

AGENDA ITEM NO 5

REPORT NO LB 16/22

ANGUS LICENSING BOARD – 24 MARCH 2022

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 two applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. RECOMMENDATIONS

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 an application to vary a premises licence 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: Tina Magson, Team Leader – Legal Team 1

E-MAIL: LEGDEM@angus.gov.uk

APPENDIX TO REPORT 16/22
ANGUS LICENSING BOARD – 24 MARCH 2022

(a) LICENCE NO. 337, ARBROATH FOOTBALL CLUB, GAYFIELD PARK, DUNDEE ROAD, ARBROATH, DD11 1QB

Name of Applicant – Arbroath Football Club Limited, Gayfield Park, Dundee Road, Arbroath, DD11 1QB

Type of Licence: On Sales

Description of Variation

1. Add off sales:

Sunday to Monday 10.00 to 22.00

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

2. Seasonal Variation:

Add Boxing Day

3. Operating Plan:

Add Restaurant facilities, receptions including weddings funerals, birthdays, retirements etc., club or other group meetings, recorded music, live performances, dance facilities, gaming, indoor/outdoor sports and televised sport outwith core hours.

Films within and outwith core hours.

Amend activities outwith core hours statement to:

The club seeks to maximise the use of the facilities. Breakfast service may take place from 08.00 onwards and funerals, meetings, conferences, and the like may take place outwith core hours. Background music will be played both within and outwith core hours. Major sporting events are often televised outwith core hours and these may be shown subject to member demand. Although activities may take place outwith core licensed hours no alcohol will be sold or supplied unless under the authority of an extended hours certificate.

Amend other activities statement to:

Catering may be provided for various events such as sportsmen's dinners, hospitality events and the like and we may hold quiz nights, race nights, casino nights, fund raising events, birthday parties and the like but no alcohol will be sold or supplied unless under the authority of an extended hours certificate.

4. Capacity:

Off sales capacity 30m²

5. Layout:

Incorporate a new merchandise shop and a redevelopment reception area.

6. Premises Licence

Description of premises to include:

There will be a shop at the entrance of the premises which will sell football merchandise and a range of alcohol will be available for off sales.

Comments Received

Building Standards - The application includes the provision of a new shop/office building which is subject to the requirement to have a Building Warrant and Completion Certificate Acceptance. Building Warrant reference 21/00845/NDOM was applied for on the 6th October 2021 and to date this application has not been approved. Therefore, no Building Warrant is in place which prevents the commencement of construction works at this current time and consequently no Completion Certificate has been submitted or accepted. A Completion Certificate should be accepted prior to occupancy or use of the building.

LICENSING STANDARDS OFFICER REPORT

An application for a Major Variation Application was received from Arbroath Football Club Limited on 17th February 2022 in respect of:

Arbroath Football Club, Gayfield Park, Dundee Road, Arbroath, DD11 1QB

Premises Licence Number: 337

Background: -

This is an application for a major variation to the premises licence to incorporate a new merchandise shop and the redevelopment of the reception area. It is also to allow the addition of off sale hours along with a general tidy up of the existing premises licence.

Licensing Standards Officer Report:

Paul Reid contacted me in December last year to discuss the plans for the football club and what he needed to do in respect of amending and updating the current premises licence. I provided him with guidance along with details of where to locate the application forms.

I note from the operating plan that gaming has been amended to allow this activity both within and outwith core hours but my understanding of the Licensing (Scotland) Act 2005 was that no gaming could take place outwith core licensed hours.

I would therefore recommend that the operating plan be amended to state No to gaming outwith core hours.

