



Item: 6

Orkney Islands Area Licensing Board: 22 August 2024.

Licensing (Scotland) Act 2005.

Application for Premises Licence.

Sharon Craigie – Pomona Inn, Finstown.

Clerk to the Licensing Board.

1. Overview

- 1.1. On 17 May 2024, Sharon Craigie submitted an application for a premises licence in respect of Pomona Inn, Finstown, 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 Sharon Craigie for a premises licence in respect of Pomona Inn, Finstown.

3. Application for Premises Licence

- 3.1. The premises are described as a “public house located in the village of Finstown”.
- 3.2. The application requests on-sale and off-sale operating hours, as follows:
- On-sale:
 - 11:00 to 24:00 on Monday to Thursday.
 - 11:00 to 01:00 on Friday and Saturday.
 - 12:30 to 24:00 on Sunday.
 - Terminal hour of 01:00 in any morning for events held on the premises relating to annual agricultural shows, local festivals and private functions.
 - Terminal hour of 01:00 in any morning during the festive season being 24/25 December until 2/3 January each year.
 - Off-sale:
 - 11:00 to 22:00 on Monday to Saturday.
 - 12:30 to 22:00 on Sunday.

- 3.3. The requested activities include receptions (for example, weddings, funerals, birthdays, retirements), club or other group meetings, recorded music, live performances, televised sport and quiz nights.
- 3.4. The on-sale and off-sale capacity of the premises is as follows:
 - On-sale capacity of 100 persons.
 - Off-sale capacity of 0.72 square metres.
- 3.5. The application requests that children (excluding under 5 years) and young persons be permitted on the premises between 11:00 and 20:00 on Monday to Saturday inclusive and between 12:30 and 20:00 on Sunday.
- 3.6. 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 30 May 2024 and the application was published on Orkney Islands Council's website from 31 May 2024. The last date for objections or representations to be received was 21 June 2024. No objections or representations were received.

5. Policy Position

- 5.1. In accordance with the Licensing (Scotland) Act 2005 (the Act), the Board's Statement of Alcohol Licensing Policy provides that decisions on premises licence applications shall be made by the Board.
- 5.2. 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.
- 5.3. 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.
- 5.4. 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.
- 5.5. The on-sale and off-sale operating hours requested in the application fall within the range of hours permitted in the Board’s Statement of Alcohol Licensing Policy.
- 5.6. The full policy document is available from the Related Downloads section [here](#).

6. Legislative Position

- 6.1. The Act provides that the Licensing Board must hold a hearing for the purpose of considering and determining an application for premises licence.
- 6.2. 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.
- 6.3. The grounds for refusal under the Act are as follows:
- 6.3.1. 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.
- 6.3.2. 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.

6.3.3. 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.

6.3.4. 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.

6.4. Anyone lodging an objection on the ground detailed at section 6.3.4 above must specify the locality on which they are basing their objection.

6.5. Where the Board refuses the application, the Board must specify the ground for refusal. If the ground for refusal is one of the grounds detailed at section 6.3.2 above, the Board must specify the licensing objective or objectives in question.

6.6. 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 £1,100 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 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 Premises Licence by Sharon Craigie.

Appendix

Appendix 1 – Layout plan of the premises.

