

Item: 7

Orkney Islands Area Licensing Board: 3 June 2021.

Licensing (Scotland) Act 2005.

Application for Premises Licence.

Emily V Smith – Emily’s Tearoom and Restaurant, Mill House, Lyness.

Report by Clerk to the Board.

1. Purpose of Report

To consider an application from Emily V Smith for a premises licence in respect of Emily’s Tearoom and Restaurant, Mill House, Lyness.

2. Recommendations

It is recommended:

That the Board determines the application from Emily V Smith for a premises licence in respect of Emily’s Tearoom and Restaurant, Mill House, Lyness.

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 applications shall be made by the Board.

3.2.

In relation to overprovision, on 3 May 2018, the Board determined the following:

3.2.1.

There is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

3.2.2.

The Board concluded that there was not a dependable causal link between the evidence provided to the Board and the operation of licensed premises, to suggest that a saturation point had been reached, or was close to being reached, within the locality of Orkney defined by the Board.

3.3.

In accordance with the Licensing (Scotland) Act 2005, the Board's Statement of Alcohol Licensing Policy generally permits off-sale operating hours of 10:00 to 22:00 each day.

3.4.

The Board's Statement of Alcohol Licensing Policy generally permits:

- Commencement on-sale operating hour of 10:00 each day.
- Terminal on-sale operating hours of 24:00 Sundays to Thursdays and 01:00 Fridays/Saturdays and Saturdays/Sundays.
- For local events such as annual agricultural shows, local festivals and private functions, a terminal on-sale operating hour of 01:00 any morning.
- For weddings, a terminal on-sale operating hour of 01:30 any morning.
- For the festive season, being 24/25 December until 2/3 January each year, a terminal on-sale operating hour of 01:00 any morning.

3.5.

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

<https://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

4. Application

4.1.

On 14 April 2021, Emily V Smith submitted an application for a premises licence in respect of Emily's Tearoom and Restaurant, Mill House, Lyness.

4.2.

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

4.3.

The application is for on-sale operating hours for the Tearoom and Restaurant and off-sale operating hours for the craft and gift shop which forms part of the premises.

4.4.

The application requests the following on-sale operating hours, which are within those permitted in terms of the Board's Statement of Alcohol Licensing Policy:

- 12:00 to 23:00 on Mondays to Saturdays inclusive.

4.5.

The application requests on-sale capacity of 20 persons.

4.6.

The application requests the following off-sale operating hours, which are within those permitted in terms of the Board's Statement of Alcohol Licensing Policy:

- 10:00 to 22:00 on Mondays to Saturdays inclusive.

4.7.

The application requests off-sale capacity of 2.25 square metres.

5. Consultation

The required notices were issued to the statutory consultees on 14 April 2021 and the application was published on Orkney Islands Council's website from 16 April 2021. The last date for objections or representations to be received was 7 May 2021. No submissions were received.

6. Financial Implications

The appropriate application fee of £800 has been paid.

7. Legal Aspects

7.1.

The Licensing (Scotland) Act 2005 (the Act) provides that the licensing board must hold a hearing for the purpose of considering and determining an application for a premises licence.

7.2.

A premises licence takes effect as soon as it is granted by the licensing board.

7.3.

Premises licence applications must:

7.3.1.

Name a premises manager, who must be a personal licence holder.

7.3.2.

Be accompanied by:

- A disabled access and facilities statement.
- Certificates in relation to:
 - Planning.
 - Building standards.
 - Food hygiene.

7.4.

Applications are not accepted unless all preliminary requirements are satisfied. The application names a premises manager, who is a personal licence holder. Further, a disabled access and facilities statement and certificates in relation to planning, building standards and food hygiene have been submitted.

7.5.

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.

7.6.

The grounds for refusal under the Act are as follows:

7.6.1.

The subject premises are excluded premises – these are essentially garages or garage shops, but there is an exemption for premises which are the principal source, in their community, for groceries as well as petrol or deriv.

7.6.2.

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.

7.6.3.

The Board considers, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence.

7.6.4.

The Board considers that the granting of the application would otherwise 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.

7.6.5.

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.

7.6.6.

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.

7.7.

Anyone lodging an objection on the ground detailed at section 7.6.6 above must specify the locality on which they are basing their objection.

7.8.

Where the Board is minded to refuse the application, but a modification proposed by the Board to the operating plan or layout plan (or both) would make the application acceptable to the Board, the Board must grant the application, as modified, where the applicant accepts the proposed modification.

7.9.

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 sections 7.6.3. or 7.6.4. above, the Board must specify the licensing objective or objectives in question.

7.10.

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.

8. 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.

9. Appendix

Appendix 1: Layout plan of the premises.

This drawing is copyright of Cindy Mackenzie Architectural Services and may not be reproduced without permission. To be read in conjunction with specification and all relevant drawings. Contractor to check dimension on site. Do not scale from drawing.