Statutory Checks

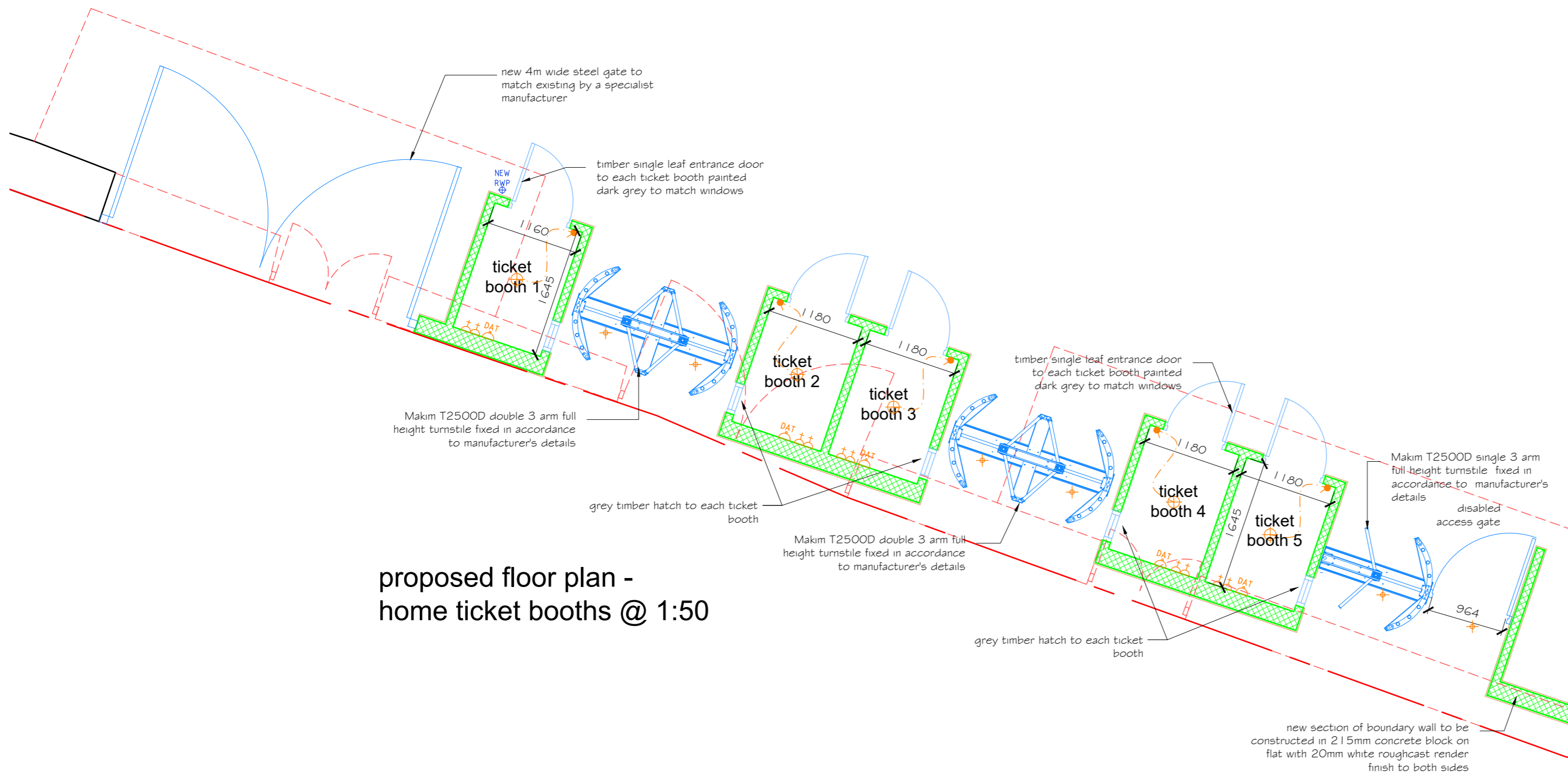
I have been unable to visit the premises but can confirm that no complaints have been received.

I do not have any issues with the application, other than the issue with gaming outwith core hours, and duly submit this report for consideration of Board Members.

