

AGENDA ITEM NO 5

REPORT NO LB28/23

ANGUS LICENSING BOARD – 18 MAY 2023

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 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 considers and determines each application to vary a premises licence as detailed in the **Appendix**, 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.

2. BACKGROUND

The Board has received 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 for the same variation of the 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

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**APPENDIX 1 TO REPORT LB 28/23
ANGUS LICENSING BOARD –18 MAY 2023**

(a) LICENCE NO. 77, THREE BELLIES BRAE, 1-3 BELLIES BRAE, KIRRIEMUIR, DD8 4EJ

Name of Applicant: Lindsey Wilson

Type of Licence: On sales

Description of Variation

1. Core times

Current Sunday open hours are 12.30pm to 24.00

Amend Sunday opening hours to 11.00am to 24.00

The Board are advised that the hours requested are within Board Policy

2. Activities

- I. add Bar meals and club or other group meetings outwith core hours
- II. add gaming within core hours to allow raffles and bingo

3. Activities outwith Core Hours

Add - bar meals – to allow us to open for coffee/cake or breakfast pre licence hours.
Club or Meetings – to allow meetings in pub area pre licensing hours

4. Any other Activities

Add - Kirriemuir Food Hub operates from a section of the building covered in the licence. The two never run consecutively – either food hub or pub activities in the licensed section of premises.

No Comments Received

LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 21st February 2023 in respect of:

Three Bellies Brae, 1 – 3 Bellies Brae, Kirriemuir, DD8 4EJ
Premises Licence Number: 77

Background: -

The premises are located on the corner of Bellies Brae and Cumberland Close. There are both residential and commercial premises within this location. The current premises licence holder and premise manager is Lindsey Wilson.

Major Variation:

The application is in respect of:

1. Changing core hours on a Sunday to 1100 hours until 24 00 hours
2. Addition of bar meals to be provided out with core hours.
3. Addition of clubs or other group meetings to be provided out with core hours.
4. Addition of gaming to be allowed during core hours.
5. Addition of Kirriemuir Food Hub to be added to Any Other Activities.

Licensing Standards Officer Report:

On checking the system there have not been any complaints received in respect of these premises.

The major variation is to amend the existing opening time of 12:30am on a Sunday to 11:00am. This variation of hours is within the Licensing Board's Statement of Licensing Policy which is 11:00am until 24.00 hours for the day in question.

The major variation application also requests to add additional activities out with the core hours specifically, the addition of bar meals to enable the premises to sell breakfast and morning snacks pre licensing hours and the addition of clubs or other group meetings being held out with the licensed core hours.

Further to this the major variation application has been made to amend and add gaming to be included during core hours. The applicant has specified raffles and bingo events be held within core hours however, you may want to enquire if the applicant intends to include any other form of gaming.

The major variation application will also amend any other activities within the operating plan to include the use of the premises by the Kirriemuir Food Hub.

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

Licensing Standards Officer
Angus Council

**(b) LICENCE NO. 253, ROYAL BRITISH LEGION SCOTLAND CLUB (FORFAR) LIMITED, 1
ACADEMY STREET, FORFAR, DD8 2HA**

Name of Applicant: Royal British Legion Scotland Club (Forfar) Limited

Type of Licence: On sales

Description of Variation

1. Layout plan

Amend Layout plan to include an outdoor private garden drinking area for a capacity of 40.

2. Children and young persons

Parts of the premises - Children and young persons currently have access to the function hall. In addition to this the applicants now seek to allow them access to the main foyer, garden and bar/lounge area.

3. Capacity

The Board are asked to note the applicant requested an increase in capacity from 200 to 240.

Comments Received

Building Standards replied – if the additional external occupancy of 40 persons within the Garden area is to be included in the existing occupancy capacity of 200 persons? ie. in inclement weather etc the current capacity of the building for occupancy capacity and sanitary facilities is 200 persons, the addition of 40 persons would need to be provided for in terms of space and sanitary provision. It appears from the plan provided and calculation that the function hall and garden area would not accommodate an additional 40 persons. The number of sanitary facilities would also have to be detailed to determine if there are enough facilities for the additional numbers.

However, 40 persons in the garden area would be adequate as long as the 40 persons were included in the existing premises capacity of 200 persons in total.

