

ANGUS LICENSING BOARD – 19 JANUARY 2023

PROVISIONAL PREMISES LICENCE APPLICATION UNDER THE LICENSING (S) ACT 2005

REPORT BY CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to present two applications for a new provisional premises licences under the Licensing (Scotland) Act 2005 which require to be determined by the Board.

1. RECOMMENDATIONS

It is recommended that the Board considers and determines the applications for a new provisional premises licences as detailed in the attached Appendix, in terms of one of the following options: -

- (i) to grant the application, subject to Statutory Conditions and any other discretionary local conditions which the Board may wish to impose;
- (ii) to propose a modification to the operating plan or layout plan (or both) and if the applicant accepts the proposed modification, request that the applicant amend the application and, thereafter, grant the modified application with the proposed amendment, subject to the Statutory Conditions and any other discretionary or local conditions which the Board may wish to impose;
- (iii) to defer the application to the next Licensing Board; or
- (iv) to refuse the application on one or more of the grounds referred to in Paragraph 4.

2. BACKGROUND

The Board has received applications for new provisional premises licences under the Licensing (Scotland) Act 2005 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. The Board should note that one of the applications is for a petrol filling station and information regarding this being a category of excluded premises is noted below in the applicable Appendix.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this Report.

4. OTHER IMPLICATIONS

Legal

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

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

The grounds for refusal are: -

- (a) that the subject premises are excluded premises,

- (b) that the application must be refused under Section 25(2) (the Board had previously refused a premises licence within the preceding one year), Section 64(2) (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) (if alcohol is to be sold for off sales purposes before 10am or after 10pm, or both),
- (c) that the Licensing Board consider, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence,
- (d) that the Licensing Board considers that the granting of the application would otherwise be inconsistent with one or more of the licensing objectives,
- (e) that, having regard to:
 - (i) the nature of the activities 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,
- (f) 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, in the locality.
- (g) in considering whether either of the grounds for refusal specified in (c) or (d) applies, the Licensing Board must in particular take into account—
 - (a) any conviction, notice of which is given by the chief constable under subsection 4(b) of section 21; and
 - (b) any report given by the chief constable under section 24A(2).
- (h) Where the Licensing Board considers that: -
 - (a) they would refuse the application as made, but
 - (b) if a modification proposed by them were made to the operating plan or layout plan (or both) for the subject premises accompanying the application, they would be able to grant the application,

the Board must, if the applicant accepts the proposed modification, grant the application as modified.

Where the Licensing Board refuses the application: -

- (a) the Board must specify the ground for refusal, and
- (b) if the ground of refusal is that specified at 4(c) or (d) above, the Board must specify the licensing objective or objectives in question.

REPORT AUTHOR: Jennifer Burns, Solicitor – Legal Team 1
E-MAIL: LEGDEM@angus.gov.uk

ANGUS LICENSING BOARD – 19 JANUARY 2023

(a) **PARK ORCHARDBANK SERVICE STATION, SILVIE WAY, ORCHARDBANK BUSINESS PARK, FORFAR, DD8 1BF**

Name of Applicant

Park Garage Group PLC, 1-3 Station Approach, Hayes, Bromley, BR2 7EQ

Type of Licence: Provisional Premises Licence – Off Sales

1. Description of Premises –

Petrol station and local convenience store selling petrol/derv and a full range of grocery and food items including fresh and frozen, food to go and other retail products.

2. Core times when alcohol will be sold for consumption off the premises: -

Monday to Sunday 10:00 to 22.00

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

3. Activities to be provided –

Recorded music to be provided within and outwith core hours

4. Activities outwith core hours –

Background music may be played

5. Activities other than those listed –

Retail sale of groceries, confectionery, bread and cakes, crisps and snacks, soft drinks, non-food items, toiletries, frozen foods, chilled foods, fruit & veg, newspapers and magazines, tobacco and cigarettes, lottery and may also operate a pay point bill payment service or customer deliver/collection service.

6. Capacity –

Accessible Shelving	5.5m x 2.1m = 11.55m ²
Inaccessible (behind counter)	3.34m x 2m = 6.68m ²
Total	18.23m ²

For Board Consideration: -

It is requested that the Board note that the Licensing (Scotland) Act 2005 provides that a Board must refuse an application for a premises licence if the subject premises are “excluded premises”.

One category of excluded premises is premises used as a garage or which form part of premises which so used. Premises are used as a garage if they are used for one or more of the following:

- (a) the sale by retail of petrol or derv;
- (b) the sale of motor vehicles; or
- (c) the maintenance of motor vehicles.

The premises to which this application relates sells petrol and derv.

The Act states that premises may not be classed as excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of :-

- (a) petrol or derv; or
- (b) groceries (where the premises are, or are to be, used also for sale by retail of groceries).

The Board will therefore be required to consider as a preliminary matter if, in their opinion, the premises are excluded premises or non excluded premises before proceeding to consider the application.