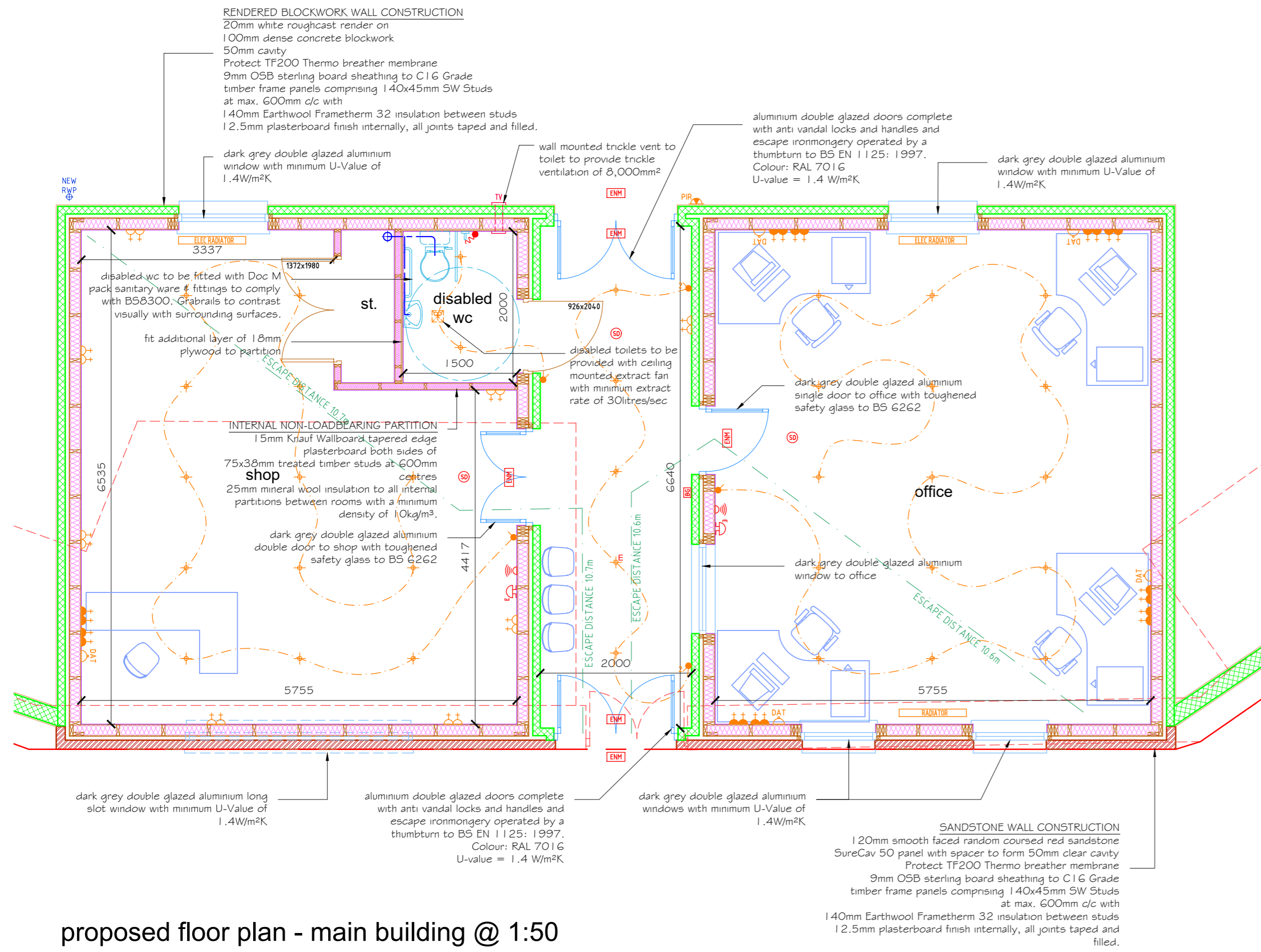
Nicky Corletto

Licensing Standards Officer

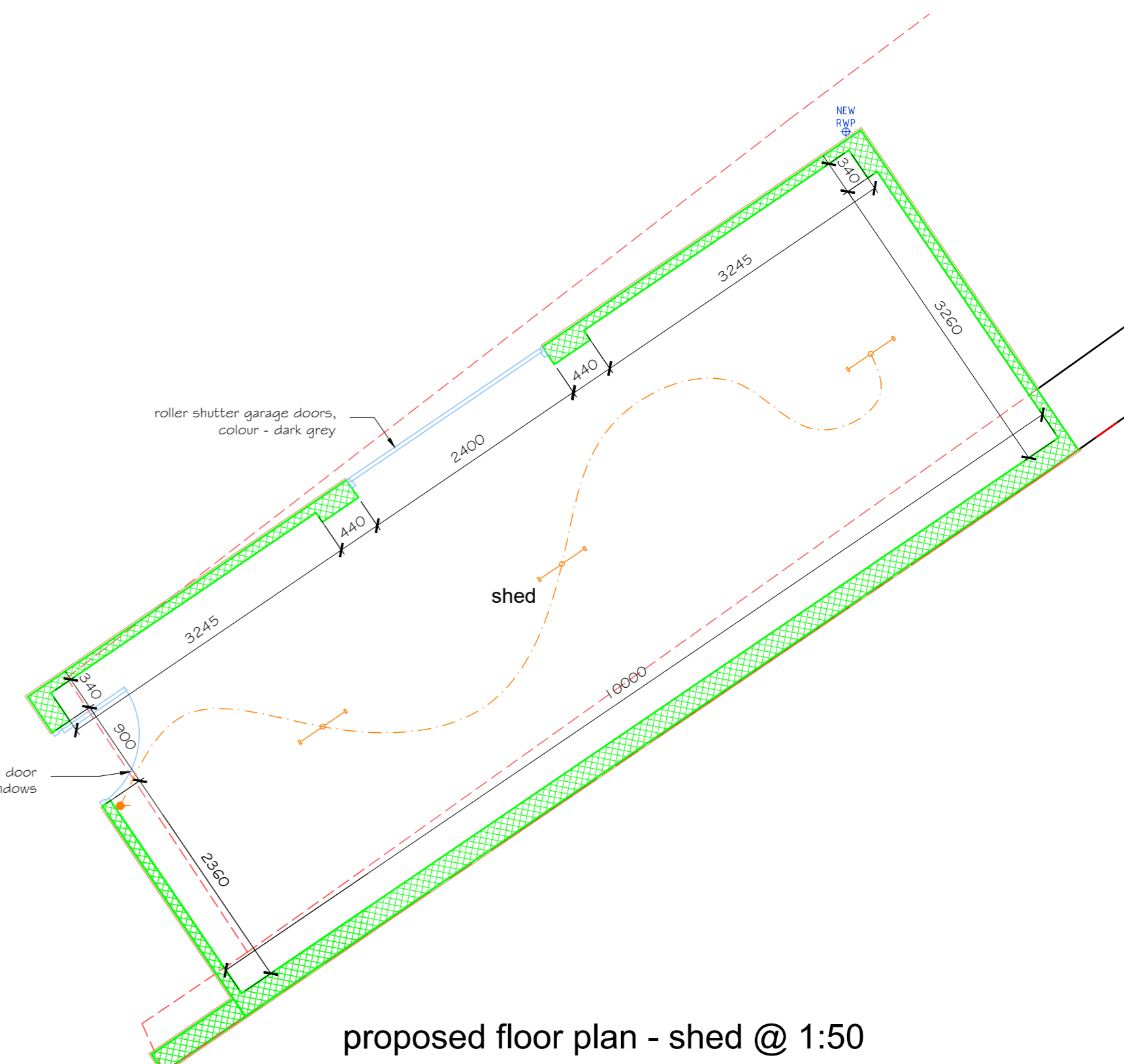
