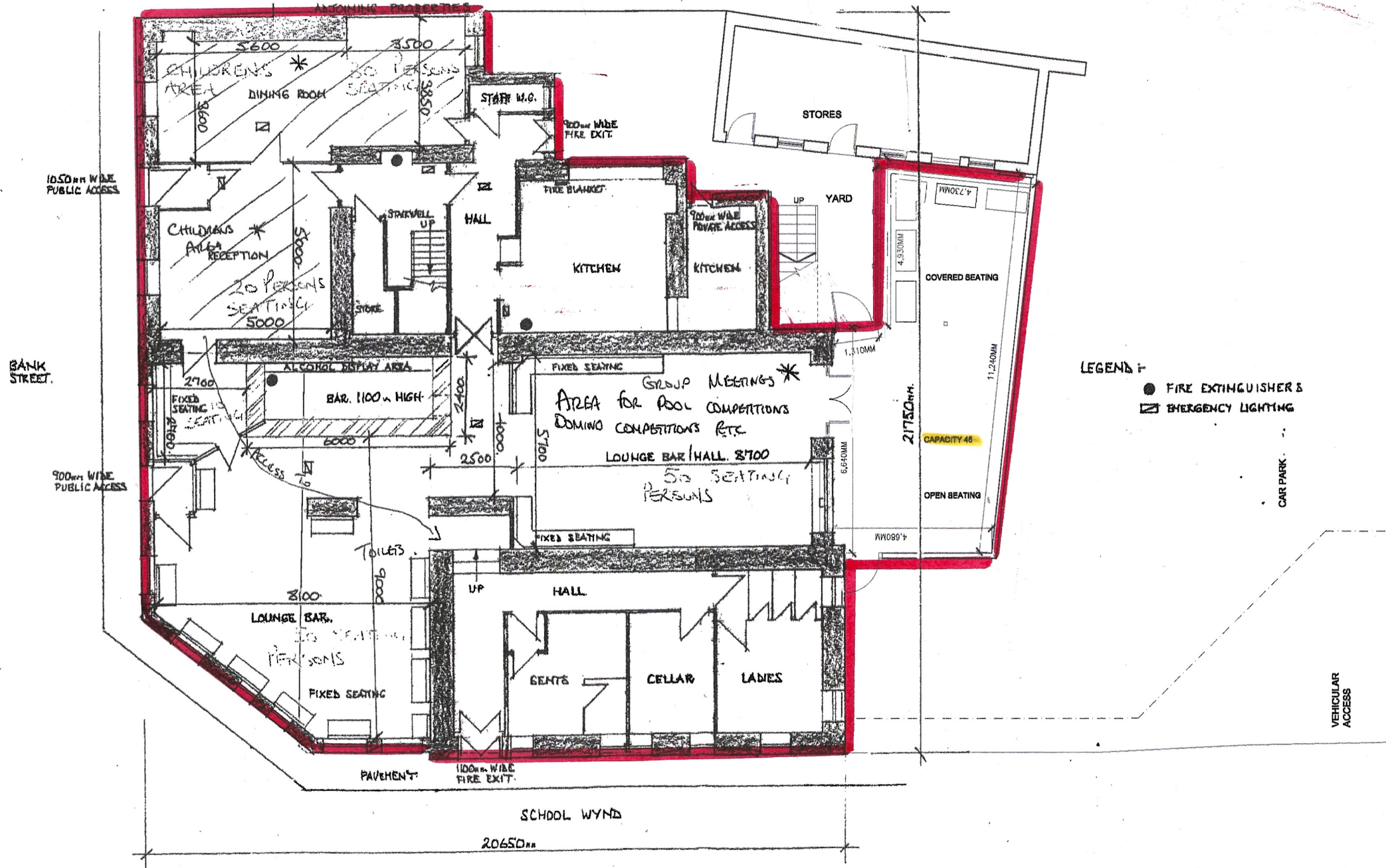
1. Patrons shall not be permitted to use the external drinking area beyond 21:00
2. No music shall be provided in the external drinking area
3. No music of amplified sound should be provided anywhere within the licensed premises with the intension of being heard within the external drinking areas.

Building Standards have submitted comments which are noted below, in respect of the application, and the Board may wish to address the Building Standards Officer directly about these. Our Business Support Team have forwarded these conditions onto the applicant:

- As this is a permanent variation to the license, the “covered seating” area and French doors require a Building Warrant prior to erection and a Completion Certificate Acceptance prior to occupation. An advisory note was issued on 21st April 2021 which stated the works detailed in Planning Application 21/00063/FUL would require a Building Warrant and Completion Certificate and to date this has not been received. It should be noted that as shown the proposals in the layout plan do not comply with the Technical Handbook (Non-Domestic) in terms of, but not limited to, escape from the existing building. The applicant should contact our section for detailed pre-warrant application discussions to avoid any delays.

