

**Item: 5**

**Orkney Islands Area Licensing Board: 4 July 2024**

**Licensing (Scotland) Act 2005.**

**Application for Variation of Premises Licence.**

**Orkney Island Hotels Limited – Ferry Inn, Stromness.**

**Report by Clerk to the Licensing Board.**

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## **1. Overview**

- 1.1. A premises licence has been held at the Ferry Inn, 10 John Street, Stromness, since 1 September 2009 and was transferred to The Ferry Inn Stromness Ltd with effect from 1 June 2011. The company changed its name to Orkney Island Hotels Limited in 2020.
- 1.2. On 18 April 2024, Orkney Island Hotels Limited submitted an application for variation of the premises licence, 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 Orkney Island Hotels Limited for variation of premises licence held in respect of Ferry Inn, Stromness.

## **3. Application for Variation of Premises Licence**

- 3.1. The application requests an increase to the footprint of the licensed premises by extension of the outdoor drinking facilities area. The outdoor drinking facilities area surrounds the footprint of the building of the hotel premises. An updated layout plan of the ground floor of the premises showing the proposed revised extent of the outdoor drinking facilities area is attached as Appendix 1 to this report.
- 3.2. The ground floor layout plan of the premises included an Occasional Served area in the outdoor area. A catering trailer has now been located in that area for use exclusively on the premises. The removal of the Occasional Served area has resulted in

a reduction of the total off-sale capacity from 13.2 square metres to 10.51 square metres.

## **4. Consultation**

- 4.1. The required notices were issued to the statutory consultees on 30 April 2024 and the application was published on Orkney Islands Council's website from 1 May 2024. The last date for objections or representations to be received was 22 May 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 variation applications shall be made by the Board (with the exception of decisions on minor variation applications which are delegated to the Clerk to the Board).
- 5.2. Section 18 of the Board's Statement of Alcohol Licensing Policy sets out that the Board will expect any licence holder who intends to provide outdoor facilities to hold a premises licence which includes the outside area. These areas must be shown on the required plan of the premises and will be taken into account in the overall assessment of capacity, particularly in relation to exits and sanitary facilities.
- 5.3. When applicants propose to provide outdoor facilities (whether covered or not), regard should be had to the need to ensure that the use of such outdoor areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity. Applicants should demonstrate how they intend to mitigate these issues.
- 5.4. 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 a variation that is not a minor variation.
- 6.2. Because the application requests an increase to the footprint of the licensed premises by extension to the outdoor drinking facilities area, it is not a minor variation and therefore must be determined by the Board.
- 6.3. 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.

6.4. The grounds for refusal under the Act are as follows:

6.4.1. 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.

6.4.2. 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.

6.4.3. 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.
- The persons likely to frequent the premises.

The Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.

6.4.4. 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 (taking account of the variation), in the locality.

6.5. Anyone lodging an objection on the ground detailed at section 6.4.4 above must specify the locality on which they are basing their objection.

6.6. 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 section 6.4.2 above, the Board must specify the licensing objective or objectives in question.

- 6.7. 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](mailto:gavin.mitchell@orkney.gov.uk).