Angus Council



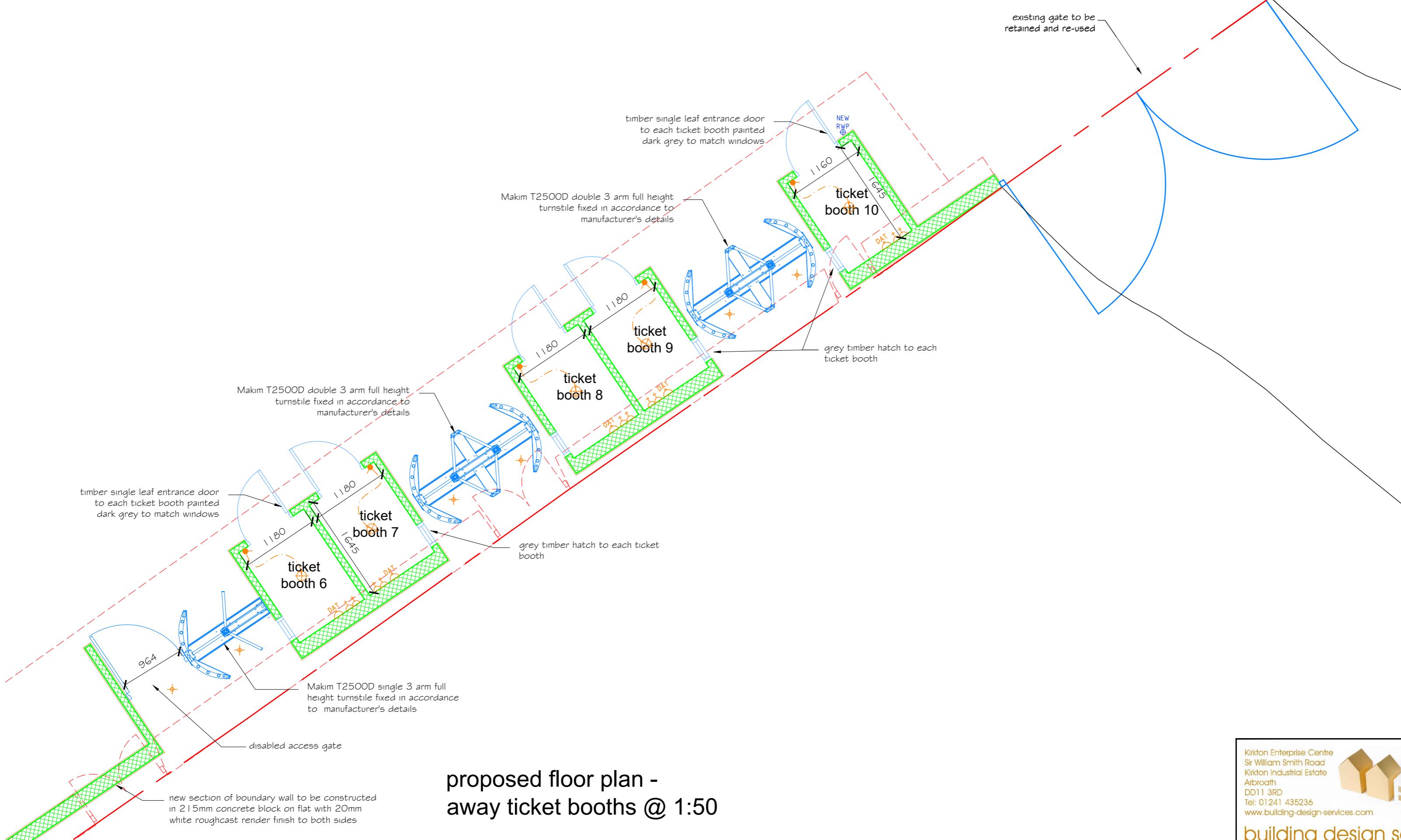
proposed floor plan - home ticket booths @ 1:50