I duly submit this report for consideration of Board Members.

Nicky Corletto
Licensing Standards Officer
Angus Council



- LEGEND:**
- FIRE EXTINGUISHERS
 - ☒ EMERGENCY LIGHTING

The Thrums 25 Bank St Kirriemuir DD8 4RF

**APPENDIX 1 TO REPORT LB 39/21
ANGUS LICENSING BOARD – 16 SEPTEMBER 2021**

(f) LICENCE NO. 257, STRATHMORE RUGBY FOOTBALL CLUB, INCHMACOBLE, FORFAR, DD8 1RL

Name of Applicant – Strathmore Rugby Football Club, Inchmacoble, Forfar, DD8 1RL

Type of Licence: On Sales

Description of Variation

1. Core times

Amend to:- On Sales	Sunday to Thursday	11.00 to 24.00
	Friday and Saturday	11.00 to 01.00

Add:- Off Sales	Monday to Sunday	11.00 to 22.00
-----------------	------------------	----------------

2. Activities

Add out with core hours

- (a) restaurant
- (b) bar meals
- (c) recorded music
- (d) live performances
- (e) dance facilities
- (f) theatre
- (g) films
- (h) gaming
- (i) indoor/outdoor sports
- (j) outdoor drinking

All activities out with core hours can commence from 07.00.

Any outdoor drinking out with core hours would only relate to non-alcoholic drinks.

The applicant has requested “To enable viewing of major Rugby Football events Rugby World Cup and 6 Nations - should games be scheduled in advance of core hours to permit sale of alcohol in conjunction with sale of substantial breakfast offering, access to club to be restricted to club members and their families by ticket booked and paid for in advance.”

The Board are asked to consider whether this kind of request should be allowed or whether the applicant should be invited to make Extended Hours applications in respect of such events or occasions.

3. Other Activities

To include

- (a) Yoga, marathon training and other sports and keep fit activities etc;
- (b) Service and consumption of food and drink over whole of licensed area
- (c) Food and drink promotions, matchings and tastings
- (d) Karaoke, band practice

- (e) Permit occasional markets and other activities in club premises including car park area for the purposes of assisting club fundraising. Non-members to be signed in by club members
- (f) Promoting sponsors, supporters and club members, local businesses, local producers and local
- (g) Retailers and local makers, charity events to permit community activities commensurate with a family friendly locally based club

4. Children and young Persons

- (a) **Terms** - Always accompanied by an adult who may include coach, trainers or other members the club or visiting teams or other responsible adult.

Permit access to youth and young/child players before and after games, training and practice sessions and team players and opposing team players access to the premises for pre and/or post training or pre and/or post-match snacks and refreshments until 22.00 for 14-17 year olds and until 18.00 for 5-13 year olds. To recognise that under 18s will in all case be under the care and supervision of club members, coaches, trainers and other responsible adults. Permit access to whole premises except the long side of the server bar. Access for purchase or ordering of non-alcoholic drinks, beverages and food to be at dedicated under 18s part of the servery - short end of bar servery marked with an X on layout plan.

- (b) **Times** - 07.00 to 22.00 or end of club functions

- (c) **Parts of Premises** - To permit access to whole premises except the adult side of the server bar, access for purchase or ordering of non-alcoholic drinks, beverages and food to be at dedicated under 18's part of the bar servery marked with an X on layout plan

5. Capacity

Increase capacity from on sales 140 to

Capacity internal 239
Capacity external 530

Note external capacity is usually only reached on major game match days when extra portaloos toilet provision will be made.

Building Standards Commented

It is noted the occupancy applied for is increasing from a total capacity of 140 persons to 239 internally and 530 externally (in addition to the internal capacity). This is a total increase from 140 persons to 769 persons. As this is a permanent variation of the license the internal layout of the premises must provide adequate space to occupy the external numbers (in inclement weather) and provide permanent sanitary provision to suit. Both should be detailed in accordance with the Non-Domestic Technical Handbook.

Building Warrant reference 17/00815/NDOM was granted on the 13th Nov 2017 and subsequently expired on the 13th Nov 2020. We have not received any required formal notification of works starting and none of the required construction stages have been requested for inspection. This building warrant affects the bar and smaller lounge area. In addition to this, I note the licensing plan shows removal of wc's and a change to the layout which is not on the approved Building Warrant and may affect the overall capacity allowable. Our office should be contacted at their earliest convenience to discuss the situation and apply for an amendment to warrant.