Comments Received

Licensing Standards Officer submitted a representation stating, "Members of the Board may wish to consider the terms of section 123 of the Licensing (Scotland) Act 2005 in assessing this application for a Premises Licence." Section 123 (1)-(5) is detailed on the attached LSO report.

**Premises Licence Application – Park Orchardbank Service Station
Report on behalf of Licensing Standards Officer**

Applicant Details

Applicant: Park Garage Group PLC

Applying as: A Company

Premises or area to be licenced: Park Orchardbank Service Station, Silvie Way, Orchardbank Business Park, Forfar, DD8 1BF

Dates required: All days of the week
Times required: 10:00hrs – 22:00hrs
On sales: N/A
Off sales: Monday to Sunday 10:00hrs-22:00hrs

Children & Young Persons Access: N/A

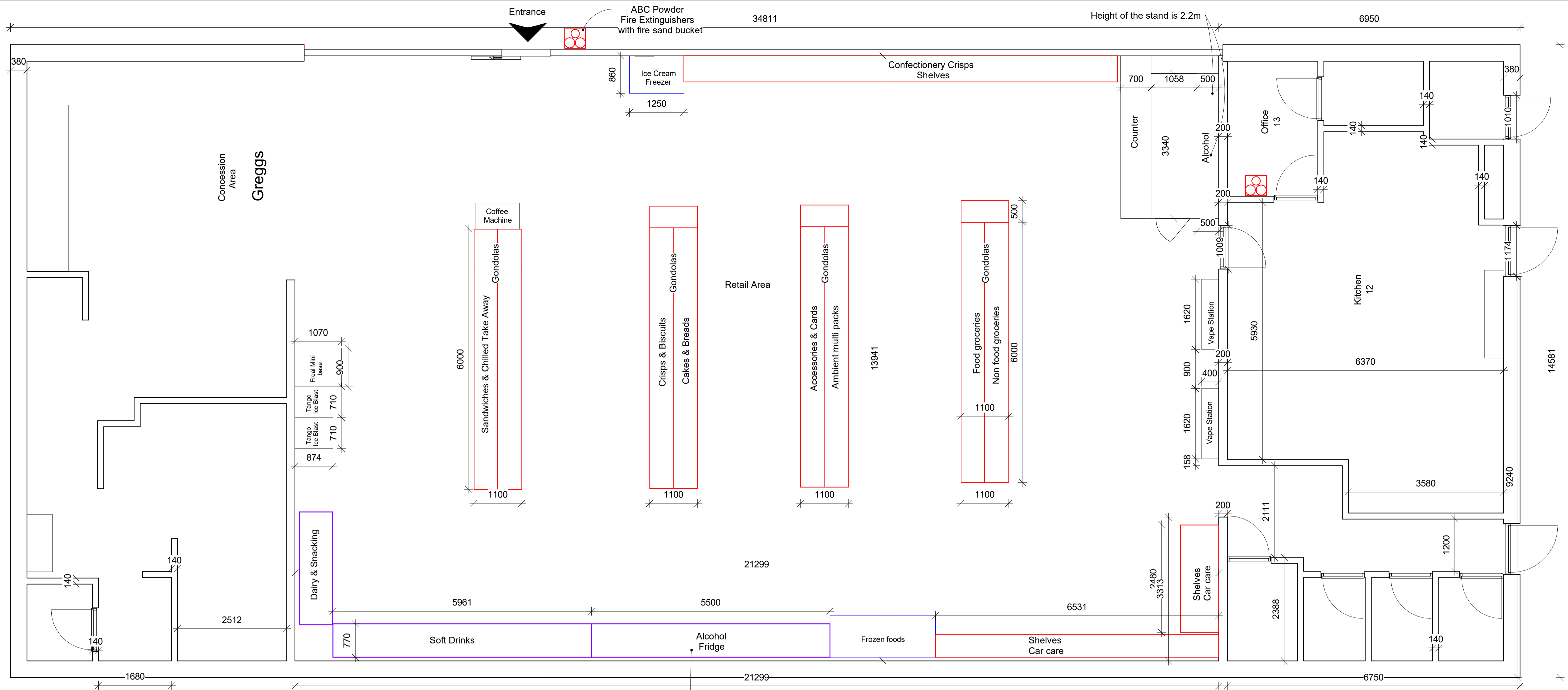
Comments on behalf of LSO for Licensing Board Consideration

I submit a representation. Members of the Board may wish to consider the terms of section 123 of the Licensing (Scotland) Act 2005 in assessing this application for a Premises Licences. Section 123 (1) - (5) provide as follows:

123. Excluded premises

- (1) No premises licence or occasional licence has effect to authorise the sale of alcohol on excluded premises.
- (2) For the purposes of this Act, “*excluded premises*” means
 - (a) premises on land—
 - (i) acquired or appropriated by a special roads authority, and
 - (ii) for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class 1 (with or without other classes), and
 - (b) subject to subsection (5), premises used as a garage or which form part of premises which are so used.
- (3) For the purposes of subsection (2)(a)—
 - (a) “*special road*” and “*special roads authority*” have the same meanings as in the [Roads \(Scotland\) Act 1984 \(c.54\)](#), and
 - (b) “*class 1*” means [class 1 in Schedule 3](#) to that Act, as varied from time to time by an order under [section 8](#) of that Act, but, if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in this section to traffic of class 1 so as to take account of the additional class.
- (4) For the purposes of subsection (2)(b), premises are used as a garage if they are used for one or more of the following: -
 - (a) the sale by retail of petrol or derv,
 - (b) the sale of motor vehicles, or
 - (c) the maintenance of motor vehicles.
- (5) Despite subsection (2)(b), premises used for the sale by retail of petrol or derv or which form part of premises so used are not excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of—
 - (a) petrol or derv, or
 - (b) groceries (where the premises are, or are to be, used also for the sale by retail of groceries).