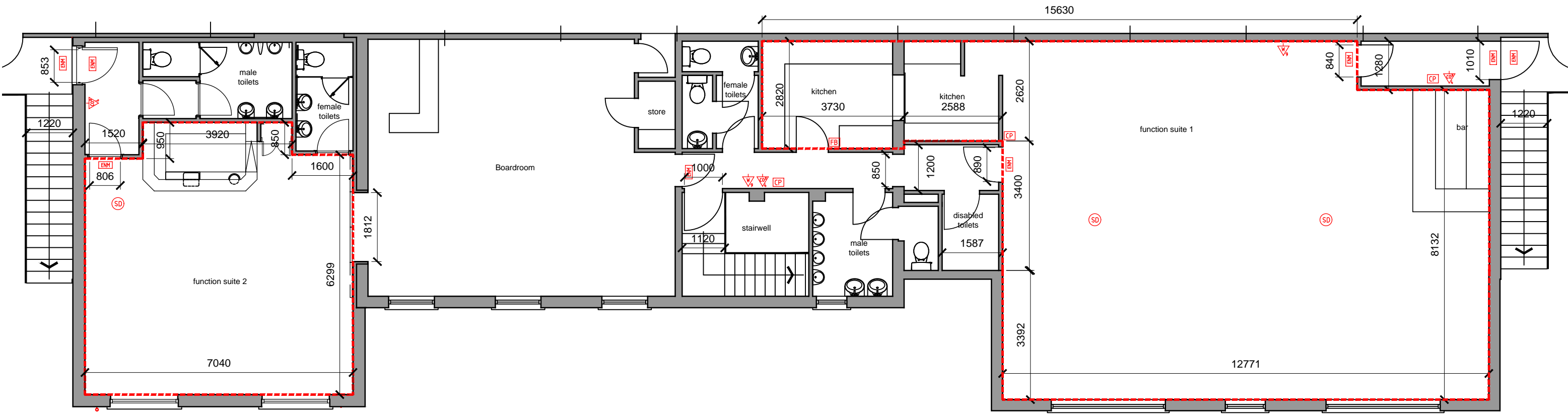
proposed floor plan - main building @ 1:50