As noted above there appears to be the removal of 2 wc's and 2 whb's serving the licensed area which is not approved under the Building Warrant. From the information supplied on the plan it would appear that the number applied for under this application (internal numbers of 239 persons only) exceeds the sanitary provision available and this should be recalculated and advised.

Please confirm there are no boundary restrictions such as walls/fences/enclosures around the external space applied for. If there are restrictions please detail what they are, where, height and any escape routes, widths, gates, ironmongery accordingly.

Please confirm no structures are intended for the external licensed area.

Please detail the external escape route/emergency lighting provision for the external area if planned for use out with daylight hours.

The above comments were forwarded to the Agent who is acting on behalf of the applicant. To date there is no further update.

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from Strathmore Rugby Football Club on 17 August 2021 in respect of:

Strathmore Rugby Football Club, Inchmacoble, Forfar, DD8 1RL

Background: -

The application is for:

1. **Amendment to vary the conditions** – To change the under 18's access
2. **Amendment to Operating Plan:**
 - (a) Addition of off sales hours 11am to 10pm daily
 - (b) Amend commencement hours for on sales hours to 11am to midnight Sunday to Thursday and 11am to 1am Friday and Saturday.
These proposed hours are within Board Policy.
 - (c) Addition and removal of activities
 - (d) Increase capacity from 140 to 769 persons

3. **Amendment to layout plan to include an outdoor external drinking area**

The Board may wish to add the outdoor area standard conditions noted below.

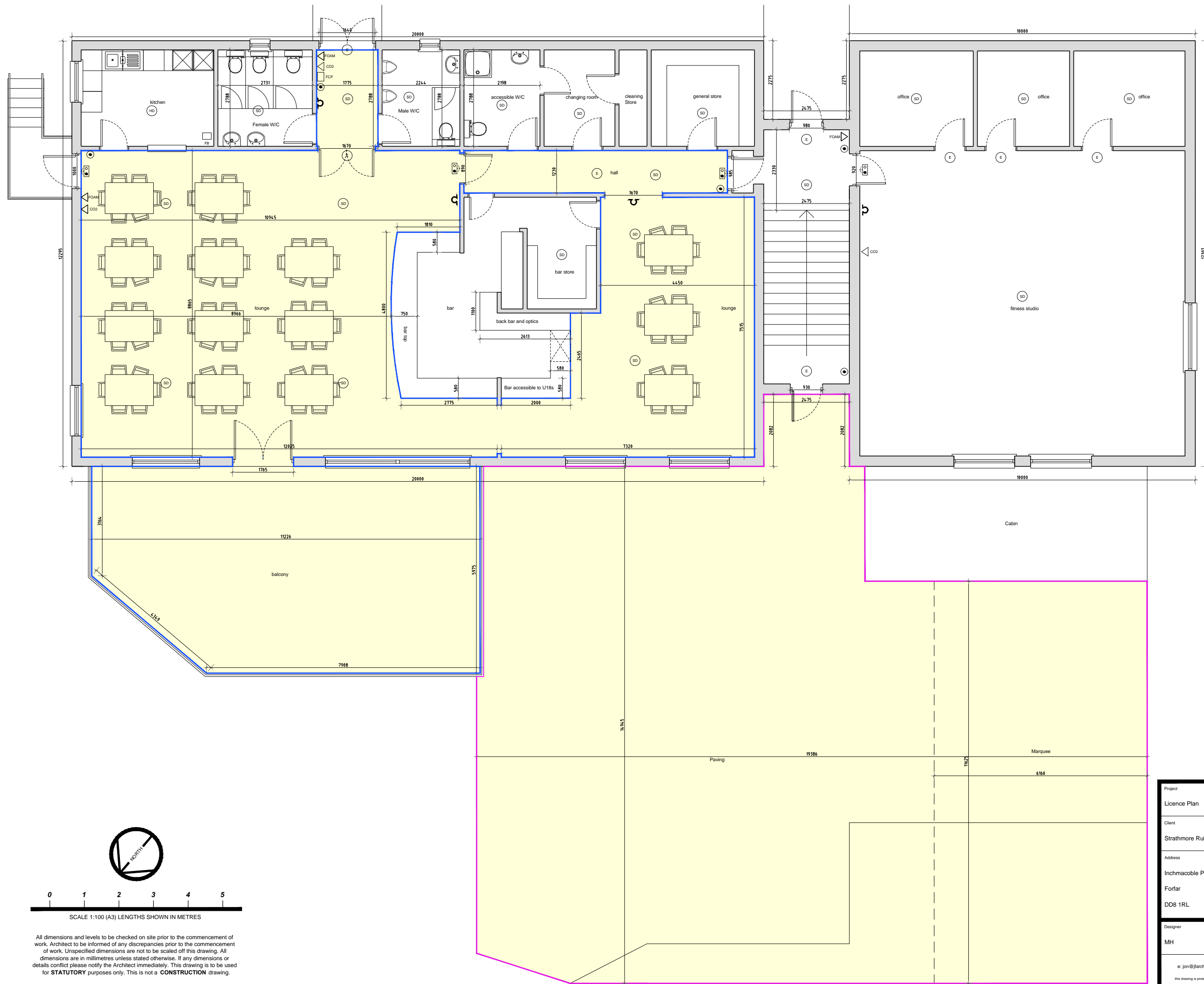
1. Patrons shall not be permitted to use the external drinking area beyond 21:00
2. No music shall be provided in the external drinking area
3. No music of amplified sound should be provided anywhere within the licensed premises with the intension of being heard within the external drinking areas.