Tina Magson, Team Leader – Legal and Democratic Services



Height Fridge, 2.1m

LEGEND

Alcohol stand is 2.2 m high, depth 0.4m

E	20.07	Adjustments	PAD
D	07.06	Adjustments	PAD
C	13.05	Internal layout changes	PAD

Rev: Date: Comments: By:

Status: Pre Construction

Proposal: Shop layout

Project location: Silvie Way, Orchardbank Business Park, Forfar DD8 1BF

Title: Shop layout

Client: Park Garage Group



Unit3 St Mathews Business Centre
Gower Street, Leicester, LE1 3LJ

Tel. No. 0116 4670550
E-mail contracts@aknbuild.com

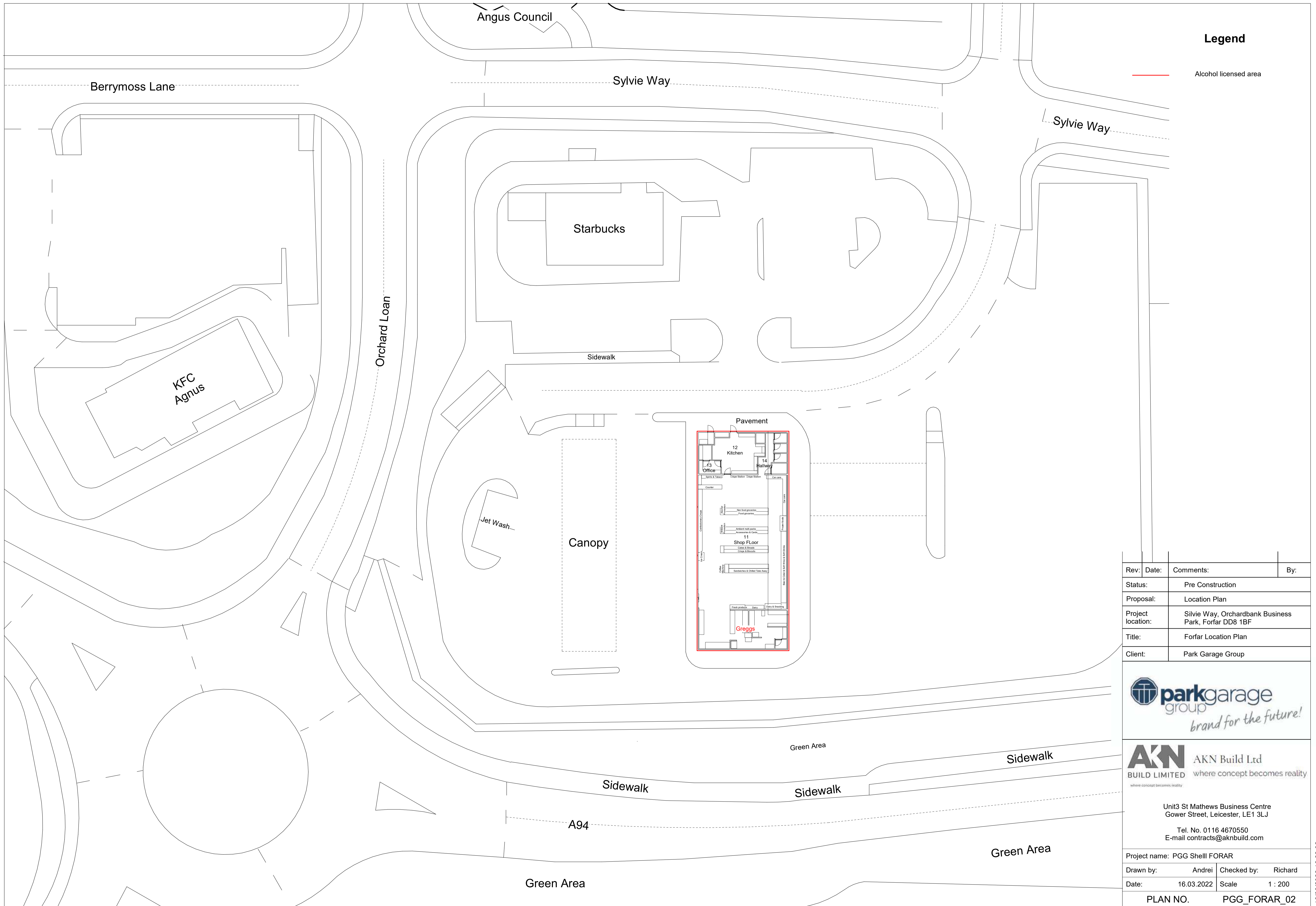
Project name: PGG Shelll FORFAR

Drawn by: Andrei Checked by: Richard

Date: 07.04.2022 Scale 1 : 50

PLAN NO. PGG_FORFAR_01_E

20/07/2022 17:55:25



Legend

— Alcohol licensed area

Rev:	Date:	Comments:	By:
Status:	Pre Construction		
Proposal:	Location Plan		
Project location:	Sylvie Way, Orchardbank Business Park, Forfar DD8 1BF		
Title:	Forfar Location Plan		
Client:	Park Garage Group		



Unit3 St Mathews Business Centre
Gower Street, Leicester, LE1 3LJ

Tel. No. 0116 4670550
E-mail contracts@aknbuild.com

Project name: PGG Shelll FORAR			
Drawn by:	Andrei	Checked by:	Richard
Date:	16.03.2022	Scale:	1 : 200
PLAN NO.	PGG_FORAR_02		

16/03/2022 16:22:32

ANGUS LICENSING BOARD – 19 JANUARY 2023

- (b) **ANGUS ALCHEMY (MICRO DISTILLERY VISITOR CENTRE), WOODHILL, CARNOUSTIE, DD7 7SD**

Name of Applicant

Angus Alchemy Limited, 11 Dudhope Terrace, Dundee

Type of Licence: Provisional Premises Licence – On and Off Sales

1. Description of Premises –

Premises comprise a gin distillery situated in rural Angus with small tasting area for 18 persons and shop with display area of 5.43 square metres.

2. Core times when alcohol will be sold for consumption for both on and off sales: -

Monday to Sunday 10:00 to 22.00

The Board are asked to note the hours requested for On Sales are outwith Board Policy.

3. Activities to be provided –

Recorded music to be provided within core hours

4. Activities other than those listed –

Distribution point for domestic and trade sales, ancillary Micro shop and tasting room.

Alcohol can be bought from distillery shop direct or bought by persons taking part in on site virtual distillery visit, and via online and telephone sales.

Alcohol can be delivered from site by applicant, via post and dispatch companies - delivery policy is attached to this appendix.

Alcohol can be collected from the site by online and telephone purchasers and can be purchased within the visitor centre directly by customers.

Demonstrations and tours showing distillery - making of spirits, blending of botanicals etc will be permitted at all times premises are open.

For the avoidance of doubt free and paid for tastings will be the only form of on sale activity these will be ancillary to main use of the premises.