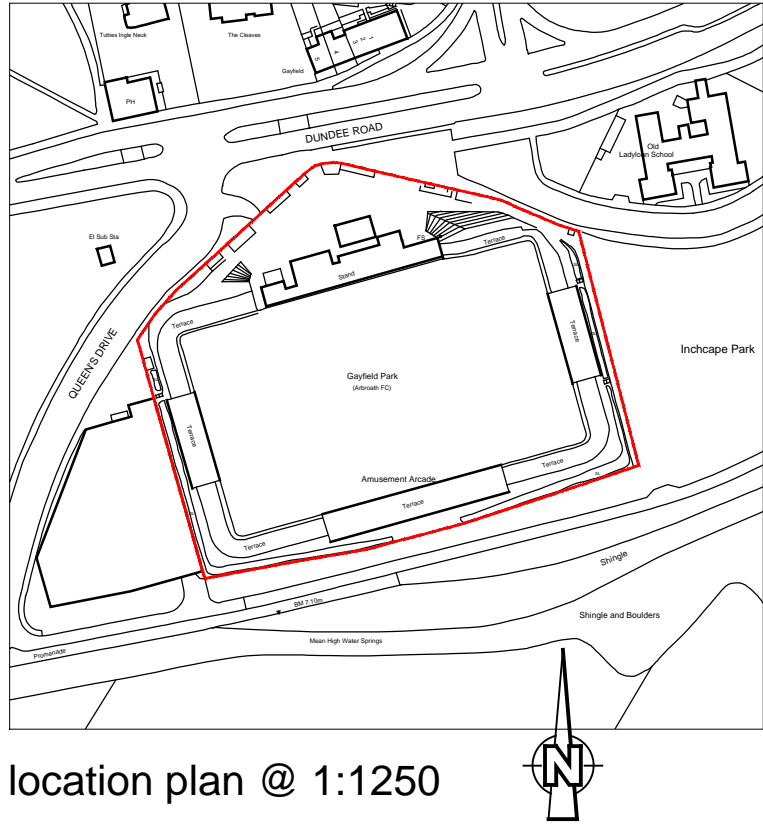
proposed floor plan - shed @ 1:50



proposed floor plan - away ticket booths @ 1:50



first floor plan @ 1:100



location plan @ 1:1250

EMERGENCY LEGEND

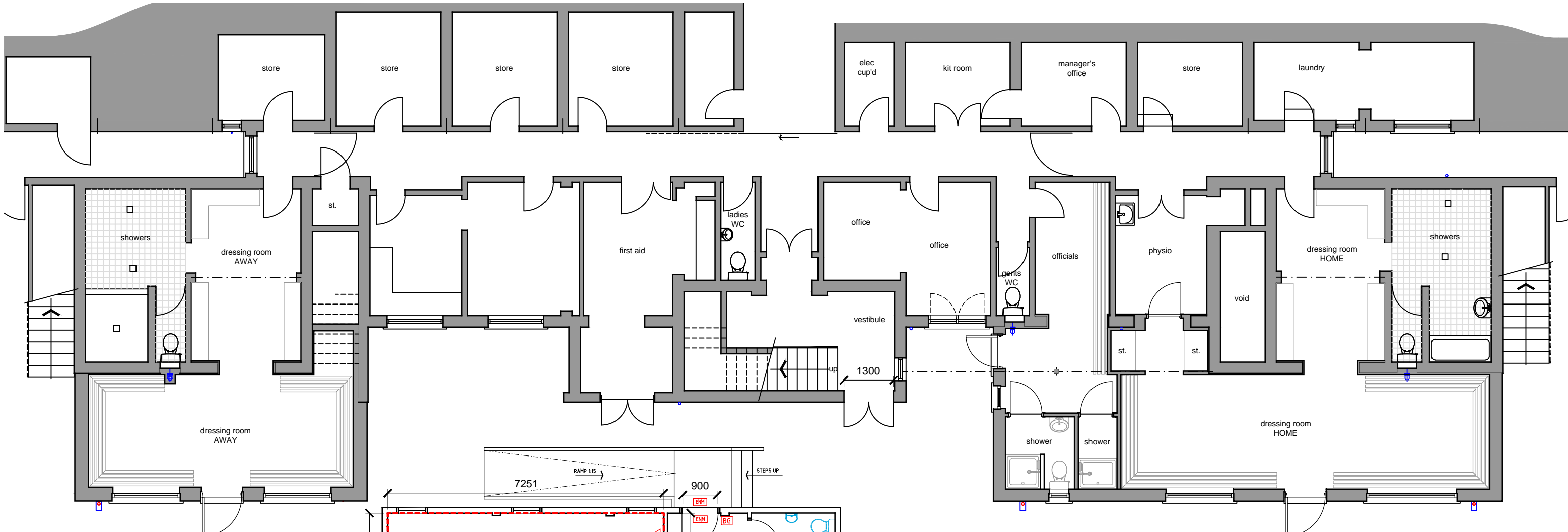
- FEM FLUSH MOUNTED MAINTAINED EMERGENCY LIGHT
- FENM FLUSH MOUNTED NON MAINTAINED EMERGENCY LIGHT
- EM SURFACE MOUNTED MAINTAINED EMERGENCY LIGHT
- ENM SURFACE MOUNTED NON-MAINTAINED EMERGENCY LIGHT
- HD HEAT DETECTOR
- SD SMOKE DETECTOR
- BG BREAK GLASS ALARM POINT
- CP FIRE ALARM CALL POINT
- FP FIRE ALARM PANEL
- FB FIRE BLANKET
- ▽ 4 KG Wall Mounted Carbon Dioxide Extinguisher
- ▽ 9 Litre Wall Mounted Water Extinguisher
- ▽_{2.3} Dry Powder Extinguisher
- ▽ Foam Extinguisher

This plan was granted on 12 August 2021 by Angus Licensing Board in respect of a variation of a Premises Licence at Arbroath Football Club, Gayfield Park, Dundee Road, Arbroath, DD11 1QB.

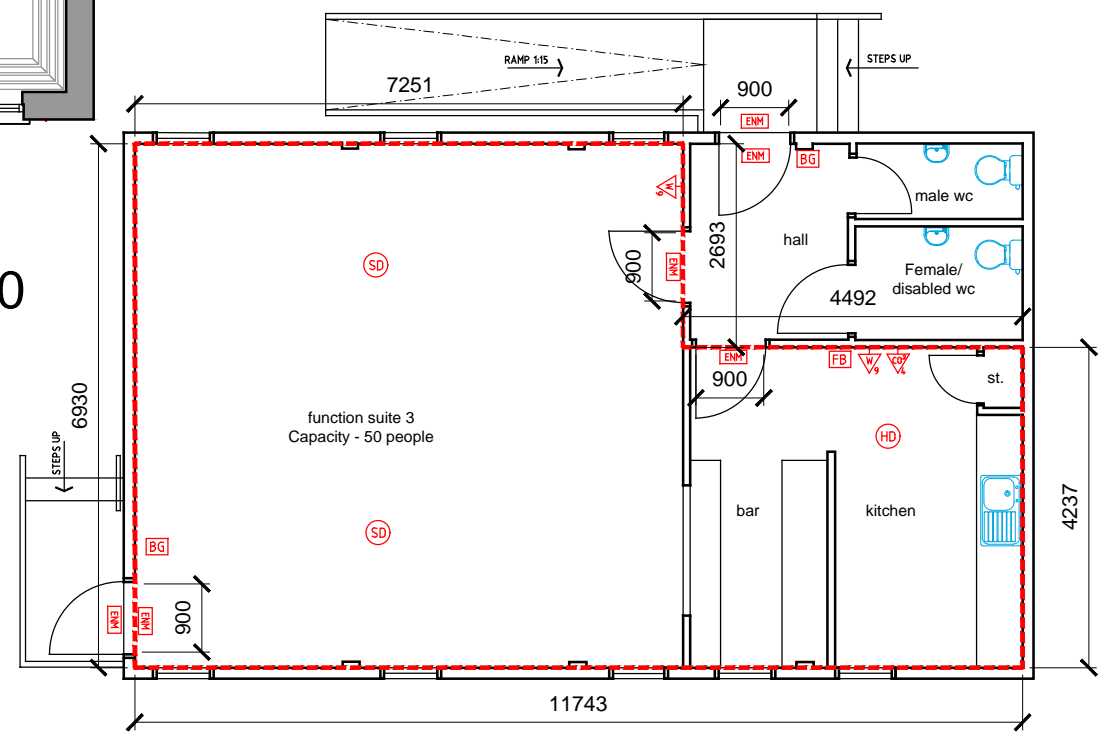
James
Clerk

Rev	Date	Description

Kirton Enterprise Centre Sir William Smith Road Kirton Industrial Estate Arbroath DD11 3RD Tel: 01241 435236 www.building-design-services.com	project Licensing Plans Arbroath F.C. Gayfield Park, Queens Drive, Arbroath, DD11 1QB	client Arbroath F.C.	drawing LICENSING PLAN First Floor
	scale 1:100 & 1:2500	date June 2019	drg no. LP-02



