

Item: 5

Orkney Islands Area Licensing Board: 3 June 2021.

Licensing (Scotland) Act 2005.

Application for Variation of Premises Licence.

Ian and Morag Smith and Jenna Simison – Robertsons Coffeehouse and Bar, Church Road, St Margaret's Hope.

Report by Clerk to the Board.

1. Purpose of Report

To consider an application from Ian and Morag Smith and Jenna Simison for a variation of a premises licence held in respect of Robertsons Coffeehouse and Bar, Church Road, St Margaret's Hope.

2. Recommendations

It is recommended:

That the Board determines the application from Ian and Morag Smith and Jenna Simison for a variation of a premises licence held in respect of Robertsons Coffeehouse and Bar, Church Road, St Margaret's Hope.

3. Policy Aspects

3.1.

In accordance with the Licensing (Scotland) Act 2005, the Board's Statement of Alcohol Licensing Policy provides that decisions on premises licence variation applications shall be made by the Board (with the exception of decisions on minor variation applications which are delegated to the Clerk to the Board).

3.2.

Sections 2.8 to 2.15 of the Board's Statement of Alcohol Licensing Policy set out the relationship between licensing legislation and other statutory health and safety requirements, such as planning, building standards and food hygiene. Section 2.8 of the Policy provides that the Board will avoid duplication with other regulatory regimes and will not use its powers under the Act to arrive at outcomes that can be achieved under other legislation or by other enforcement agencies.

3.3.

The full policy document is available from the Related Downloads section of the following Council webpage:

https://www.orkney.gov.uk/Service-Directory/L/Alcohol_Licensing.htm.

4. Introduction

4.1.

A premises licence has been held at Robertsons Coffeehouse and Bar, Church Road, St Margaret's Hope, since 3 June 2016, by Ian and Morag Smith and Jenna Simison (the applicants).

4.2.

On 6 April 2021, the applicants submitted an application for variation of the premises licence. Details of the application are provided at sections 5.1 to 5.7 below.

5. Extent of Premises

5.1.

A layout plan of the premises is attached at Appendix 1 to this report.

5.2.

The application requests:

- Amendment of the layout within the premises to comply with COVID-19 restrictions.
- An increase in the extent of the licensed premises by the inclusion of an additional outdoor seating area shown to the right on the new layout plan with two tables and four trestles and measuring 6100 millimetres by 4930 millimetres.

5.3.

The additional outdoor seating area will be used for outdoor drinking facilities. The outdoor seating area shown immediately adjacent to the Small Function Area with one table and two trestles already forms part of the licensed premises.

5.4.

The outdoor on-sale capacity of the premises will increase by 12 persons from 20 persons to 32 persons. The current indoor on-sale capacity of the premises of 30 to 36 persons will not be affected by the proposed variation.

5.5.

The current off-sale capacity of the premises of 2.03 square metres will not be affected by the proposed variation.

5.6.

The areas accessible by children and young persons will increase with the inclusion of the additional outdoor seating area.

5.7.

With reference to section 3.2 above, it is noted that the relevant service has advised that planning approval will be required in connection with the provision of the additional outdoor seating area.

6. Consultation

The required notices were issued to the statutory consultees on 6 April 2021 and the application was published on Orkney Islands Council's website from 12 April 2021. The last date for objections or representations to be received was 3 May 2021. No submissions were received.

7. Financial Implications

The appropriate application fee of £100 has been paid.

8. Legal Aspects

8.1.

The Act provides that the licensing board must hold a hearing for the purpose of considering and determining an application for a variation that is not a minor variation.

8.2.

The following elements of the application mean that it is not a minor variation and therefore must be determined by the Board:

- Increase in extent of licensed premises.
- Increase in on-sales capacity.
- Increase in access by children and young persons.

8.3.

Any person may, by notice to the Board, object to an application on any of the grounds for refusal specified in the Act or may make representations to the Licensing Board, including representations in support of the application, as to modifications which the person considers should be made to the operating plan accompanying the application or as to conditions which the person considers should be imposed.

8.4.

The grounds for refusal under the Act are as follows:

8.4.1.

The application must be refused if, generally, it is an application within one year of a previous refusal or seeks generally banned 24 hour opening or prohibited off-sale hours.