Tastings only to be served from 10.00 daily and last tasting activity start time will be 20.30.

5. Children and Young Persons

(a) Terms under which they will be allowed

Persons under the age of 18 may attend the premises if accompanied by an adult visiting the premises, under 18s may not take part in tasting activities.

(b) Ages of Children and young persons

0 – 17 years

(c) Times during which children and young persons allowed entry

All times the premises are open

(d) Parts of the premises children and young persons allowed entry

Shop/tasting area only

6. Capacity –

On sales	18 persons for tastings only, no other on sale facilities per se
Off sales	5.43m ²

The Board are asked to note, during the consultation period the registered company address changed from Spalding House, 90-92 Queen Street, Broughty Ferry, Dundee, DD5 1AJ to the address detailed at the beginning of this report at "Name of Applicant".

Comments Received

Licensing Standards Officer submitted a representation that the commencement time requested for on sales is outwith Board policy and also, members may wish to make enquiries regarding compliance with the Board's Model Local Conditions - Children and Young Persons as per the Licensing Standards Officer report attached.

Building Standards has no comments to make. However, it should be noted that Building Warrant reference 22/00326//NDOM was approved on the 25 Oct 2022. Prior to considering the full license application and section 50 application in due course, works should be completed as per the approved plans and a Completion Certificate submitted and accepted.

Premises Licence Application – Angus Alchemy

Report on behalf of Licensing Standards Officer

Applicant Details

Applicant: Angus Alchemy Limited
Applying as: A Company

Premises or area to be licenced: Angus Alchemy (Micro Distiller Visitor Centre), Woodhill, Carnoustie, DD7 7SD

Dates required: All days of the week

Times required:
On sales: Mon - Sun 10:00hrs - 22:00hrs

Off sales: Mon – Sun 10:00hrs - 22:00hrs

Comments on behalf of LSO for Licensing Board Consideration

I submit a representation. The Angus Licencing Board Statement of Licensing Policy adopts, at 6.4, licensed hours generally permitted by the Board. For on sales, the hours are 11am to midnight on Monday, Tuesday, Wednesday, Thursday and Sunday and 11am to 1am on Friday and Saturday. The Applicant seeks to commence on sales at 10am which is contrary to Board policy.

Additionally, no mention is made of the Board's Model Local Conditions - Children and Young Persons. Members of the Board may wish to make enquiry of the Applicant around compliance or not with the conditions.