ground floor plan @ 1:100



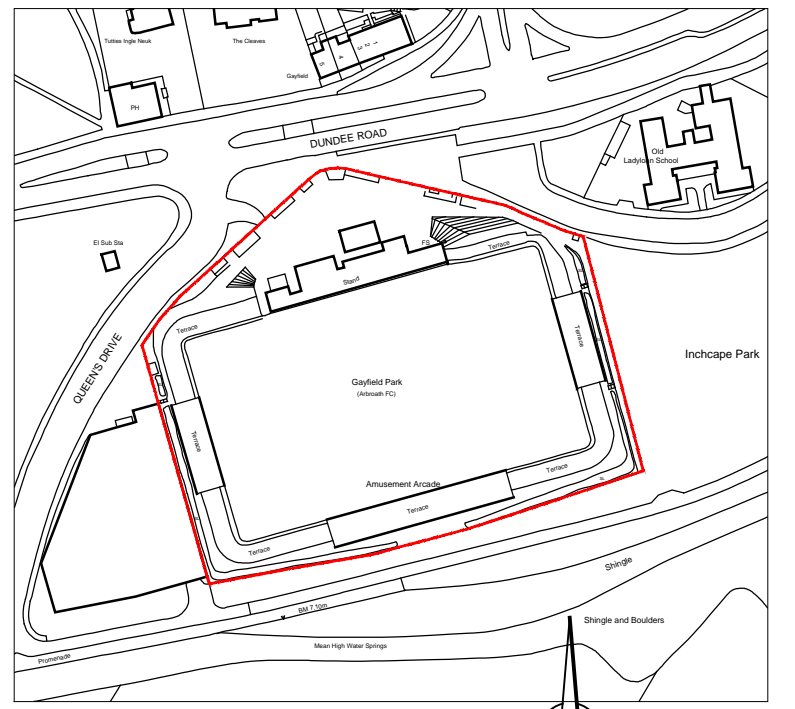
EMERGENCY LEGEND

- FEM FLUSH MOUNTED MAINTAINED EMERGENCY LIGHT
- FENM FLUSH MOUNTED NON MAINTAINED EMERGENCY LIGHT
- EM SURFACE MOUNTED MAINTAINED EMERGENCY LIGHT
- ENM SURFACE MOUNTED NON-MAINTAINED EMERGENCY LIGHT
- HD HEAT DETECTOR
- SD SMOKE DETECTOR
- BG BREAK GLASS ALARM POINT
- CP FIRE ALARM CALL POINT
- FP FIRE ALARM PANEL
- FB FIRE BLANKET
- 4 KG 4 KG Wall Mounted Carbon Dioxide Extinguisher
- 9 L 9 Litre Wall Mounted Water Extinguisher
- DP₂₃ Dry Powder Extinguisher
- F₆ Foam Extinguisher

NOTE
Children and young persons have access to all public areas

This plan was granted on 12 August 2021 by Angus Licensing Board in respect of a variation of a Premises Licence at Arbroath Football Club, Gayfield Park, Dundee Road, Arbroath, DD11 1QB.

[Signature]
Clerk



location plan @ 1:1250

Kirkton Enterprise Centre Sir William Smith Road Kirkton Industrial Estate Arbroath DD11 3RD Tel: 01241 435236 www.building-design-services.com	project Licensing Plans Arbroath F.C. Gayfield Park, Queens Drive, Arbroath, DD11 1QB	client Arbroath F.C.	drawing LICENSING PLAN Ground Floor
	scale 1:100 & 1:2500	date June 2019	drg no. LP-01

APPENDIX TO REPORT LB16/22
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(b) LICENCE NO. 406, GREY HARLINGS, 5 TRAILL DRIVE, MONTROSE, DD10 8SW

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

Type of Licence: On sales

Description of Variation

1. Core times:

Amend to	Sunday to Thursday	11.00 to 24.00
	Friday and Saturday	11.00 to 01.00

2. Add Off Sales:

Monday to Sunday	11.00 to 22.00
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The Board are asked to note the hours requested are within Board Policy.

3. Seasonal Variations:

Add Christmas Eve, Christmas Day, Boxing Day, Hogmanay and New Year's Day

4. Operating Plan:

Add:-Conference facilities, receptions including weddings, funerals, birthdays, retirements etc., club and other group meetings, indoor/outdoor sports and films within and outwith core hours.

