

Item: 6

Orkney Islands Area Licensing Board: 9 October 2018.

Licensing (Scotland) Act 2005.

Application for Provisional Premises Licence.

Tracy Groves – 18 Shore Street, Kirkwall.

Report by Clerk to the Board.

1. Purpose of Report

To consider an application by Tracy Groves for a provisional premises licence in respect of 18 Shore Street, Kirkwall.

2. Recommendations

It is recommended:

That the Board determines the application by Tracy Groves for a provisional premises licence in respect of 18 Shore Street, Kirkwall.

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 provisional premises licence applications shall be made by the Board.

3.2.

In relation to overprovision, on 3 May 2018, the Board determined that there is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

3.2.1.

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.

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 12 midnight 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:

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

4. Application

4.1.

On 10 August 2018, Tracy Groves submitted an application for a provisional premises licence in respect of 18 Shore Street, Kirkwall.

4.2.

The premises are to be converted for use as licensed premises.

4.3.

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

4.4.

The application is for both off-sale and on-sale operating hours.

4.5.

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 Sundays inclusive.

4.6.

The application requests off-sale capacity of 0.54 square metres.

4.7.

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:

- 10:00 to 00:00 on Sundays to Thursdays inclusive.
- 10:00 to 01:00 on Fridays/Saturdays and Saturdays/Sundays.

4.8.

The application requests total on-sale capacity of 20 persons: 11 inside and 9 outside.

4.9.

The outside area does not encroach onto the public pavement. It is contained within the footprint of the premises.

4.10.

The applicant has provided the following information about the proposal:

"I propose to open a Gin Bar in one of the smallest historic buildings on Shore Street which gives the opportunity to enhance the appearance and contribute positively to the special character of this important area.

The Gin Bar will offer over 100 handcrafted gins from around the globe (including Orkney brands) prepared and served by a ginologist to the highest standard using quality mixers and garnish, some of which will be grown in the garden of the outside area. The best of Orkney local whisky and bottled beers will also be on offer along with specially selected quality white and red wines.

The experience in the bar will be unique for Orkney in that the staff work in front of the bar to suggest and prepare the Gins thus becoming part of the uniqueness of the operation and engaging with the customers.

It may be one of the smallest Gin Bars in the world and what it may lack in physical space will be made up with a unique experience to enjoy quality prepared Gins in Orkney. I think the experience will be quirky enough to appeal to locals and tourists alike."

5. Consultation

The required notices were issued to the statutory consultees on 14 August 2018 and the application was published on Orkney Islands Council's website from 17 August 2018. The last date for objections or representations to be received was 7 September 2018. No submissions were received.

6. Financial Implications

The appropriate application fee of £200 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 (which includes a provisional premises licence).

7.2.

The 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.

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 4 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.

7.4.

Provisional premises licence applications must be accompanied by

- A certificate in relation to planning.
- A disabled access and facilities statement.

7.5.

Certificates in relation to building standards and food hygiene must be submitted with the application for confirmation at a later date and a premises manager must be named.

7.6.

Applications are not accepted unless all preliminary requirements are satisfied. A certificate in relation to planning and a disabled access and facilities statement have been submitted.

7.7.

Any person may, by notice to the Licensing 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.

7.8.

The grounds for refusal under the Act are as follows:

7.8.1.

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.

7.8.2.

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.

7.8.3.

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.

7.8.4.

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.

7.8.5.

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.

7.8.6.

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.

7.9.

Anyone lodging an objection on the ground detailed at section 7.8.6 above must specify the locality on which they are basing their objection.

7.10.

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.

7.11.

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 7.8.3. or 7.8.4. above, the Board must specify the licensing objective or objectives in question.

7.12.