Tina Magson, Team Leader – Legal and Democratic Services

1. Web Site

- 1.1. Ensure that you have no sales or deliveries to under 18's clearly stated on web site
- 1.2. Ensure orders taken by credit / debit card
- 1.3. Ensure state that challenge 25 will take place at point of delivery
- 1.4. Ensure state on web site that charge will be made in event alcohol will be returned to base.

2. Orders by phone

- 2.1. Ensure phone orders taken by credit /debit card
- 2.2. Ensure state to customer and on receipt that orders of alcohol will not be delivered to under 18s;
- 2.3 Advise that challenge 25 will take place and alcohol will be returned to base should challenge 25 proffered proofs not be accepted by delivery driver
- 2.4. Ensure state to customer and print on on receipt that charge will be made in event alcohol will be returned to base.



Delivery
drivers



carrying alcohol

must be over 18

they need to comply with the law or face a

**£5000.00 fine and/or 3 months in
jail.**

DELIVERY DRIVERS MUST NOT
DELIVER ALCOHOL TO PEOPLE WHO
ARE OR WHO APPEAR TO BE DRUNK



If delivery drivers consider the person who is going to accept

the delivery at domestic premises is under 25 they must operate

Challenge 25

to check that the persons accepting the alcohol is over 18

Delivery drivers **MUST** ask to see approved age identification

DELIVERY DRIVER'S MUST

1. LOOK AT THE CARD & LOOK AT THE PERSON OFFERING THE CARD
2. CONFIRM THE PHOTOGRAPH ON THE CARD LOOKS LIKE THE PERSON OFFERING THE CARD
3. CHECK THE DATE OF BIRTH MAKES THE PERSON OVER THE AGE OF 18

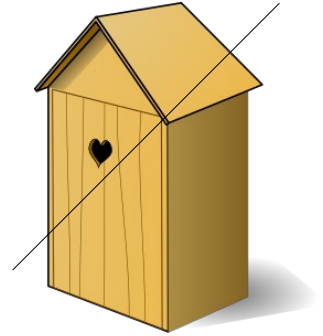
ONLY IF THEY ARE SURE THE PERSON IS OVER THE AGE OF 18 & SOBER CAN THEY DELIVER THE ALCOHOL

DELIVERY DRIVERS CANNOT LEAVE THE ALCOHOL ANYWHERE EXCEPT THE ADDRESS ON

THE INVOICE

They must deliver the alcohol to a person aged over 18

They must not leave alcohol in a garage or shed



IF THEY ARE NOT SURE ABOUT ANY OF THE ABOVE THEY NEED TO TAKE THE ALCOHOL BACK TO BASE

DELIVERIES CANNOT BE MADE BETWEEN MIDNIGHT AND 6 A.M.



APPROVED AGE IDENTIFICATION DOCUMENTS ARE



EU PHOTO DRIVER'S LICENCE
IMMIGRATION



BIOMETRIC
CARD



YOUNG SCOT CARD



PASSPORT



EU ID

CARD



MILITARY
ID CARD

THESE CARDS MUST BE CURRENT AND NOT OUT OF DATE

Must have Invoice on paper or on mobile device

Invoice MUST contain certain information about the person who ordered the alcohol Recipient:

Name - Mrs Janet Hood

Address - Clarence House, Paterson Street, Edzell, AB45 6YP

Items dispatched:

Alcohol Ordered - 12 bottles 75 cl Krooge Champagne -
£1200.00

3 bottles 1litre Glen Mornengie -

£240.00 6 bottles 75 cl Doefast £60.00

Dispatch address - Veryodd Cellar, 3 Smoith Street, Edinburk

Copy invoice has to be kept in a day book on premises from which alcohol is delivered - it is recommended Delivery Company also keeps a copy if the invoice.