The Board are asked to note Building Standards reply was forwarded on to the applicant for further details on sanitary facilities and space internally in inclement weather. The applicant has now confirmed they are happy to comply with no change to overall capacity of 200, broken down to 130 in the Function Hall and 70 in lounge / beer garden area

Environmental Health commented - among the activities undertaken on these premises, functions are included as is the playing of live and recorded music. This service also notes that the terminal hour for the sale of alcohol is up to 1am. The main concern of this service relates to noise and although we are not aware of any recent complaints about this having been received by Angus Council, this service is concerned that the proposed inclusion of the rear garden area which immediately abuts residential property will give rise to serious noise issues unless controlled by the licensee.

In conclusion this service would not object to this application subject to the following conditions being applied:-

1. Prior to the external drinking area being utilised the applicant shall submit a noise management plan, detailing how all noise from the external area will be controlled for the written approval of the licensing authority.
2. Patrons shall not be permitted to use the external drinking area beyond 21.00hrs

3. No music or amplified sound shall be provided anywhere within the licensed premises which is audible within the external drinking area.

The Board are asked to note the applicants have now submitted a noise management plan which is attached at the end of this report.

LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 13th March 2023 in respect of:

**Royal British Legion Scotland Club (Forfar) Limited, 1 Academy Street, Forfar, DD8 2HA
Premises Licence Number: 253**

Background: -

The premises are located on the corner of Academy Street. There are both residential and commercial premises within this location. The current premises licence holder is Royal British Legion Scotland Club (Forfar) Limited, and the premises manager is Charles Brown.

Major Variation:

The application is to vary the conditions to which the premises licence is subject to by amending children and young person's access and varying the layout plan to include the use of a private garden.

I visited the premises on 3rd May 2023 where I discussed the proposed changes with the premises manager. I have attached five photographs of the proposed private garden area.

Licensing Standards Officer Report:

On checking the system there have not been any complaints received in respect of these premises.

I would suggest that if the Board are minded granting the application, then the three outdoor area conditions be attached to the licence. This is to keep the premises in line with other premises who have external drinking areas.

The three outdoor area conditions are as follows:

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; and
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.

I note from the application that children and young person's access is to be amended. Currently the premises licence allows children and young persons to access the function hall only. The proposed amendment will allow children and young persons access the main foyer, garden, bar / lounge area and the function hall. The layout plan clearly indicates the area where children and young persons are prohibited from entering. The application states that the model local conditions relating to children and young persons will apply with regards to times of entry.

I duly submit this report for consideration of Board Members.