Building Standards have submitted comments, which are noted below, in respect of the application:

- It is noted the occupancy applied for is increasing from a total capacity of 140 persons to 239 internally and 530 externally (in addition to the internal capacity). This is a total increase from 140 persons to 769 persons. As this is a permanent variation of the licence the internal layout or the premises must provide adequate space to occupy the external numbers (in inclement weather) and provide permanent sanitary provision to suit. Both should be detailed in accordance with the Non-Domestic Technical Handbook. Building Warrant reference 17/00815/NDOM was granted on 13th November 2017 and subsequently expired on 13th November 2020. We have not received any required formal notification of works starting and none of the required construction stages have been requested for inspection. This building warrant affects the bar and smaller lounge area. In addition to this, I note the licensing plan shows removal of wc's and a change to the layout which is not on the approved Building Warrant and may affect the overall capacity allowable. Our office should be contacted at their earliest convenience to discuss the situation and apply for an amendment to warrant. As noted above there appears to be the removal of 2 wc's and 2 whb's serving the licensed area which is not approved under the Building Warrant. From the information supplied on the plan it would appear that the number applied for under this application (internal numbers of 239 persons only) exceeds the sanitary provision available and this should be recalculated and advised. Please confirm there are no boundary restrictions such as walls/fences/enclosures around the external space applied for. If there are restrictions please detail what they are, where, height and any escape routes, widths, gates, ironmongery accordingly. Please confirm no structures are intended for the external licensed area. Please detail the external escape route/emergency lighting provision for the external area if planned for use out with daylight hours.

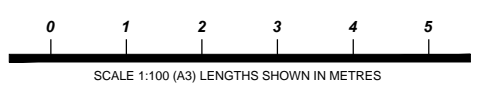
I duly submit this report for consideration of Board Members.

Nicky Corletto
Licensing Standards Officer
Angus Council




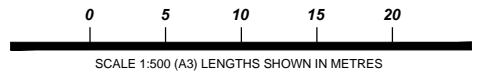
- break glass call point
- fire control panel
- fire blanket
- FB
- △ FOAM
- △ CO2
- E
- HD
- SD
- directional fire exit sign
- ⊙ alarm sounder
- areas of premises where children, young persons and public have access
- site boundary
- yp childrens area (access to toilets by yp and children)
- area of additional beer garden

Occupant Capacity
 Bar (Public Area) = 239
 External Area - 530



All dimensions and levels to be checked on site prior to the commencement of work. Architect to be informed of any discrepancies prior to the commencement of work. Unspecified dimensions are not to be scaled off this drawing. All dimensions are in millimetres unless stated otherwise. If any dimensions or details conflict please notify the Architect immediately. This drawing is to be used for STATUTORY purposes only. This is not a CONSTRUCTION drawing.