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

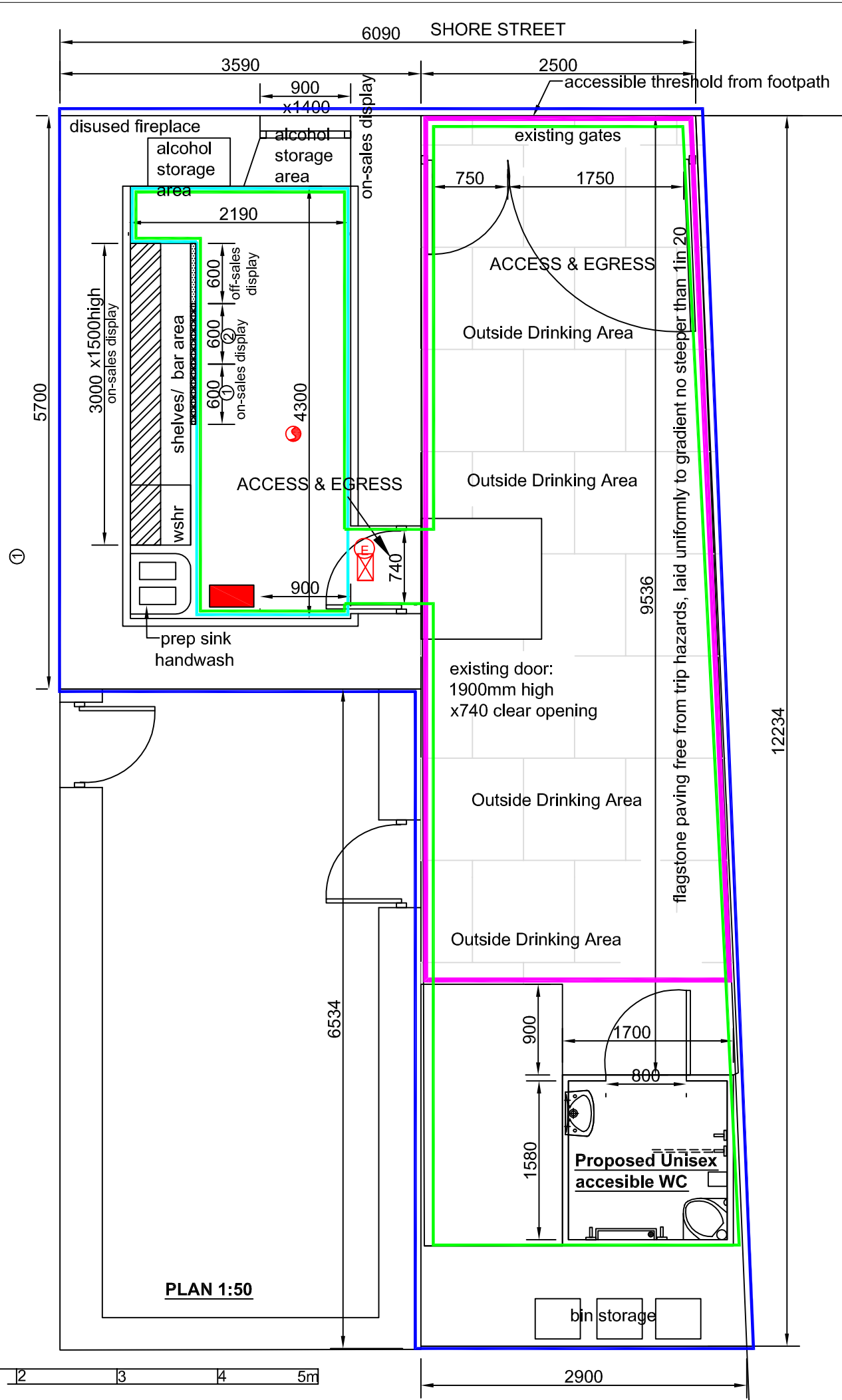
Gavin Mitchell, Clerk to the Board, extension 2233, email gavin.mitchell@orkney.gov.uk.

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

9. Appendix

Appendix 1: Layout plan of the premises.

Occupancy=5.5sqm/0.5
11persons maximum
(in accordance with 2.9.2)



ⓔ maintained 8 watt 3 hour emergency light and emergency exit sign with self contained power supply (emergency lighting to BS5266)

🔴 Mains wired smoke detector/ alarm to comply with Type L2 system, to BS 5839: part 6:2004 with battery backup & interlinked in accordance with 2.11.2

Outside drinking area

Inside drinking area

fire blanket and extinguisher

Note: All areas are available for access to children and young persons

extent of licenced premises

AD1 - 3000mm wide x 1500 high alcohol onsales display area 1

AD2 - 600 wide x 900 high x 500 deep undercounter chilled alcohol off sales display area 2

AD3 - 2Nr 600 wide x 900 high x 500 deep undercounter chilled alcohol onsales display area 3

wshr undercounter dish washer

The following activities will happen throughout the premises:

- 1.Bar meals
- 2.Receptions
- 3.Club or other group meetings
- 4.Recorded music
- 5.Live performances

Outdoor drinking facilities are located in outside area only.
Outdoor drinking will only happen outdoors.

AR Structural Design Ltd

A3

Allan Reid BSc. Chaos, Petertown Rd, Orphir, Orkney KW17 2RE
Tel: 01856 811749. mob: 0777 0354 511. email: allanreid05@aol.com

Project: **PROPOSED GIN BAR AT 18 SHORE STREET, KIRKWALL**

Date: 8/8/18

0m .5 1 1:50 2 3 4 5m