Licensing Standards Officer
Angus Council

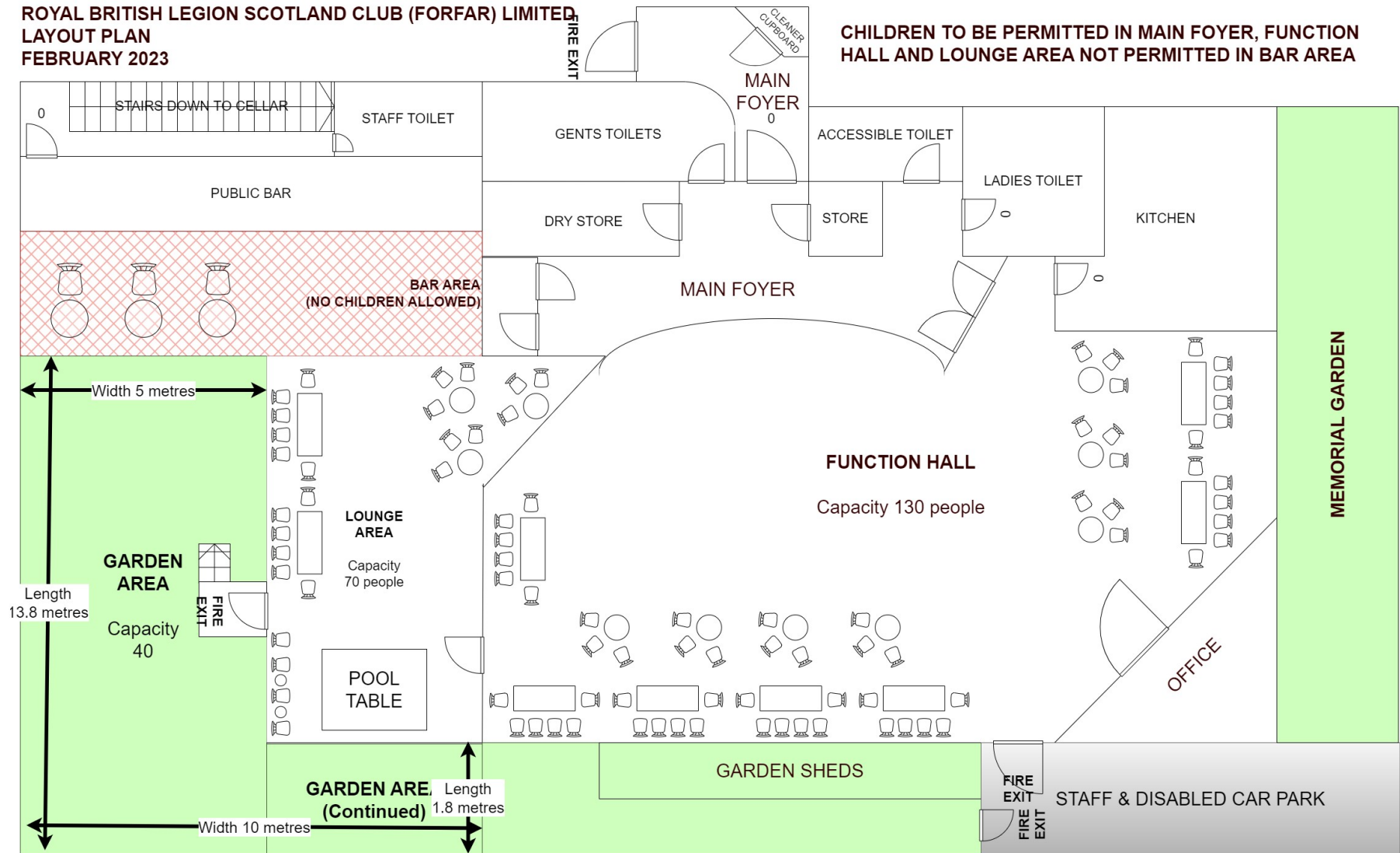






**ROYAL BRITISH LEGION SCOTLAND CLUB (FORFAR) LIMITED
LAYOUT PLAN
FEBRUARY 2023**

**CHILDREN TO BE PERMITTED IN MAIN FOYER, FUNCTION HALL AND LOUNGE AREA
NOT PERMITTED IN BAR AREA**





Purpose

Maintaining positive relations with local businesses and residents is important and this plan has been produced to support this. This plan details the mitigations to reduce noise levels internally and externally, how this will be measured and how complaints about noise can be made.

Scope

This Noise Management Plan applies to all aspects of Royal British Legion Scotland Club (Forfar) Limited, 1 Academy Street, Forfar, DD8 2HA

Impact and Mitigation

Location	Mitigation
<p>Internal Areas (Bar, Lounge, Function Hall, Kitchen)</p>	<p>Customers are to enter/exit the club via the Front Door or Disabled Access.</p> <p>Notices are displayed at entry/exit points to remind customers about noise levels</p> <p>Ensure main foyer area is kept clear at all times, enabling customers to enter/exit the club quickly and efficiently</p> <p>The Licensee, Club Bar Staff and Duty Committee Members are to monitor internal areas</p>
<p>External Areas (Cellar, Beer Garden, Car Park, Memorial Garden, Smoking Area and Refuse & Recycling)</p>	<p>No music or entertainment will be provided in External Areas.</p> <p>Glasses/alcohol are not permitted outside at any time except in the beer garden but not beyond 2100hrs. Last entry to beer garden is at 2030 hrs.</p> <p>The Licensee, Club Bar Staff and Duty Committee Members are to monitor external areas and when required to remind customers about noise levels and our neighbours</p> <p>External Furniture can only be moved between 0700 and 2100hrs.</p> <p>Delivery, Collections, Refuse and recycling will be dealt with between 0700 and 1800hrs.</p>

Noise Monitoring

The Licensee, Club Bar Staff or any Committee Member(s) present (see names displayed on notice in Main Foyer) will monitor the noise levels at the Club. If levels are found to be excessive, then volumes are to be adjusted accordingly. An entry is to be also placed in the noise management log book which will include any action taken.

Complaints

During licence hours, immediate complaints regarding noise levels can be made in person or writing to either the Licensee, Club Bar Staff or Duty Committee Member. Outwith these hours, all complaints MUST be made in writing and sent to the Club Secretary. Each complaint will be logged and the action taken recorded.

(c) LICENCE NO. 146, THE CROWN INN, 49 HIGH STREET, MONIFIETH, DD5 4AA

Applicant: Coldstream Blue Ltd., 14 City Quay, Dundee, DD1 3SA

Type of Licence: On and Off Sales

Description of Variation

1. Activities

- I. add restaurant facilities, bar meals and outdoor drinking within and outwith core hours.