**DELIVERY FIRMS MUST ENSURE THE
PREMISES FROM WHICH THE
ALCOHOL IS**

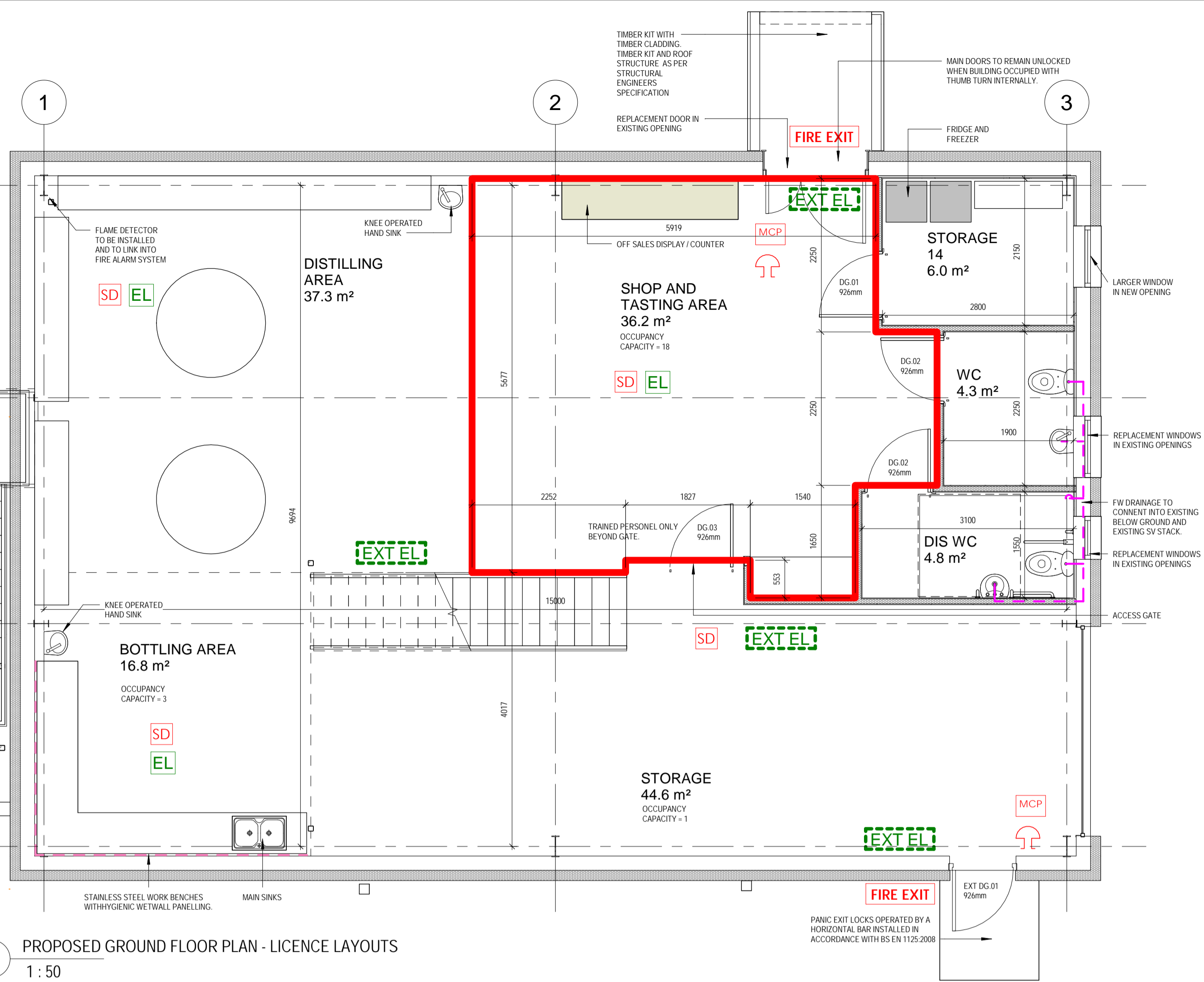
**DISPATCHED HAS A PREMISES
LICENCE PERMITTING OFF SALES -
check before accepting the delivery**

**This notice has been prepared for
you with the five licensing objectives
in mind**

Preventing crime and disorder,

**Securing public safety,
Preventing public nuisance,
Protecting and improving public health, and
Protecting children and young persons from
harm.**

No color scheme assigned to view



- LICENSING KEY:**
- LICENCE AREA
ON SALE CAPACITY FOR TASTING SESSIONS - 18
 - ACCESSIBLE ALCOHOL DISPLAY
H = 2.6m
W = 2.1m
TOTAL DISPLAY AREA FOR SALE OF ALCOHOL = 5.43 SQ.M.
THIS IS OFF SALES ACCESSIBLE CAPACITY.
CHILDREN AND YOUNG PERSONS CAN ACCESS ALL PUBLIC AREAS.

- CONSTRUCTION INFORMATION:**
- GROUND FLOOR:**
FLOOR - EXISTING CONCRETE FLOOR SLAB WITH PAINTED FINISH
WALL - EXISTING WALLS STEEL CLAD INSULATED WALL PANEL
CEILING - NEW PLASTER BOARD CEILING
- FIRST FLOOR:**
FLOOR - NEW TIMBER INFILL FLOOR BUILD UP ON EXISTING STEEL GALLERY STRUCTURE
WALL - EXISTING WALLS STEEL CLAD INSULATED WALL PANEL
CEILING - EXISTING ROOF STEEL CLAD INSULATED PANEL

- MECHANICAL AND ELECTRICAL**
- FB** FIRE BLANKET
- EXT** FIRE EXTINGUISHER
- HD** HEAT DETECTOR
- SD** SMOKE DETECTOR
- WEL** PROPOSED WALL MOUNTED INTERNAL EMERGENCY LIGHT IN ACCORDANCE WITH CLAUSE 2.10 ESCAPE LIGHTING.
- EXT EL** PROPOSED EXTERNAL EMERGENCY LIGHT IN ACCORDANCE WITH CLAUSE 2.10 ESCAPE LIGHTING.
- FIRE EXIT** ILLUMINATED EXIT SIGNAGE IN ACCORDANCE WITH CLAUSE 2.10 ESCAPE LIGHTING.
- MCP** MANUAL CALL POINT