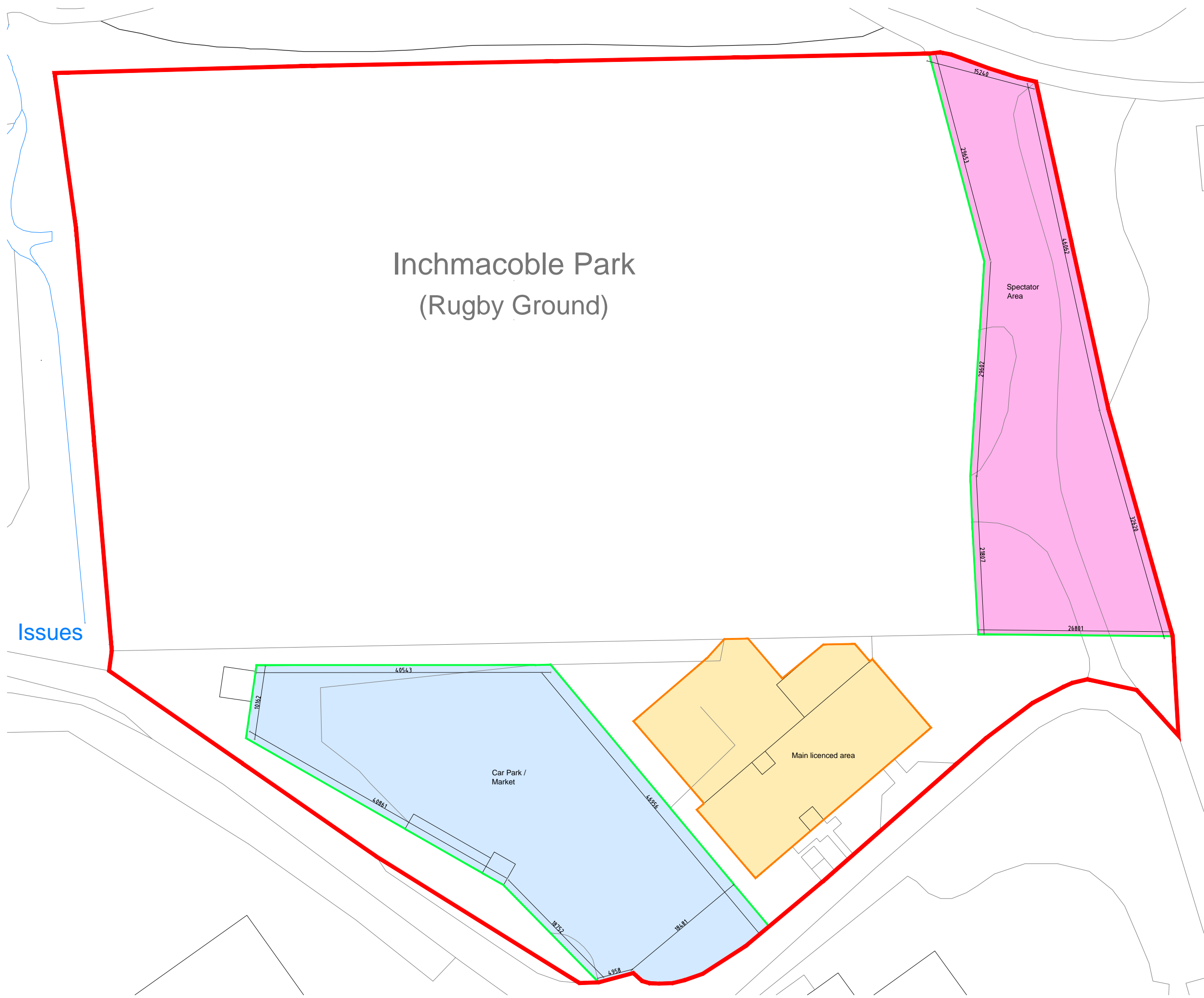
Project Licence Plan		 JON FRULLANI ARCHITECT	
Client Strathmore Rugby Club			
Address Inchmacoble Park		Drawing Title Floor Plan	
Forfar DD8 1RL		Issue Status Legal	Drawing No. 6745_703
Designer MH	Date June, '21	Scale 1:100 @ A3	Revision -
<small>t: 01382 224828 m: 07808 726306 e: jon@jfrarchitect.co.uk w: jfrarchitect.co.uk f: facebook.com/jfrarchitect at: unit 5, district 10, greenmarket, dundee, dd1 4qb this drawing is protected by copyright. it may not be reproduced in any form or by any means for any purpose, without gaining prior written permission from jon frullani architect ltd</small>			




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Inchmacoble Park (Rugby Ground)

Issues



- site boundary
- Main licenced area
- Car Park / Market
- Spectator Area

Project Licence Plan		 JON FRULLANI ARCHITECT	
Client Strathmore Rugby Club			
Address Inchmacoble Park Forfar DD8 1RL		Drawing Title Site Plan	
Designer MH	Date June, '21	Issue Status Legal	Drawing No. 6745_702
Scale 1:500 @ A3		Revision -	
t: 01382 224828 m: 07808 726306 e: jon@jfrarchitect.co.uk w: jfrarchitect.co.uk f: facebook.com/jfrarchitect a: unit 5, district 10, greenmarket, dundee, dd1 4qb this drawing is protected by copyright. it may not be reproduced in any form or by any means for any purpose, without gaining prior written permission from jon frullani architect ltd			