Activities -

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

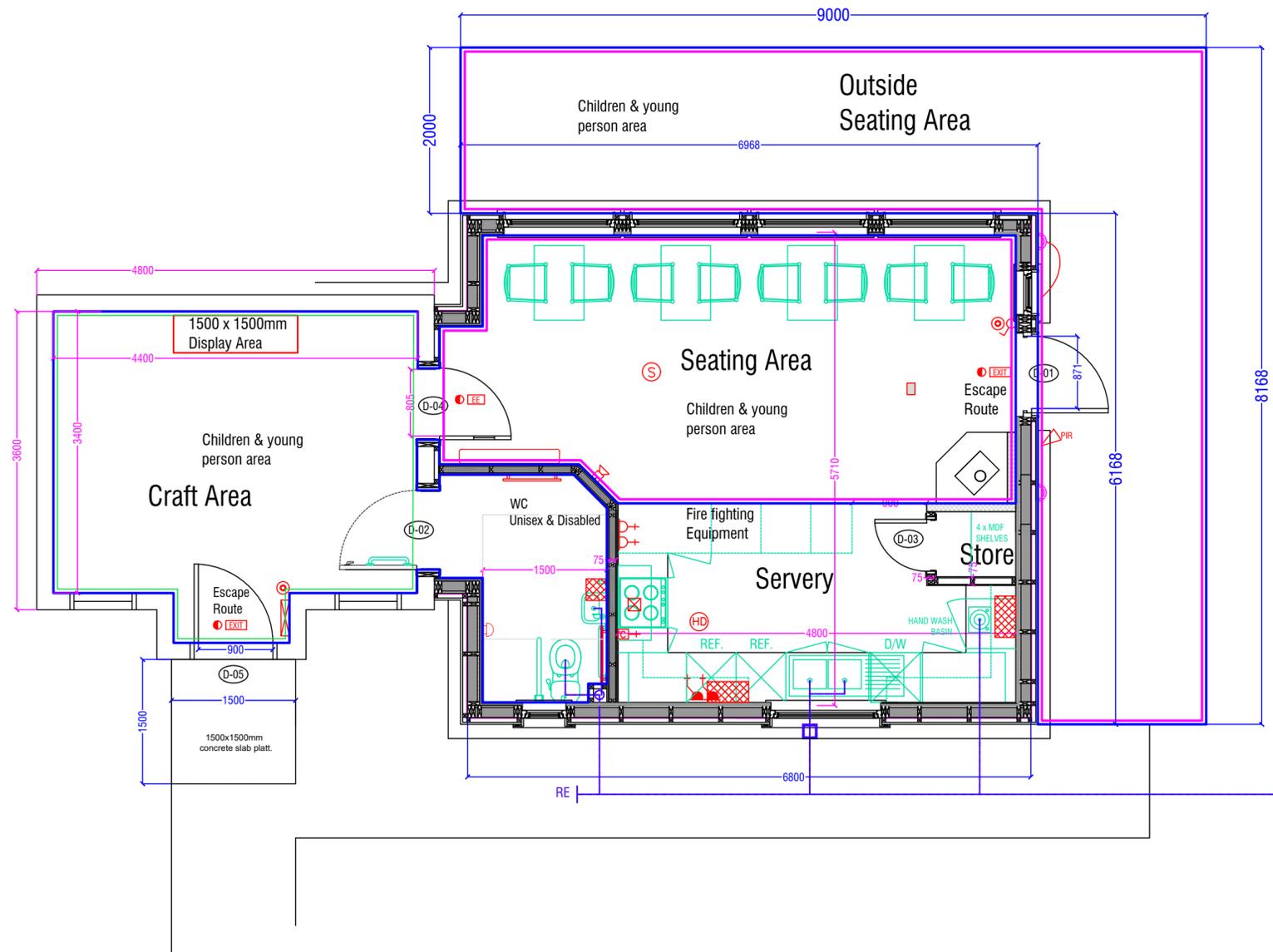
Opening Hours -

Alcohol available between 12pm - 11pm

- AREA ON THE PREMISES TO WHICH CHILDREN AND YOUNG PERSONS WILL HAVE ACCESS.
- CRAFT AREA WITH HAMPERS THAT MAY CONTAIN ALCOHOL
- TEA ROOM AND EXTERNAL AREA WHERE ALCOHOL CAN BE SERVED

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
- CONSUMER UNIT ETC
- FIRE ALARM ELECTRONIC SOUNDER
- EMERGENCY EXIT SIGN
- EMERGENCY ESCAPE ROUTE SIGN
- EMERGENCY EXTERNAL LIGHT
- MANUAL BREAK GLASS CALL POINT
- FIRE ALARM SOUNDER WITH STROBE
- CARBON MONOXIDE DETECTOR TO COMPLY WITH BS EN 50291-1:2010 AND BE POWERED BY A BATTERY DESIGNED TO OPERATE FOR THE WORKING LIFE OF THE DETECTOR. CEILING MOUNTED AND SITED BETWEEN 1 - 3M FROM THE APPLIANCE



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	<p>PROJECT: PROPOSED EXTENSION TO SHOP MILL HOUSE, LYNESS ORKNEY</p> <p>DRAWING: PROPOSED FLOOR PLAN</p>		
SCALE : 1:50	A2		
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