8.4.2.

The Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives, namely:

- Preventing crime and disorder.
- Securing public safety.
- Preventing public nuisance.
- Protecting and improving public health.
- Protecting children and young persons from harm.

8.4.3.

Having regard to:

- The nature of the activities proposed to be carried on in the subject premises.
- The location, character and condition of the premises.
- 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.

8.4.4.

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 account of the variation), in the locality.

8.5.

Anyone lodging an objection on the ground detailed at section 8.4.4 above must specify the locality on which they are basing their objection.

8.6.

Where the Board refuses the application, the Board must specify the ground for refusal. If the ground for refusal is that specified in the ground detailed at section 8.4.2 above, the Board must specify the licensing objective or objectives in question.

8.7.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies. If none of them applies, the Board must grant the application. If any of them applies, the Board must refuse the application.

9. Contact Officers

Gavin Mitchell, Clerk to the Board, extension 2233, email gavin.mitchell@orkney.gov.uk.

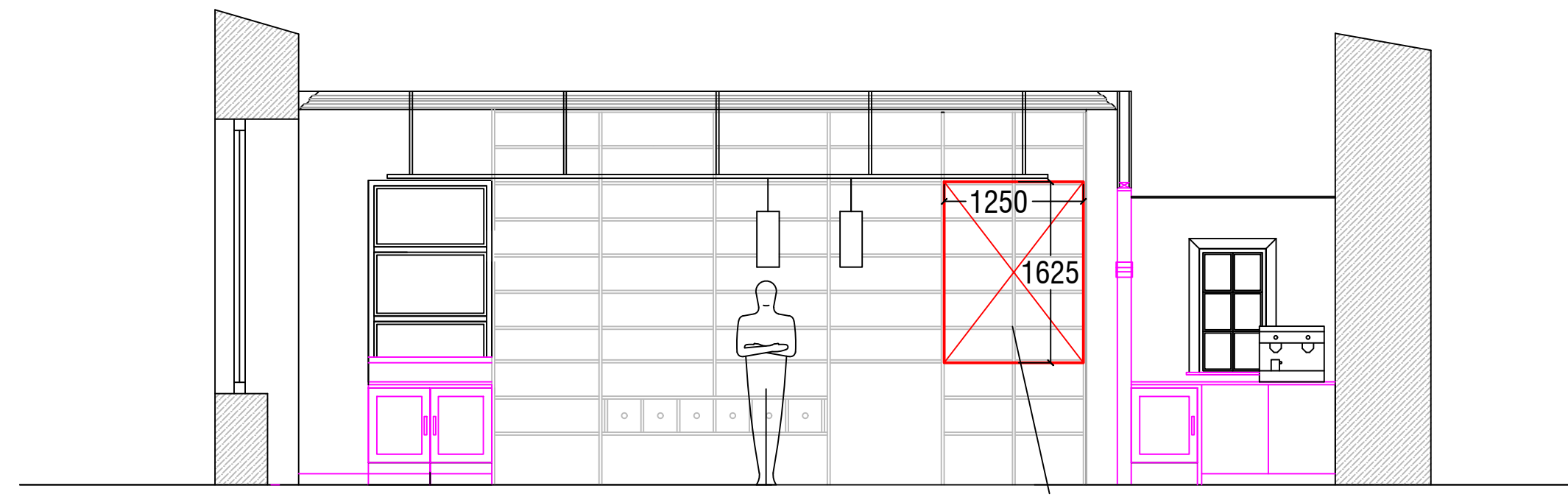
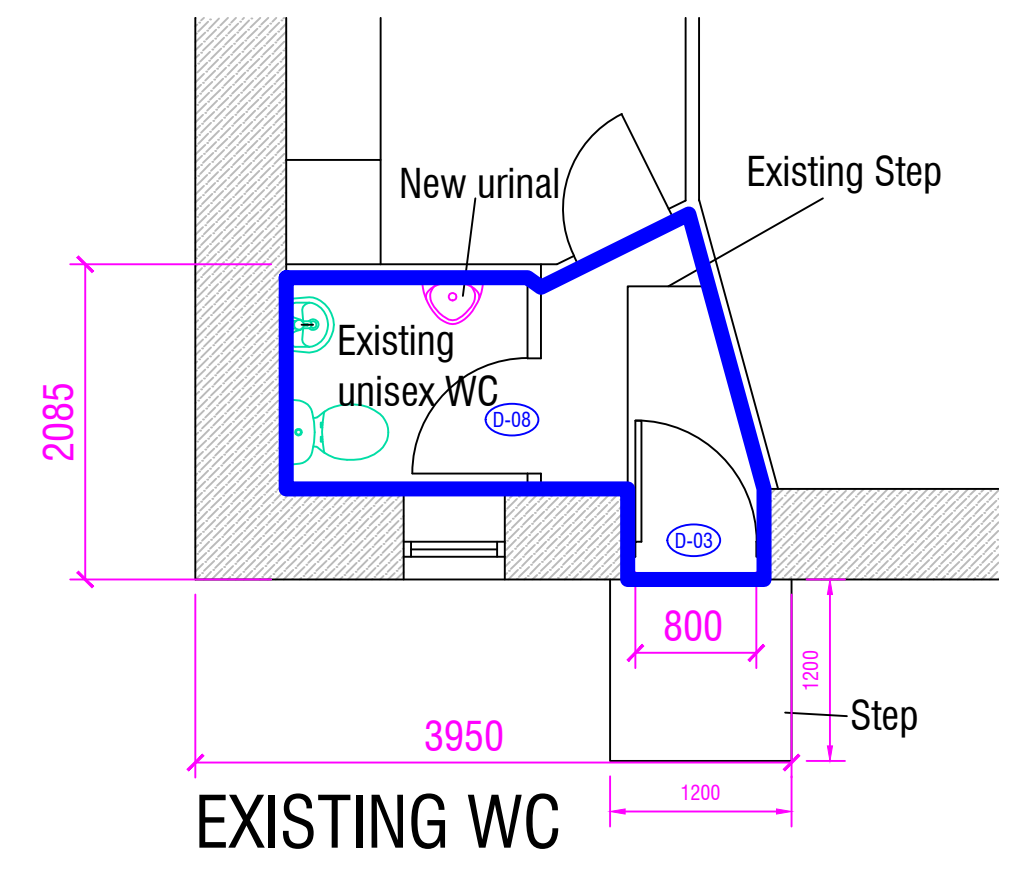
Elaine Sinclair, Legal Clerk, extension 2232, email elaine.sinclair-hill@orkney.gov.uk.

