

Item: 5

Orkney Islands Area Licensing Board: 5 December 2019.

Licensing (Scotland) Act 2005.

Application for Occasional Licence.

Iain Laird – Christmas Party Nights with Live Music at Orkney Auction Mart, Hatston, Kirkwall – 28/29 and 29/30 December 2019.

Report by Clerk to the Board.

1. Purpose of Report

To consider an application from Iain Laird for an occasional licence for two Christmas Party Nights with Live Music at Orkney Auction Mart, Hatston, Kirkwall, on 28/29 and 29/30 December 2019.

2. Recommendations

It is recommended:

That the Board determines the application from Iain Laird for an occasional licence for two Christmas Party Nights with Live Music at Orkney Auction Mart, Hatston, Kirkwall, on 28/29 and 29/30 December 2019.

3. Policy Aspects

3.1.

In terms of its Statement of Licensing Policy, the Board has delegated to the Clerk authority to determine the following description of application under the Licensing (Scotland) Act 2005 (the Act) in consultation with those members of the Board who may be available by telephone or email at any given time and at no time less than five members:

- occasional licence – outwith the Board's normal licensing hours policy – where no objections or representations have been received, the Police have not lodged a notice recommending refusal of the application and any report by the LSO does not recommend refusal.

3.2.

The Clerk may elect not to exercise delegated powers in a particular case and has determined not to do so in this case, taking into account concerns expressed by members in the past regarding consideration of applications meeting the criteria referred to at section 3.1 above.

3.3.

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.

3.4.

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.

Iain Laird (the applicant) is the holder of a personal licence and is entitled to apply for occasional licences.

4.2.

On 16 October 2019, the applicant submitted an application for an occasional licence in respect of two Christmas Party Nights with Live Music at Orkney Auction Mart, Hatston, Kirkwall, on 28/29 and 29/30 December 2019.

4.3.

The application is for on-sale operating hours only from:

- 21:00 on Saturday 28 December to 02:00 on Sunday 29 December 2019.
- 20:00 on Sunday 29 December to 01:00 on Monday 30 December 2019.

4.3.1.

The operating hours requested on 28/29 December 2019 are outwith those permitted in terms of the Board's Statement of Alcohol Licensing Policy.

4.4.

The applicant has submitted supporting information about the events, which is attached as Appendix 1 to this report.

4.4.1.

The applicant states within his supporting information that if the application for a terminal hour of 02:00 on 29 December 2019 is not granted, he seeks a terminal hour of 01:00 on that date. A terminal hour of 01:00 is within those permitted in terms of the Board's Statement of Alcohol Licensing Policy.

4.5.

The applicant was advised that his application would require to be considered at the meeting on 5 December 2019. He was asked to attend the meeting.

5. Consultation

5.1.

The required notices were issued to the statutory consultees, being Police Scotland and the Licensing Standards Officer (LSO), on 16 October 2019. The application was published on Orkney Islands Council's website from 18 October 2019. The last date for objections or representations to be received from Police Scotland or the public was 25 October 2019.

5.2.

An LSO may, within 21 days of receipt of a notice of an application for occasional licence, prepare and submit to the Board a report setting out the officer's comments on the application.

5.3.

By email dated 18 October 2019, Police Scotland advised that they had no objection or observations in relation to the application.

5.4.

No response to the public consultation was received.

5.5.

By email dated 30 October 2019, the LSO advised that he had no objection to the application.

6. Financial Implications

The appropriate application fee of £10 has been paid.

7. Legal Aspects

7.1.

In terms of the Act, the Board may, on the application of the holder of a premises licence, holder of a personal licence or a representative of any voluntary organisation, in relation to any premises (other than licensed premises) within the

Board's area, issue a licence referred to as an occasional licence authorising the sale of alcohol on the premises.

7.2.

An occasional licence has effect for such period of not more than 14 days as the Board may determine.

7.3.

Any person may, by notice to the Board, object to an application for occasional licence on any ground relevant to one of the grounds for refusal specified in the Act or may make representations to the Board, including representations in support of the application or as to conditions which the person considers should be imposed.

7.4.

The Board must 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.

7.5.

The grounds for refusal under the Act are as follows:

7.5.1.

The premises to which the application relates 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 derv.

7.5.2.

The application must be refused if, generally, to grant it would result in the applicant exceeding the statutory limit on the numbers of days permitted for occasional licences; or it seeks generally banned 24 hour opening or prohibited off-sale hours.

7.5.3.

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.

7.5.4.

Having regard to:

- The nature of the activities proposed to be carried on in the premises to which the application relates,
- 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.

7.6.

In determining the application, the Board must take into account any report from the LSO.

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 – Supporting information from applicant.

Event Proposed & Location

The event proposed is two Christmas Party Nights featuring live local bands playing for the duration of the event.

The event is to be located at Orkney Auction Mart Ltd within their general-purpose hall. Orkney Auction Mart is located close to Kirkwall town centre with pavements and street lighting along the route.

There will only be certain areas of the building used on the night. With one entry and exit point to control people entering the event. The entrance is into a foyer which provides access to the male, female and disabled toilets and then into the hall.

