

Item: 5

Orkney Islands Area Licensing Board: 1 May 2025.

Licensing (Scotland) Act 2005.

Application for Provisional Premises Licence.

Kirkjuvgar Limited – Rapture, 14 Bridge Street, Kirkwall.

Clerk to the Licensing Board.

1. Overview

- 1.1. On 25 February 2025, Kirkjuvgar Limited submitted an application for a provisional premises licence in respect of Rapture, 14 Bridge Street, Kirkwall, details of which are provided at section 3 below.

2. Recommendations

- 2.1. It is recommended that members of the Board:
- i. Determine the application from Kirkjuvgar Limited for a provisional premises licence in respect of Rapture, 14 Bridge Street, Kirkwall.

3. Application for Provisional Premises Licence

- 3.1. The premises are described as a “nightclub and music venue”.
- 3.2. The application requests on-sale operating hours, as follows:
- 10:00 to 24:00 on Sundays to Thursdays inclusive.
 - 10:00 to 02:00 on Fridays and Saturdays.
- 3.3. Seasonal variations to on-sale operating hours are requested, as follows:
- Christmas and New Year Festivities:
 - 10:00 to 02:00 on 24/25 December.
 - 10:00 to 02:00 on 31 December/1 January.
 - 10:00 to 02:00 on 26/27 December to 30/31 December inclusive.
 - Orkney 2025 International Island Games:
 - 10:00 to 02:00 on five consecutive dates from Sunday, 13 July/Monday, 14 July 2025 to Thursday, 17 July/ Friday, 18 July 2025 inclusive.

- 3.4. The requested activities include receptions (for example, weddings, funerals, birthdays, retirements), recorded music, live performances, dance facilities and theatre.
- 3.5. The on-sale capacity of the premises is 650 persons.
- 3.6. The application requests that children and young persons be permitted on the premises between 10:00 and 24:00 on Mondays to Sundays inclusive on the following terms:
- 14-17 years require to be accompanied by an adult.
 - 8-17 years would not require to be accompanied by an adult at junior discos and events which are to be alcohol free.
- 3.7. A layout plan of the premises is attached as Appendix 1 to this report.

4. Consultation

- 4.1. The required notices were issued to the statutory consultees on 4 March 2025 and the application was published on Orkney Islands Council's website from 5 March 2025. The last date for objections or representations to be received was 26 March 2025. One submission was received.

5. Response to Consultation

- 5.1. Police Scotland responded by email dated 24 March 2025 to advise regarding the provisional premise licence application that Police Scotland can confirm it has been reviewed and that the applicant is fully engaging. Police Scotland will be having a further meeting with the applicant to discuss possible minor amendments to the operating plan and a financial interview, but at this time there are no Police objections, provided an amended operating plan will be submitted, regarding concerns of the managing of under 18s events, and consideration for a slightly amended closure time to allow patrons to leave by 02:15.

6. Policy Position

- 6.1. In accordance with section 6 of the Licensing (Scotland) Act 2005 (the "2005 Act"), the Board has published a Statement of Alcohol Licensing Policy which provides that decisions on premises licence applications (which includes provisional premises licences) shall be made by the Board.

6.2. In relation to overprovision, on 27 April 2023, the Board determined the following:

- There is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.
- The Board concluded that, on a balance of probabilities, there was not a dependable causal link between the availability of alcohol in Orkney and alcohol-related harm, in that, based on the evidence of harm in the locality of Orkney as defined by the Board, it was unlikely, on balance, that alcohol availability was a cause of harm in Orkney, or that increasing the availability of alcohol in Orkney would increase that harm.

6.3. The Board's Statement of Alcohol Licensing Policy generally permits on sale operating hours as follows:

- 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 in any morning.
- For weddings, a terminal on-sale operating hour of 01:30 in 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.
- Terminal on-sale operating hours of 02:00 on Fridays/Saturdays and Saturdays/Sundays for premises which, in terms of their operating plan and the Board's understanding, will be operating as nightclubs.
- For the festive season, 24/25 December (Christmas Eve) and 31 December/ 1 January (Hogmanay) each year, a terminal on-sale operating hour of 02:00 in premises which, in terms of their operating plan and the Board's understanding, will be operating as nightclubs.