Load capacity.-

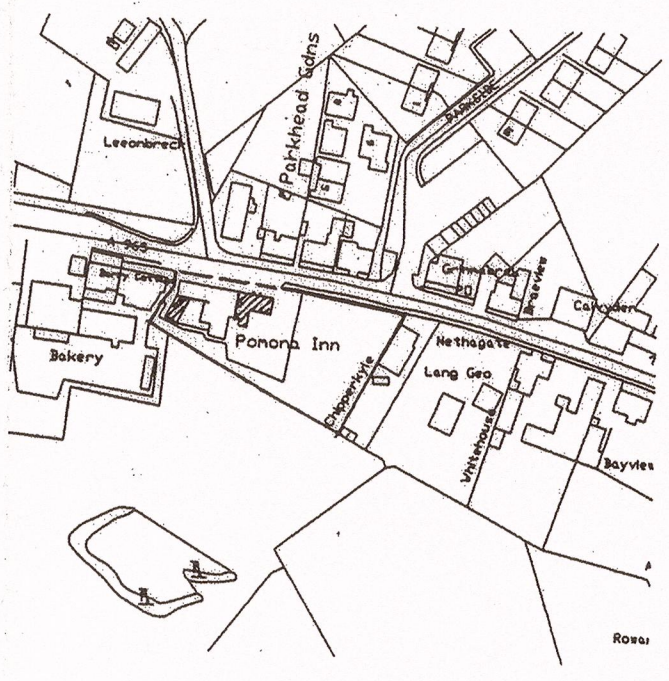
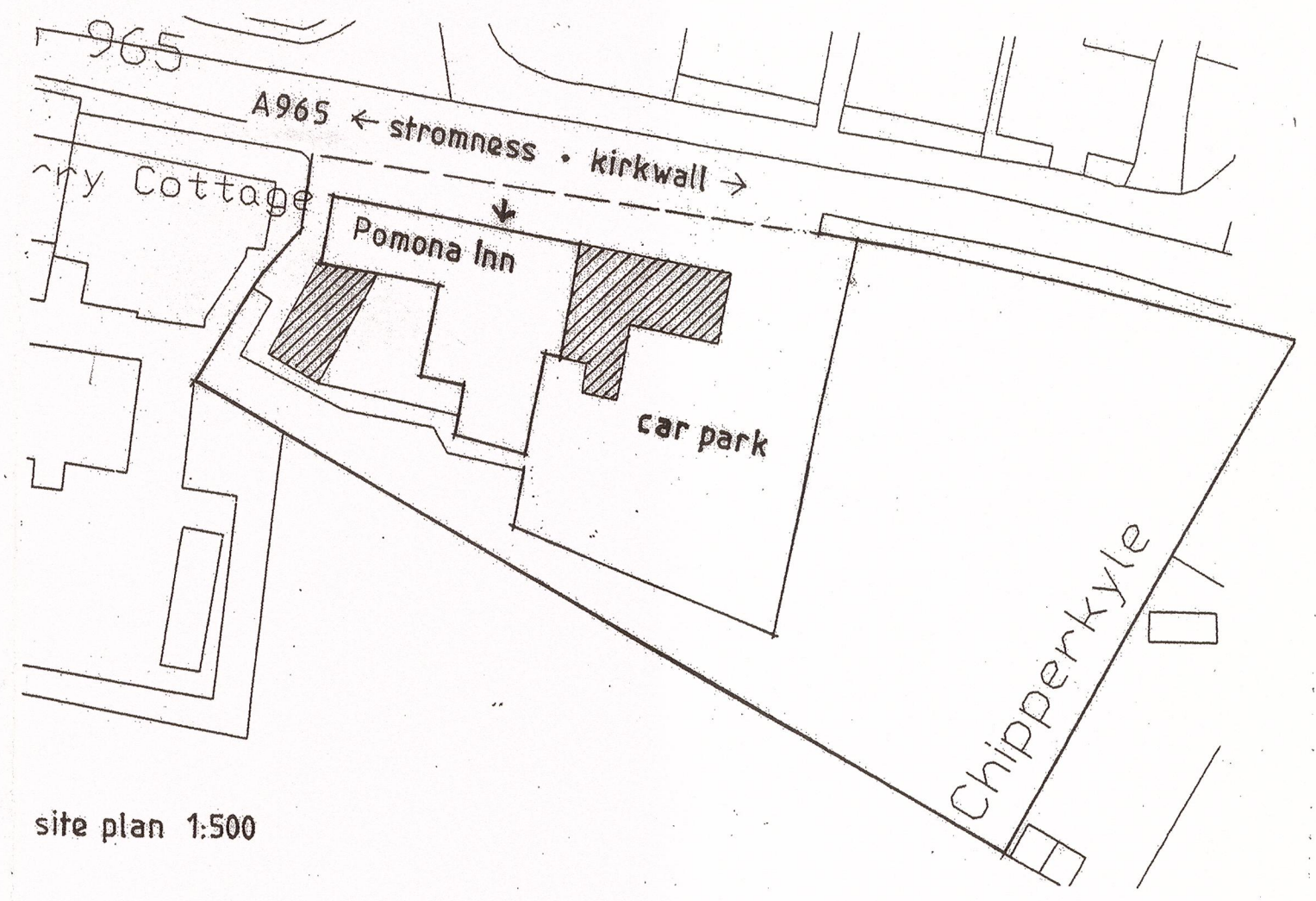
Lounge Bar.-	Excluding bar fitting, floor area	48.34 m ²
	Designated sitting area	32m ² - 32 persons sitting.
	Designated bar area	say 16m ² - 16 persons standing.
Public bar.-	Excluding bar fitting, floor area	40.73m ²
	Designated sitting area	27m ² - 27 persons sitting.
	Designated bar area	say 13m ² - 13 persons standing.