The applicant has advised with regards to restaurant facilities and bar meals this is to be from 09.00 to provide breakfast food and non-alcoholic beverages. Bar meals and snacks will be freshly prepared on site in the kitchen already contained within the premises. Due to the addition of food and snacks being sold, children and young people will be allowed to access the bar and lounge areas. Food will be served between 09.00 and 21.00.

and

The outdoor drinking area(s) is a seating area which will be contained in the off-street parking/function suite access area to the left of the premises. This is to allow seating to cater for local residents and additional tourists in the area from April to October. Pavement seating is also requested to the front of the premises.

- II. add films within core hours

2. Children and young persons

Children and young persons to be permitted access to bar and lounge areas.

Comments Received

Environmental Health commented - We note that among the activities undertaken on these premises, functions are included as is the playing of live and recorded music. This service also notes that the terminal hour for the sale of alcohol is up to 1am. The main concern of this service relates to potential noise associated with the proposed external seating area however this service notes that there are no residential properties nearby.

In conclusion this service would not object to this application subject to the following conditions being applied;

- Patrons shall not be permitted to use the external drinking area beyond 2100hrs
- No music or amplified sound shall be provided anywhere within the licensed premises which is audible within the external drinking area.

The Board are asked to note that the applicant was forwarded these comments from Environmental Health and have confirmed they are happy to comply.

LICENSING STANDARDS OFFICER REPORT

A major variation application was received on 6th April 2023 in respect of:

The Crown Inn, 49 – 51 High Street, Monifieth, Angus, DD5 4AA
Premises Licence Number: 146

Background: -

The premises are located on Monifieth High Street in the town centre where it is primarily surrounded by commercial premises. The current premises licence holder is Coldstream Blue Limited, and the premises manager is Mandy Porter.

Major Variation:

The application is to vary the conditions to which the premises licence are subject to by amending children and young person's access and varying the layout plan to include an outside seating area off the main street as well as a seating area on the pavement in front of the premises.

I visited the premises on Tuesday 2nd May 2023 where I discussed the proposed changes with the premises manager Mandy Porter. I have attached two photographs of the proposed outdoor seating area. During my discussion with premises manager, she indicated that at this time she no longer wanted to add the additional outside seating on the High Street in front of the premises.

Licensing Standards Officer Report:

On checking the system there have not been any complaints received in respect of these premises.

I would suggest that if the Board are minded granting the application, then the three outdoor area conditions be attached to the licence. This is to keep the premises in line with other premises who have external drinking areas.

The three outdoor area conditions are as follows:

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; and
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.

I note from the application that children and young person's access is to be amended. The proposed amendment is to allow children and young person's access to bar and lounge for the purposes of consuming a meal when accompanied by a responsible adult. The application states that children and young person's will be permitted until 21.00 as per the local model conditions.

I do not have any issues with the application, but you may wish to ensure the relevant permissions to use this area have been sought from the Roads department within the Council.

I duly submit this report for consideration of Board Members.

Licensing Standards Officer
Angus Council

Photo 1

This is the proposed outdoor drinking area pictured from the High Street.

This is adjacent to the adjoining property on the layout plan.