6.4. In part, the on-sale operating hours requested in the application fall within the range of hours permitted in the Board's Statement of Alcohol Licensing Policy.

6.5. The on-sale terminal operating hour of 02:00 requested for the festive period each day from 26/27 to 30/31 December inclusive falls outwith the range of hours permitted in the Board's Statement of Alcohol Licensing Policy.

6.6. The terminal operating hour of 02:00 requested for the Orkney 2025 International Islands Games for the five days from 13/14 July to 17/18 July 2025 inclusive falls outwith the range of hours permitted in the Board's Statement of Alcohol Licensing Policy.

- 6.7. 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.
- 6.8. The full policy document is available from the Related Downloads section [here](#).

7. Legislative Position

- 7.1. The 2005 Act provides that the Licensing Board must hold a hearing for the purpose of considering and determining an application for premises licence (which includes provisional premises licence).
- 7.2. The 2005 Act provides that a premises licence application may be made in relation to any premises despite the fact that, at the time the application is made, the premises are yet to be, or are in the course of being, constructed or converted for use as licensed premises. Such an application is referred to as a “provisional premises licence application”.
- 7.3. With reference to section 6.7 above, it is noted that the relevant service has advised that there is an outstanding building warrant in connection with the development of the proposed premises.
- 7.4. A provisional premises licence does not take effect unless and until it is confirmed by the Licensing Board. The Clerk to the Board has delegated authority to confirm provisional premises licences. If it is not confirmed before the end of the provisional period, then at the end of that period, the licence is treated as revoked. The provisional period is four years from the date of issue of the provisional premises licence. The provisional period can be extended by the Board where completion of the construction or conversion of the premises has been delayed and the delay has been caused by factors outwith the provisional premises licence holder’s control.
- 7.5. While provisional premises licence applications must be accompanied by a certificate in relation to planning, they do not require to be accompanied by certificates in relation to building standards or food hygiene, and there is no requirement to name a premises manager. These items must be submitted at a later date with the application for confirmation. Applications are not accepted unless all preliminary requirements are satisfied.

- 7.6. 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.
- 7.7. The grounds for refusal under the 2005 Act are as follows:
- 7.7.1. 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.
- 7.7.2. 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.
- 7.7.3. 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, or
 - The persons likely to frequent the premises.
- The Board considers that the premises are unsuitable for use for the sale of alcohol.
- 7.7.4. 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, in the locality.
- 7.8. Anyone lodging an objection on the ground detailed at section 7.7.4 above must specify the locality on which they are basing their objection.
- 7.9. Where the Board refuses an application, the Board must specify the ground for refusal. If the ground for refusal is one of the grounds detailed at section 7.7.2 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.

For Further Information please contact:

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

Implications of Report

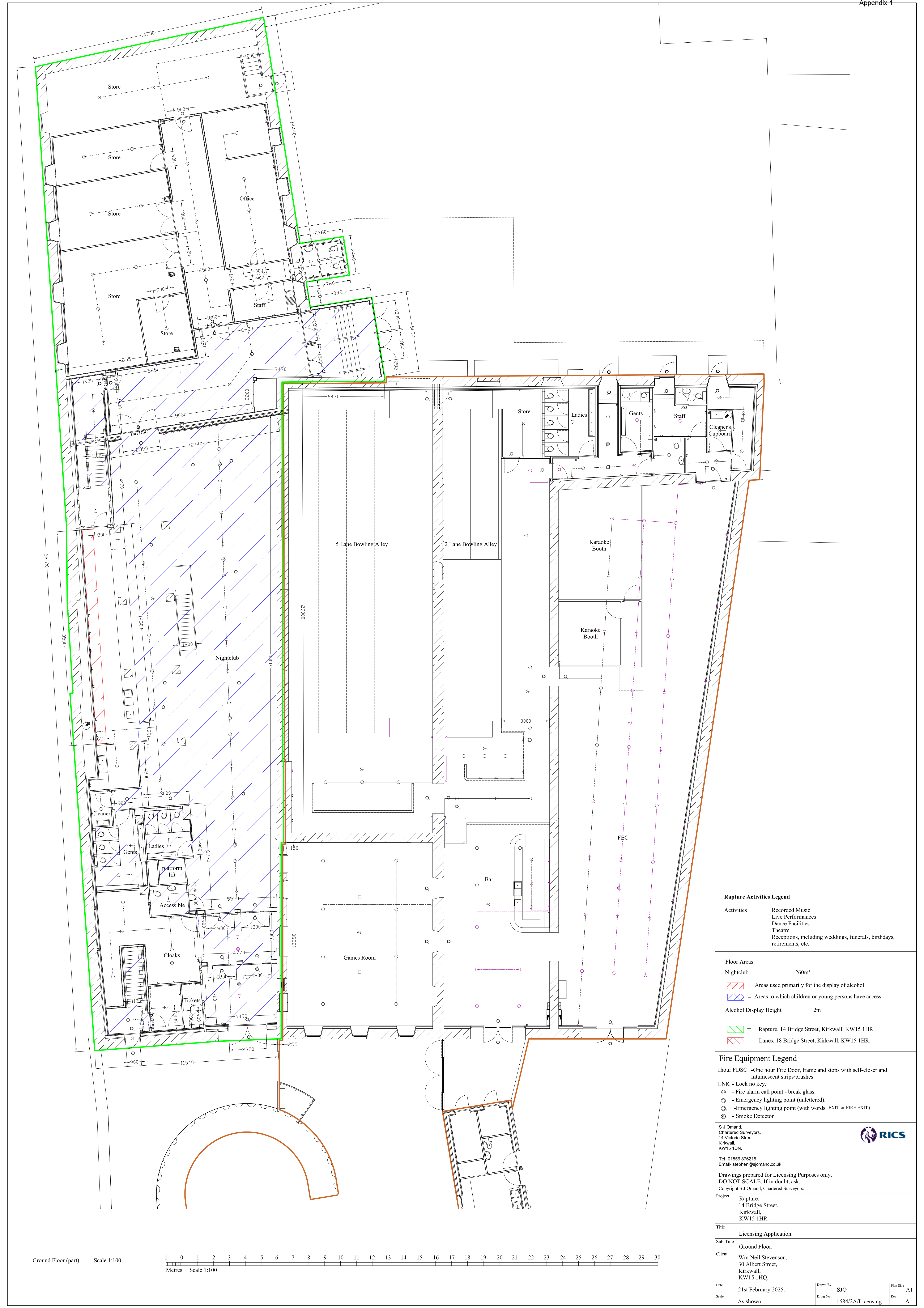
1. **Financial:** The appropriate application fee of £200 has been paid.
2. **Legal:** The legal aspects are contained within the body of this report.
3. **Corporate Governance:** In terms of Section 23 of the Licensing (Scotland) Act 2005, a Provisional Premises Licence Application is to be determined by the Licensing Board.
4. **Human Resources:** None.
5. **Equalities:** None.
6. **Island Communities Impact:** None.
7. **Links to Council Plan:** None.
8. **Links to Local Outcomes Improvement Plan:** None.
9. **Environmental and Climate Risk:** None.
10. **Risk:** None.
11. **Procurement:** None.
12. **Health and Safety:** None.
13. **Property and Assets:** None.
14. **Information Technology:** None.
15. **Cost of Living:** None.

List of Background Papers

Application for Provisional Premises Licence by Kirkjuvgar Limited.

Appendix

Appendix 1 – Layout plans of the premises.



Rapture Activities Legend


Activities


Recorded Music
Live Performances
Dance Facilities
Theatre
Receptions, including weddings, funerals, birthdays, retirements, etc.

Floor Areas

Nightclub


260m²


 - Areas used primarily for the display of alcohol

 - Areas to which children or young persons have access

Alcohol Display Height

2m


 - Rapture, 14 Bridge Street, Kirkwall, KW15 1HR.


 - Lanes, 18 Bridge Street, Kirkwall, KW15 1HR.


Fire Equipment Legend


1 hour FDSC - One hour Fire Door, frame and stops with self-closer and intumescent strips/brushes.

LNK - Lock no key.

 - Fire alarm call point - break glass.