The main event is located in the hall which is approx. 15m x 24m. There will be a staged area for the band and a bar areas at either end of hall. The main hall has 4 1.7m double door fire exits, each of which will be manned at all times by fully qualified SIA security.

The stage is to be 6m x 4m of pre fabricated construction. This is as per the raised structure licence which has been applied for. The stage will be surrounded by pedestrian barriers.

The bar areas are each 8m long, it is of wooden construction, 1.2m high and 0.6m wide. The bar will be supervised by other personal licence holders as well as myself.

There shall be a gated off area outside for a smoking area which will also be manned by security at all times.

The event area is all fully accessible

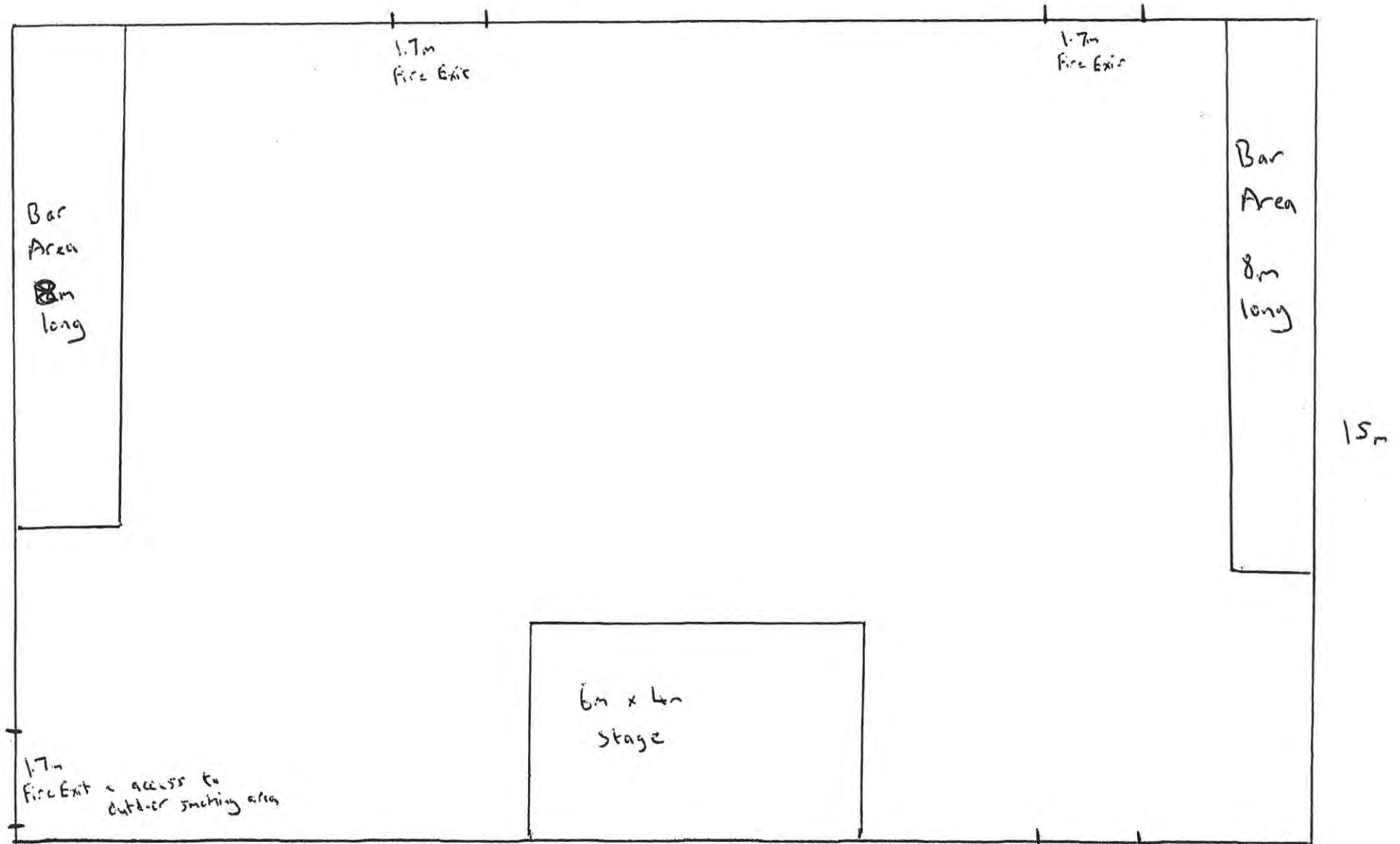
We ran the County Show Dance 2019 in this venue and it proved very popular and ran very smoothly. I have previous experience of events like this run at local sports arena and at local shows.

I wish to apply for a later licence as people are keen to stay at an event later rather than arrive earlier, most people like to spend time in the town centre establishments before heading to an event. It would also keep people in one place for the rest of the evening rather than having a rush of people trying to get back to the town centre for the last hour at establishments there.

If 02:00 not allowed on 29/12/19 I would wish to apply for 01:00.

Ordneg Auction Mart GP Hall

24m



1.7m Fire Exit
also main entry & exit and access to toilets