Key to symbols.-

- l.n.k. lock no key/turn button on the inside
- ⊙ emergency light
- ⊙E emergency light with exit sign
- ⊙ fire alarm push button
- 6l → 6 litre foam extinguisher
- Co → 2 kgm Co2
- ☒ shelves, 1100mm high from ffl, "primarily for the display of alcohol" optics above

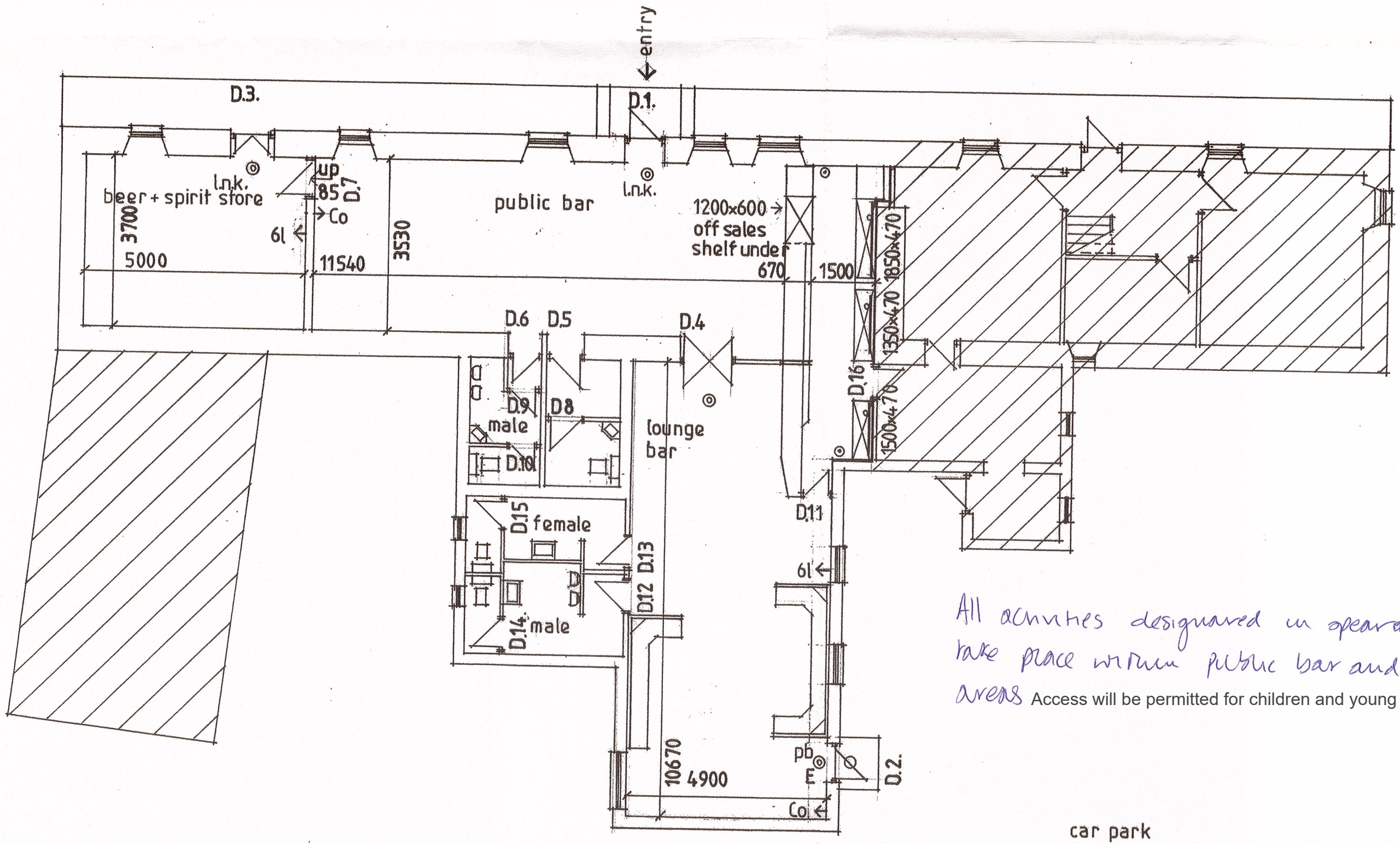
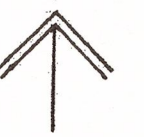
▨ dwelling house

- D.1 785mm wide
- D.2 880mm wide
- D.3 1070mm wide double doors
- D.4 1210mm wide double doors
- D.5 740mm wide
- D.6 750mm wide
- D.7 810mm wide
- D.8 830mm wide
- D.9 745mm wide
- D.10 750mm wide
- D.11 760mm wide.
- D.12 760mm wide
- D.13 760mm wide
- D.14 685mm wide
- D.15 685mm wide
- D.16 760mm wide



A 965

location plan 1:1250



All activities designated in operating plan take place within public bar and lounge bar areas. Access will be permitted for children and young persons (no under 5's)

ground floor plan

BASHIR I HASHAM Dip Arch (Sheffield) ARCHITECT
 Tanmaur Orphir Orkney KW17 2RD
 Telephone 01856 870426 bashir.hasham@btopenworld.com

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