 - Emergency lighting point (unlettered).

 - Emergency lighting point (with words EXIT or FIRE EXIT).

 - Smoke Detector

S J Omand,
Chartered Surveyors,
14 Victoria Street,
Kirkwall,
KW15 1DN,

Tel- 01856 876215
Email- stephen@sjomand.co.uk



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Project

Rapture,
14 Bridge Street,
Kirkwall,
KW15 1HR.

Title

Licensing Application.

Sub-Title

Ground Floor.

Client

Wm Neil Stevenson,
30 Albert Street,
Kirkwall,
KW15 1HQ.

Date

21st February 2025.

Drawn By

SJO

Plan Size

A1

Scale

As shown.

Drawn No

1684/2A/Licensing

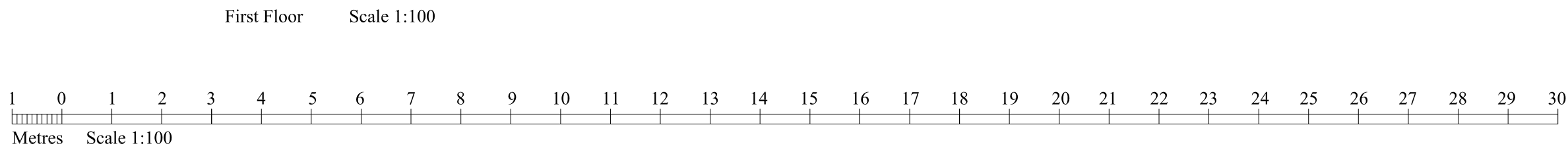
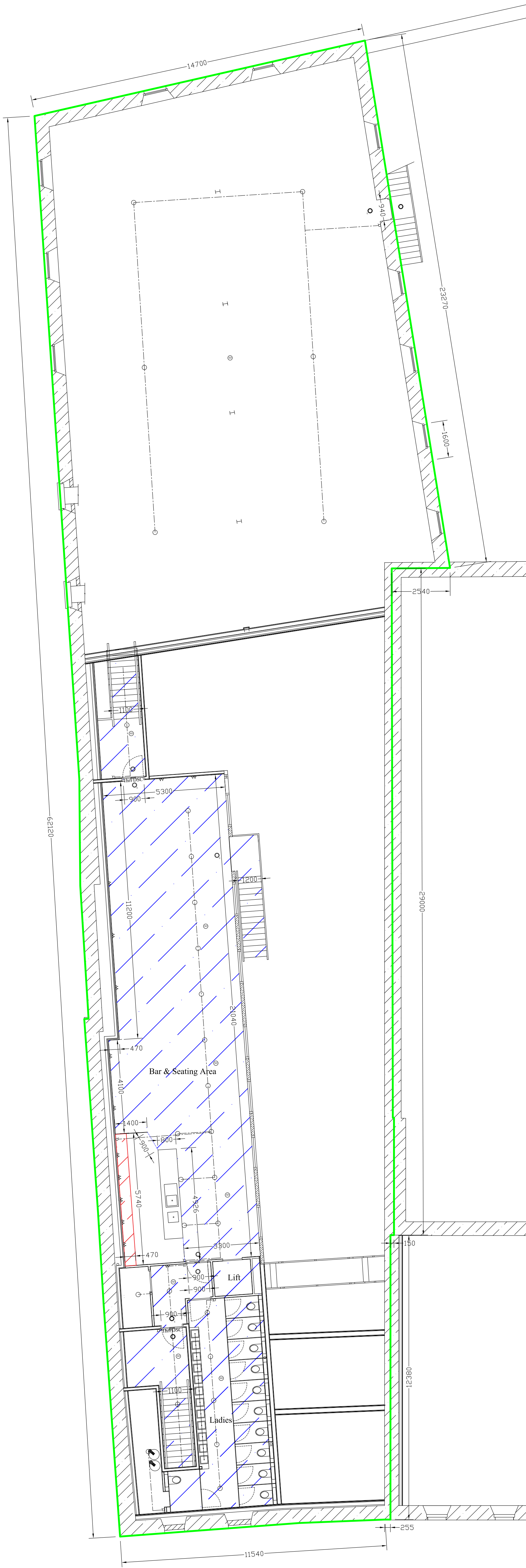
Rev