10. Appendix

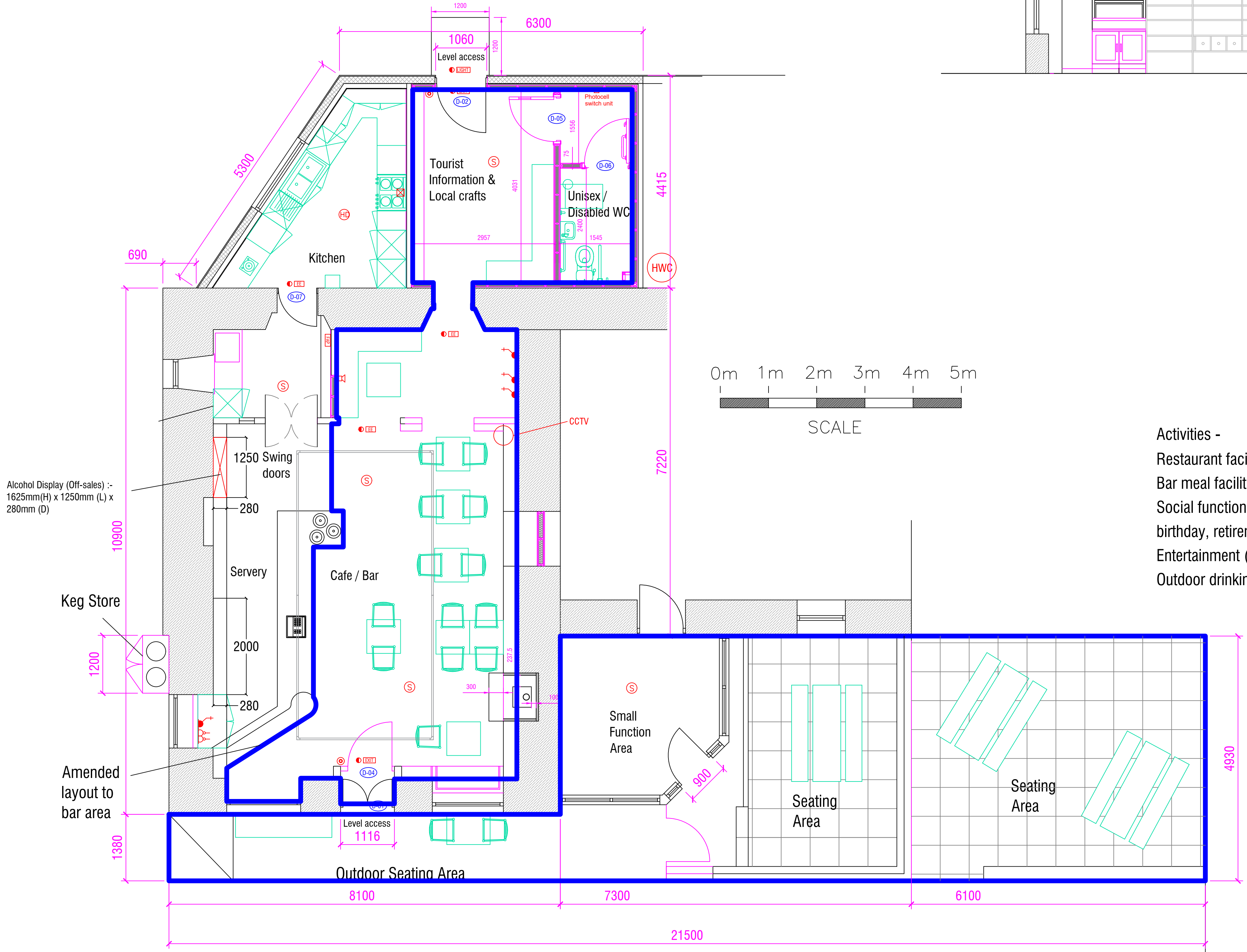
Appendix 1: Layout plan of the premises.

AREA ON THE PREMISES TO WHICH CHILDREN AND YOUNG PERSONS WILL HAVE ACCESS.

- ELECTRICAL LEGEND :-
- SMOKE ALARM (Smoke detectors to be mains wired, inter-connected and fitted with battery back-up in accordance with Standard 2.11.3 & 2.11.9 and to comply with BS 5838-6)
 - ⊕ HEAT DETECTOR
 - ⊞ FIRE ALARM ELECTRONIC SOUNDER
 - ⊞ EMERGENCY EXIT SIGN
 - ⊞ EMERGENCY ESCAPE ROUTE SIGN
 - ⊞ EMERGENCY EXTERNAL LIGHT
 - MANUAL BREAK GLASS CALL POINT
 - ⊞ FIRE ALARM PANEL



Alcohol Display (Off-sales) :-
1625mm(H) x 1250mm (L) x 280mm (D)



- Activities -
- Restaurant facilities
 - Bar meal facilities
 - Social functions (including Weddings, funerals birthday, retirements etc) Clubs or other group meetings
 - Entertainment (including Recorded music, live performances and televised sport)
 - Outdoor drinking facilities

PROPOSED PLAN

cindy.mackenzie Bsc(Hon) ARCHITECTURAL SERVICES Braeside St. Margaret's Hope Orkney KW17 2JL Tel: 01856 631717 Mob: 077 19844957 email: cindy.mackenzie@talktalk.net	CLIENT :Mrs M Smith & Mrs J Simison		
	PROJECT: PROPOSED CAFE BAR, GIFT SHOP & TOURIST INFORMATION POINT ROBERTSONS GENERAL STORE CHURCH ROAD, ST. MARGARET'S HOPE, ORKNEY		
	DRAWING: PROPOSED FLOOR PLAN & DISPLAY SHELVING LICENSING APPLICATION (Amendment)		
	SCALE : 1:50	A1	rev -
APRIL 2021	003		