Bar meals, live performances and dance facilities within core hours

Recorded music outwith core hours

Add to activities outwith core hours statement:

Conference facilities – business meetings may start prior to 11.00

Bar meals and club meetings – to offer a service to the public

Receptions – to allow for instances where a funeral reception may start prior to 11.00

Recorded music – provision to allow music to be played in background prior to 11.00 operations (cleaning etc) throughout public areas inside the building

Live performances – acoustic music may be provided

Dance facilities – dancing at weddings, birthdays etc

Films – to allow for presentations during meetings prior to 11.00

Indoor/outdoor sports – to allow residents use of pool table prior to 11.00

Activities may occur outwith core licensed hours however no alcohol will be sold or supplied at these times

Objection Received

Notice of objection was received by Tracy Prudhoe on Tuesday 8 March 2022, a copy of which is attached.

Representation Received

Environmental Health advised they have now received a noise management plan for the premises. Having read this document Environmental Health would advise that it is well written and identifies the major noise sources and proposed mitigation. The plan however, should include an assessment of noise near to sensitive receptors i.e. residential premises and after 11pm music/entertainment noise should be inaudible at these locations, in line with licensing board policy.

LICENSING STANDARDS OFFICER REPORT

An application for Major Variation was received from Framework Property Developments Limited on 11th February 2022 in respect of:

Grey Harlings Hotel, 5 Traill Drive, Montrose, Angus, DD10 8SW

Premises Licence Number 406

Background: -

The premises are located on Traill Drive and sit behind the 18th green of the local golf course. There are residential premises within this location. The current premises licence holder is Framework Property Developments Ltd whose directors are Keith Watson and Stuart Aikenhead. The current premises manager is Keith Watson.

Licensing Standards Officer Report:

Chloe Henderson, on behalf of Keith Watson, contacted me in January to discuss the plans for the Hotel moving forward for the future and spoke about the lodging of the major variation application. I have had contact with both Chloe and Keith on a few occasions over the course of the last few weeks and have provided them with guidance as to how to incorporate all their business proposals moving forward. Due to the Covid their business has been hit, like most of the hospitality sector, and they are looking at ways to improve and offer more services to the public and community. They were approached recently to see if they could hold a small wedding at their premises and this was the main reason for the application, as on their current licence, they cannot have this type of event.

Major Variation

The application is to amend the trading hours for the hotel to be in line with the Board Policy for on sales and to add off sales to their existing licence. They are also looking to add and amend some of the existing activities to allow their premises to be utilised for the community as well as adding seasonal variations to cover any extension over the festive period dates. By amending their operating plan this will allow for birthday parties, celebrations, meetings, and funerals to take place and to be able to offer a wider variety of services.

Statutory Checks

On checking the system, a complaint was lodged 2016. The complaint was in respect of noise and a written warning was issued at the time. The premises manager at the time of this complaint was Mr B Grant and he was resigned from this post in 2019.

A further complaint was received on 23 July 2020. This was regarding an alleged breach of conditions and covid regulations. My predecessor, Daniel Coleman, visited the premises and determined the complaint to be partly upheld and a verbal warning was issued at the time.

The premises licence currently has conditions attached which relate to the Outdoor Area and there are no changes to these. For information these are as follows:

- Outdoor drinking permitted within the patio area to the east of the premises (including seating area to include benches on grass within a portion of the grassy area), the courtyard and gazebo including decked area it sits on. Alcohol consumption in any other outdoor area on 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
- No music of amplified sound should be provided anywhere within the licensed premises with the intention of being heard within the external drinking areas.

I do not have any issues with the application and duly submit this report for consideration of Board Members.

Nicky Corletto, Licensing Standards Officer, Angus Council

First name: Tracy

Last name: Prudhoe

Email: [REDACTED]

Phone number(s): [REDACTED]

LabelForAddressOptions: Please select 1 of the following options

Address: [REDACTED]

Do you wish to make an objection or representation?:objection

Which type of licence does you objection/representation relate to?:premises licence

Name of premises: Grey Harlings Hotel

Address of premises: 5 Traill Drive
DD10 8SW
Montrose

What are your grounds for objection? Select as many as apply.:licensing objectives,
activities/premises/customers

Which licensing objective(s) does your objection relate to? Select as many as apply.:
preventing a public nuisance

Details of objection on the grounds of licensing objective(s):Objection relates to preventing a
public nuisance

Details of objection on the grounds of activities/premises/customers:Allowing drinking during
live performances and all other activities to midnight during the week and 1 am at weekends is
completely unacceptable in a building with poor noise insulation, next to our home with young
children. In addition, each activity that is proposed to be allowed outwith core hours, has no specific
time constraints in the operating plan. Angus Council's solicitor states that "Any activity which is
included in the operating plan for 'outwith core hours' can take place at any time outside core
hours unless it is time restricted in the operating plan". This would subject us to the noise of
weddings, guests in outdoor drinking areas, etc for 24 hours a day even though no alcohol was
being consumed.