A

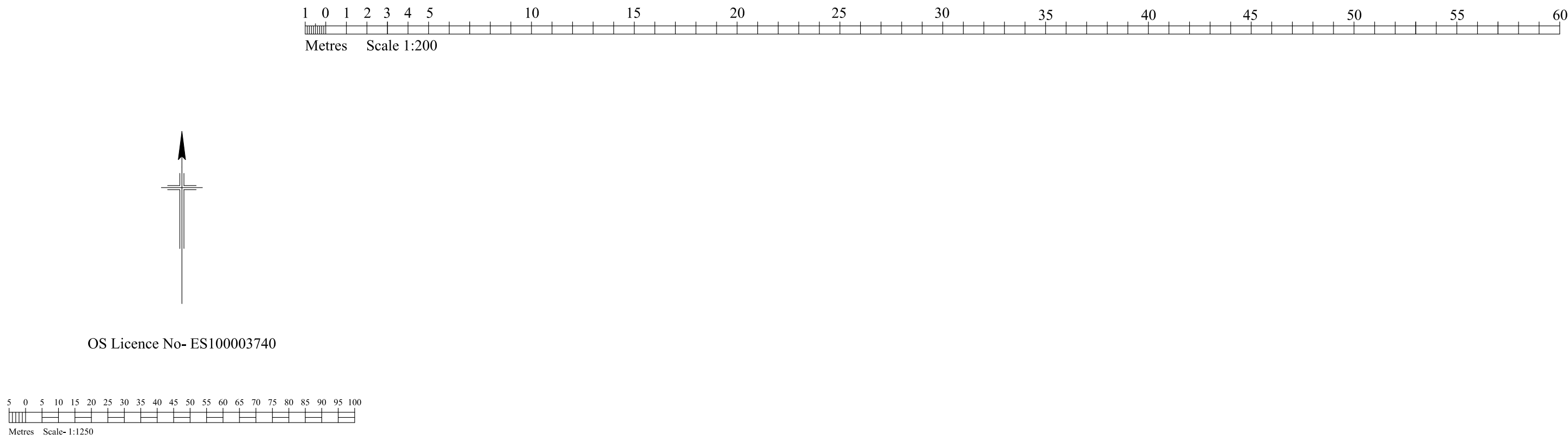
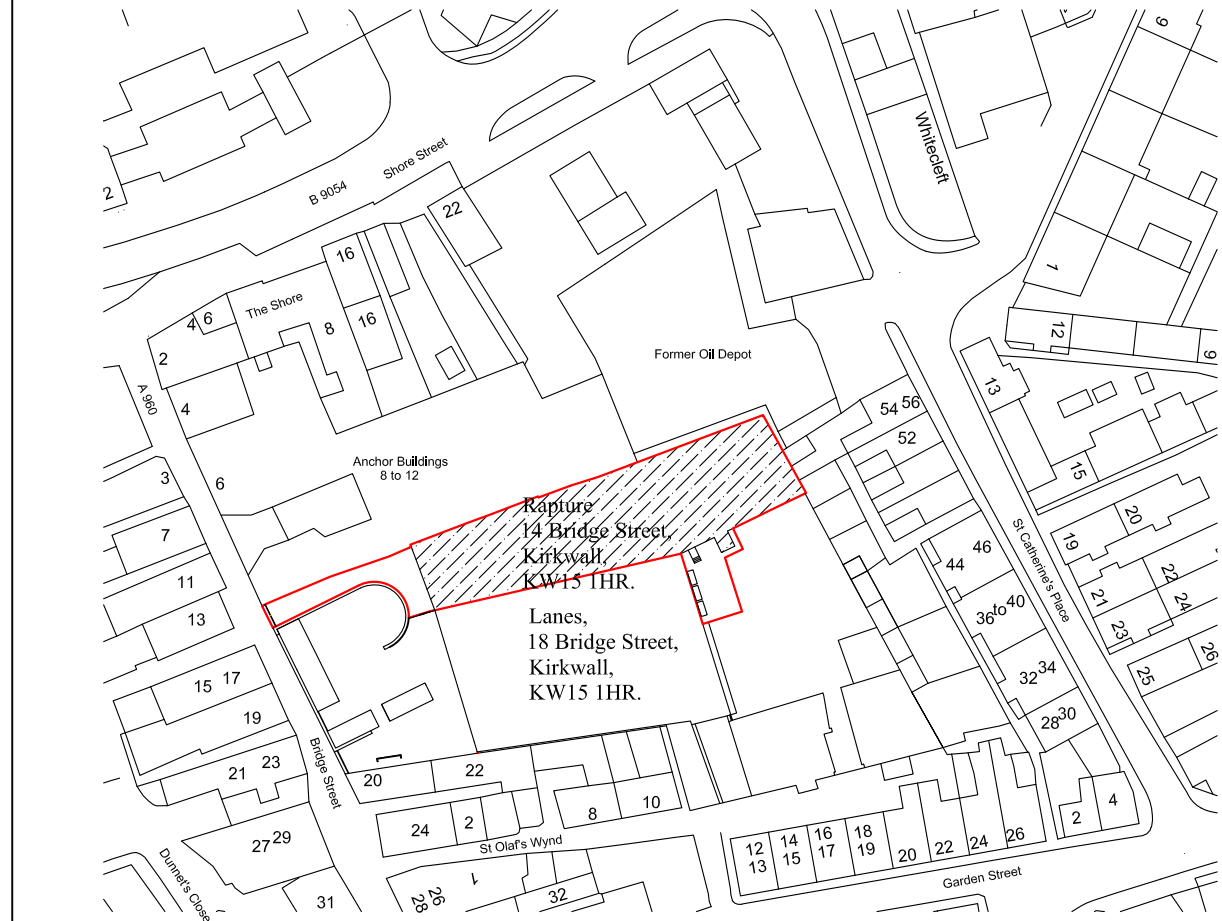
Ground Floor (part) Scale 1:100