**Implications of Report**

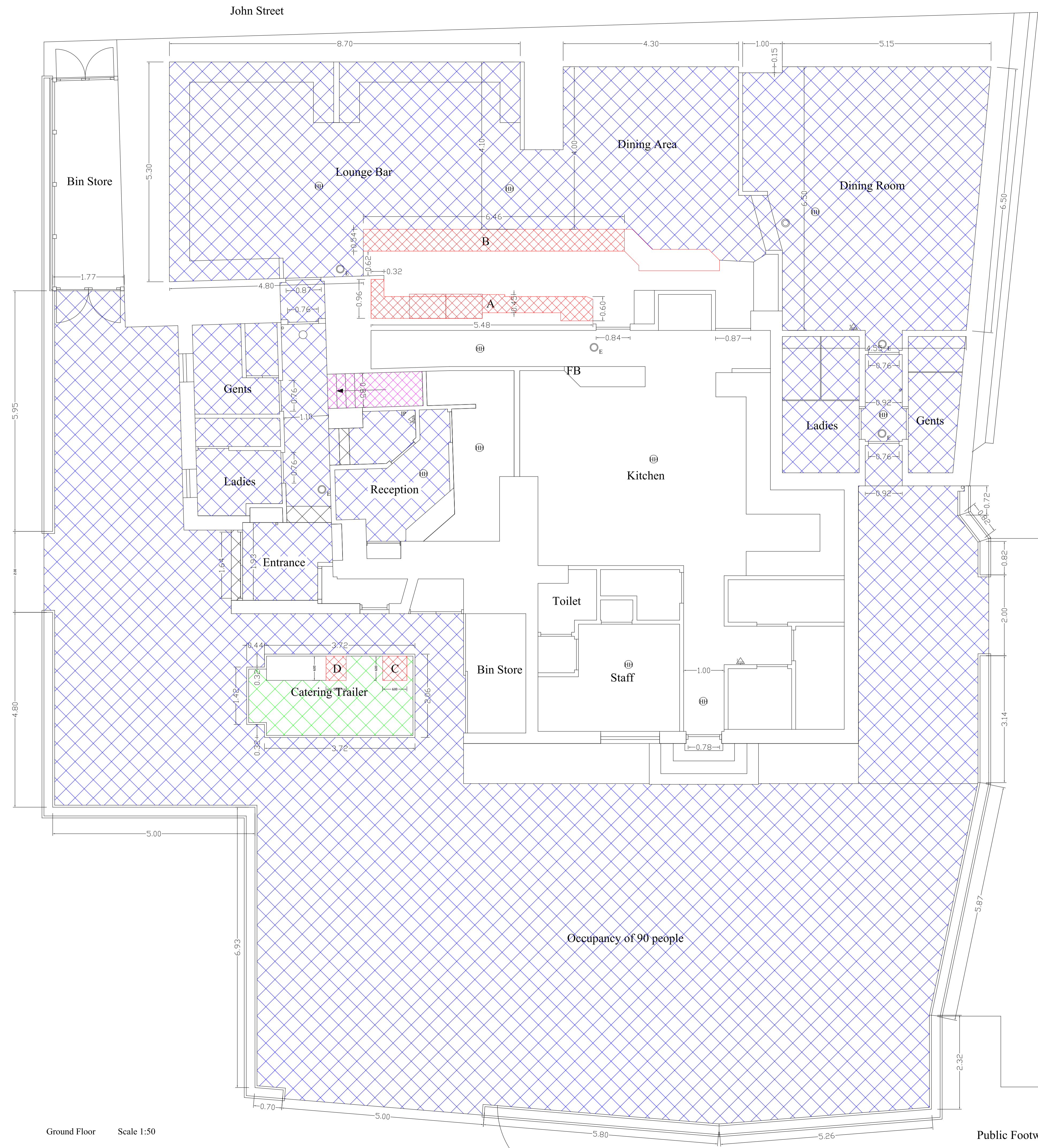
1. **Financial:** The appropriate application fee of £100 has been paid.
2. **Legal:** As above.
3. **Corporate Governance:** In terms of Section 30 of the Licensing (Scotland) Act 2005, a Premises Licence Variation Application is to be determined by the Licensing Board.
4. **Human Resources:** None.
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 Variation of Premises Licence by Orkney Island Hotels Limited.

**Appendix**

Appendix 1 – Updated layout plan of the ground floor of the premises.



Ground Floor Scale 1:50

Activities	Area(s)
Accommodation	1st & 2nd Floors
Conference facilities	Dining Area
Restaurant facilities	From fire place down to restaurant
Bar meals	Whole of ground floor
Receptions	Whole of ground floor
Club/group meetings	Whole of ground floor
Recorded music	Whole of ground floor
Live performances	Whole of ground floor
Dance facilities	Bottom dining room
Gaming	Bar and top restaurant
Televised sport	Bar
Outdoor drinking	Within the boundaries of the outside of the premises

Floor Areas	Area
Lounge Bar-	43.5m <sup>2</sup>
Dining Area-	18.5m <sup>2</sup>
Dining Room-	35.0m <sup>2</sup>

- ▨ - areas used primarily for the display of alcohol
- ▨ - areas to which children or young persons have access
- ▨ - catering trailer

Ceiling Heights	Height
Lounge Bar-	2.78m
Dining Area-	2.40m
Dining Room-	2.78m

Alcohol Display Height	Height
A:	0.99m
B:	0.55m
C:	1.80m
D:	0.90m

- Fire Escape, Warning, Detection & Fighting Equipment**
- ⊕ - H2O extinguisher - capacity shown in litres.
  - ⊖ - CO2 type extinguisher - capacity shown in kg.
  - FB - Fire blanket.
  - ⊙ - Fire alarm call point - break glass.
  - IP - Fire alarm indicator panel.
  - ⊙ - Emergency lighting point (unlettered).
  - ⊙E - Emergency lighting point (with words)
  - ⊕ - High Heat Detector
  - ERS - Escape route sign.

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Project: Ferry Inn,  
10 John Street,  
Stromness,  
KW16 3AD.

Title: Licensing Plan

Client: Ferry Inn Stromness Ltd,  
Ferry Road,  
Stromness,  
KW16 3AD.

Date: 26th March 2024.	Drawn By: SJO
Scale: 1:50	Dwg No: 1345/5 - 1 of 2

Rev: A