Rev	Date	Description	Initials
E	17.11.2022	ROOM NAMES UPDATED	CR
D	14.11.2022	LICENCE LAYOUT NOTES UPDATED	CR
C	01.11.2022	FIRST FLOOR OFFICE LAYOUT	CR
B	31.10.2022	UPDATED FOLLOWING CLIENT COMMENTS	CR
A	14.10.2022	DRAFT LAYOUT FOR CLIENT REVIEW	CR

Project Title: NEW MICRO-DISTILLERY AT FORMER TOP ROAD TOURERS HALFWAY GARAGE, CARNOUSTIE, DD7 7SD

Drawing Title: LICENCE - PREMISES LAYOUT

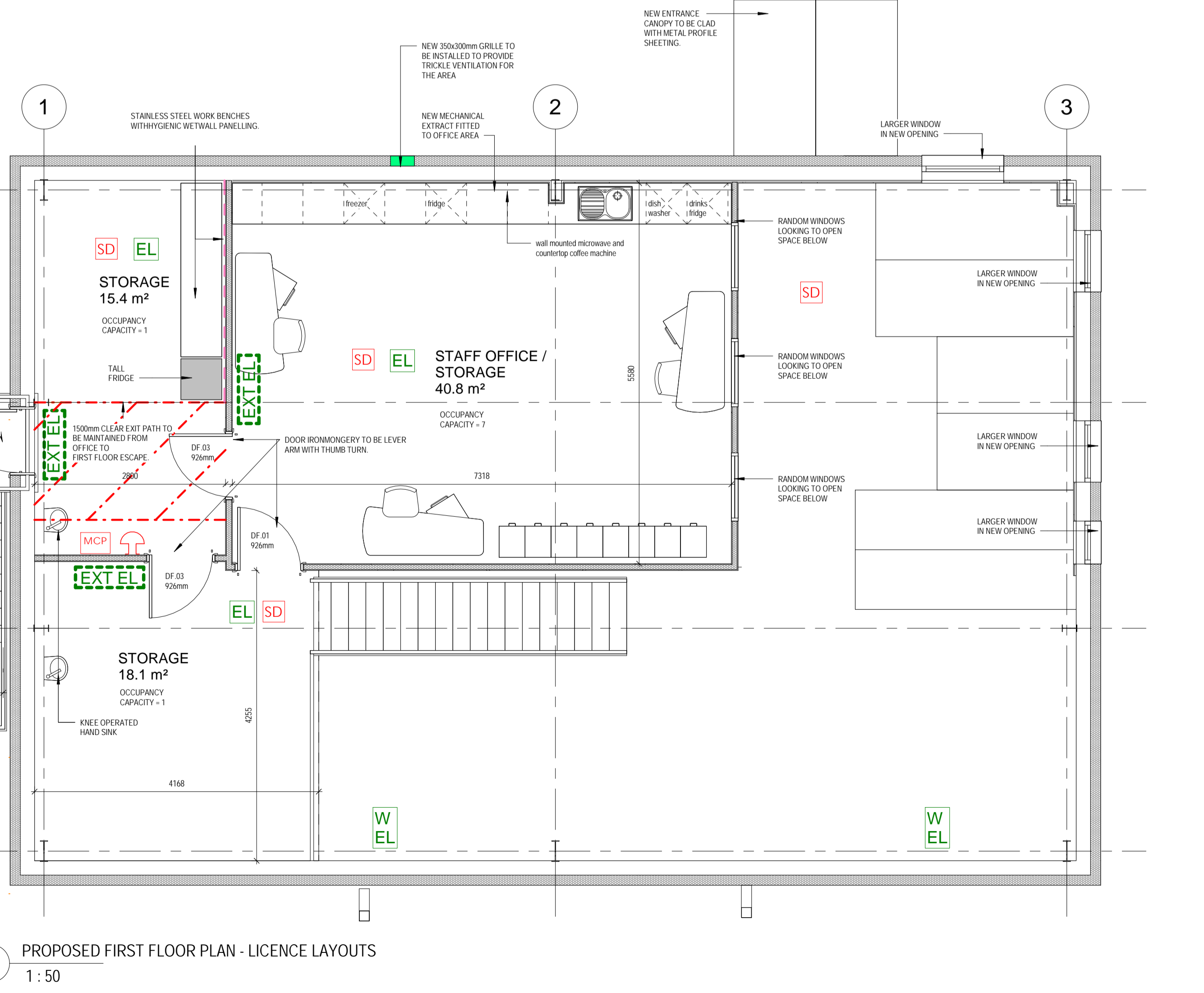
Date: 10/13/22 Scale: 1 : 50 @ A1 Project Drawing No: P21-063_104 Rev: E