1 0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

Metres Scale 1:100



Rapture Activities Legend		
Activities	Recorded Music Live Performances Dance Facilities Theatre Receptions, including weddings, funerals, birthdays, retirements, etc.	
<hr/>		
<u>Floor Area</u>		
First Floor Bar & Seating Area	104m ²	
	Areas used primarily for the display of alcohol	
	Areas to which children or young persons have access	
Alcohol Display Height	2.3m	
	Rapture, 14 Bridge Street, Kirkwall, KW15 1HR.	
<hr/>		
Fire Equipment Legend		
1hour FDSC -One hour Fire Door, frame and stops with self-closer and intumescent strips/brushes.		
LNK - Lock no key.		
⊙	- Fire alarm call point - break glass.	
⊗	- Emergency lighting point (unlettered).	
⊗+	-Emergency lighting point (with words EXIT or FIRE EXIT).	
⊙+	- Smoke Detector	
<hr/>		
S J Omand, Chartered Surveyors, 14 Victoria Street, Kirkwall, KW15 1DN. Tel- 01856 876215 Email- stephen@sjomand.co.uk		
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Project	Rapture, 14 Bridge Street, Kirkwall, KW15 1HR.	
Title	Licensing Application.	
Sub-Title	First Floor	
Client	Wm Neil Stevenson, Kirkjuvagar Ltd, 30 Albert Street, Kirkwall, KW15 1HQ.	
Date	21st February 2025.	Drawn By SJO Plan Size A1
Scale	As shown.	Dwg No 1684/3/Licensing Rev A



S J Omand, Chartered Surveyors, 14 Victoria Street, Kirkwall, KW15 1DN. Tel- 01856 876215 Email- stephen@sjomand.co.uk					
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Address		Rapture, 14 Bridge Street, Kirkwall, KW15 1HR.			
Title		Licensing Application.			
Sub-Title		Location Plan.			
Client		Wm Neil Stevenson, Kirkjuvagar Ltd, 30 Albert Street, Kirkwall, KW15 1HQ.			
Date	31st January 2025.	Drawn By	SJO	Plan Size	A1
Scale	As shown.	Drawn No	1684/1/Licensing.	Rev	