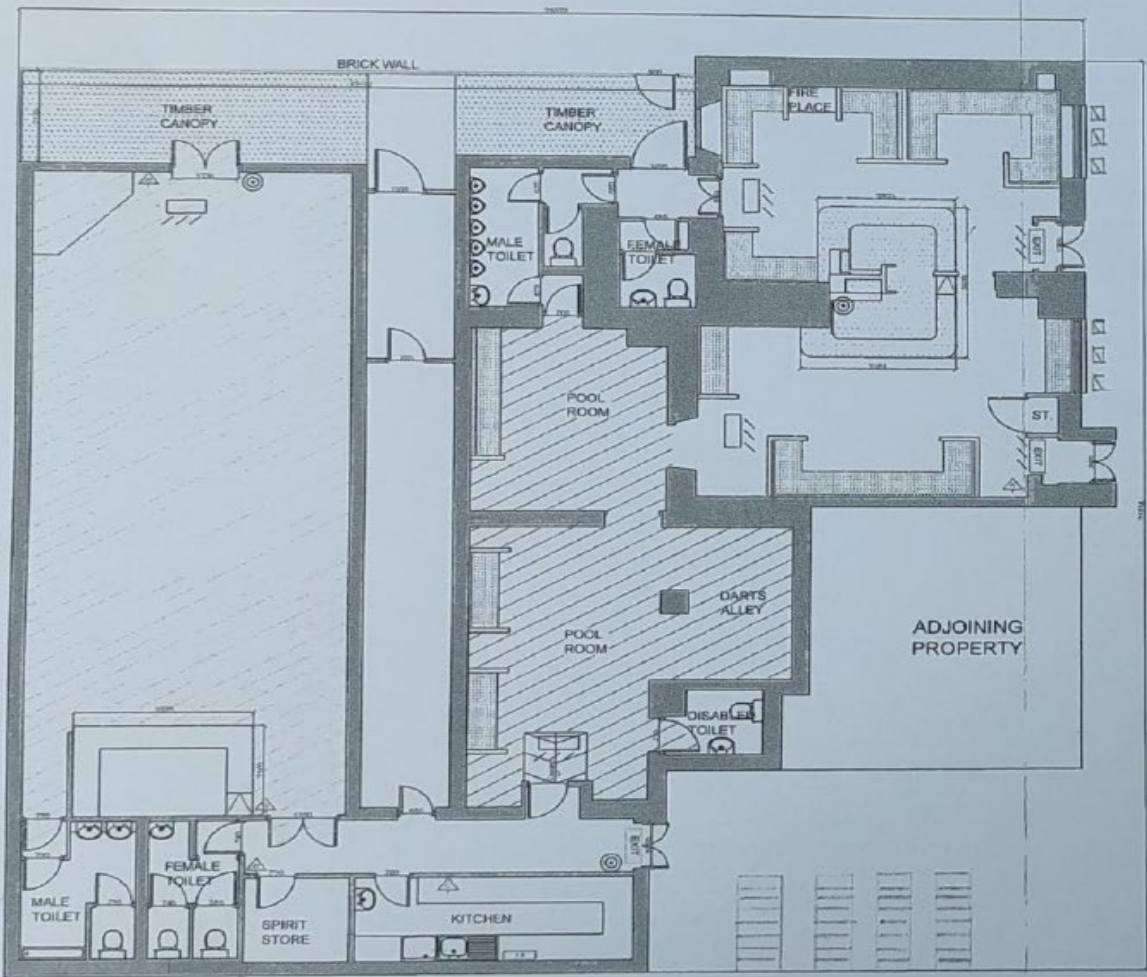


Photo 2

This is the proposed outdoor drinking area pictured from the premises fire escape.



Project No.	571	Drawing No.	01	Rev.	A
Client	MR. TASSIE				



LEGEND

- FIXED SEATING
- 9L WATER FIRE EXTINGUISHER
- FIRE BLANKET
- BREAK GLASS POINT
- EMERGENCY LIGHTING
- ILLUMINATED FIRE EXIT SIGN
- FIRE EXIT SIGN
- PUBLIC BAR
- FUNCTION SUITE
- POOL ROOM
- PICNIC BENCH SEATING
- DISTRO SEATING

ALCOHOL DISPLAY

- 1XALCOHOL DISPLAY FRIDGE 600x600x900mm
- 2XALCOHOL DISPLAY FRIGDES 600x1200x900
- 23 WALL MOUNTED SPIRIT BOTTLES
- 12 BEERCIDER ALCOHOL PUMPS

ALCOHOL DISPLAY

- 2XALCOHOL DISPLAY FRIGDES 600x1200x900mm
- 31 WALL MOUNTED SPIRIT BOTTLES
- 6 BEERCIDER ALCOHOL PUMPS

PUBLIC BAR AND POOL ROOM OCCUPANCY CAPACITY - 214

FUNCTION SUITE OCCUPANCY CAPACITY - 176

PUBLIC PATH
HIGH STREET

ADJOINING PROPERTY

DRAWING TO BE READ IN CONJUNCTION WITH STRUCTURAL ENGINEERS DETAILS AND SPECIFICATIONS ENGINEER DETAILS TO LAMB PRESCRIPTIONS.
CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE.
ALL DIMENSIONS IN MILLIMETRES UNLESS STATED OTHERWISE.
DO NOT SCALE DIMENSIONS FROM DRAWINGS REFER TO ARCHITECT FOR DIMENSIONS IF NOT INDICATED ON THIS DRAWING.



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Prepared by: MR. TASSIE
Checked by: MR. TASSIE
Date: SURVEY

Date	Project No.	Sheet No.
12/08	571	01
Project No.	Drawing No.	Rev.
571	01	A