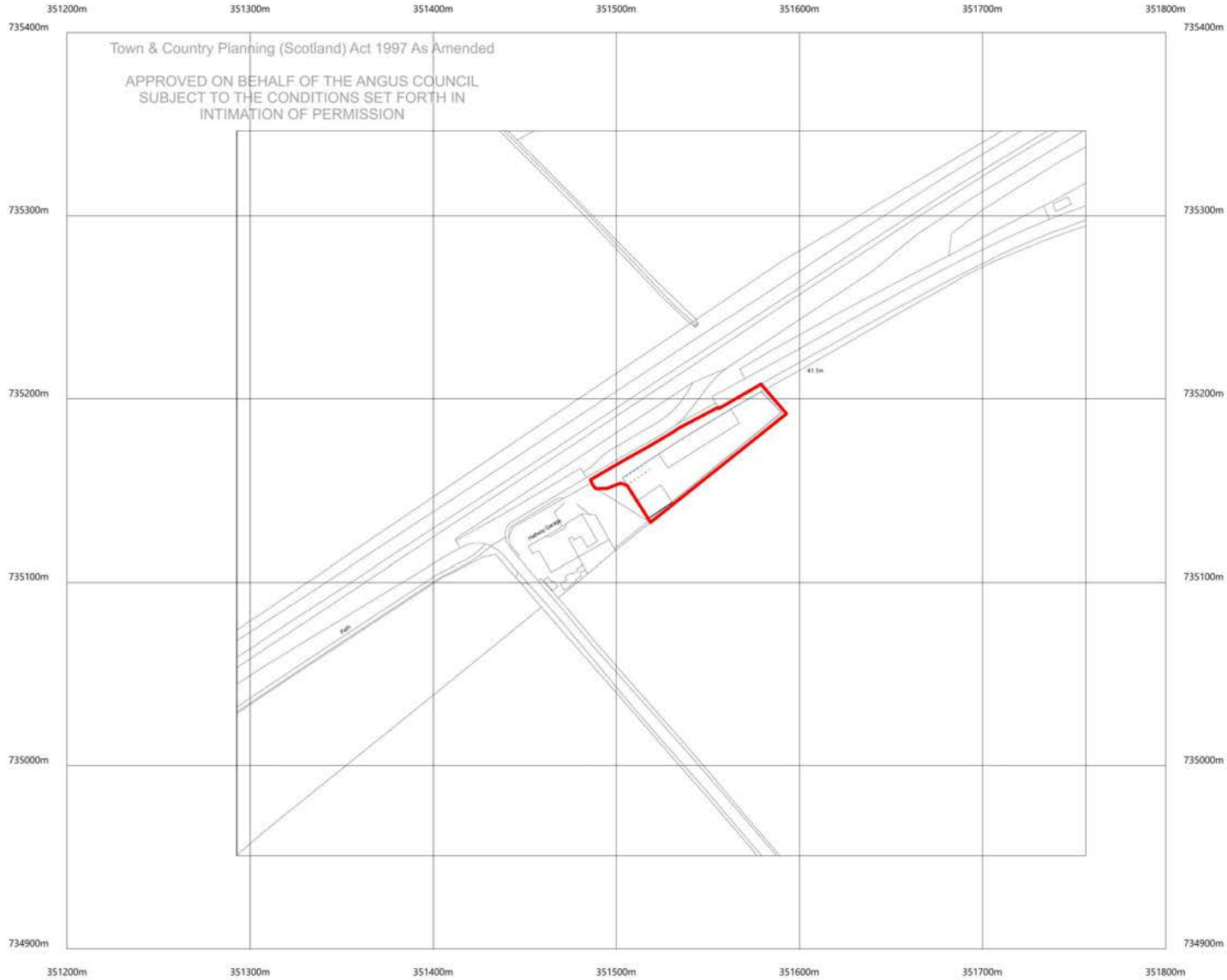
Issue: LICENCE APP Drawn By: CR

gwp gauldiewright&partners
Chartered Architects

Gauldie Wright & Partners Architects Ltd.
2 Osborne Place
Magdalen Yard Road
Dundee: DD2 1RD
t 01382 669241
e info@gwp-architects.co.uk
www.gwp-architects.co.uk

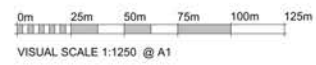
© GAULDIE WRIGHT & PARTNERS ARCHITECTS LTD., 2020





%%169Crown Copyright and database rights 2021 OS Licence no. 100025568

1 SITE LOCATION PLAN
1 : 1250



Rev	Date	Description	Initials
Project Title: NEW MICRO-DISTILLERY AT FORMER TOP ROAD TOURERS HALFWAY GARAGE, CARNOUSTIE, DD7 7SD			
Drawing Title: SITE LOCATION PLAN			
Date: 05.11.2021	Scale: 1:1250 @ A1	Project Drawing No: P21-063_SLP-01	Rev:
Issue: SKETCH DESIGN	Drawn By: KM		
 gauldiewright&partners Chartered Architects		Gauldie Wright & Partners Architects Ltd. 2 Dalrymple Place Magdalen Yard Road Dundee DD2 1RD T 01392 800011 F 01392 809032 E info@gwp-architects.co.uk www.gwp-architects.co.uk	
© GAULDIE WRIGHT & PARTNERS ARCHITECTS LTD. 2020			