

Item: 6

Orkney Islands Area Licensing Board: 25 April 2019.

Licensing (Scotland) Act 2005.

Application for Variation of Premises Licence.

Grooves Live Ltd – The Black Dog (previously Café Lolz), 21 Albert Street, Kirkwall.

Report by Clerk to the Board.

1. Purpose of Report

To consider an application by Grooves Live Ltd for a variation of a premises licence held in respect of The Black Dog (previously Café Lolz), 21 Albert Street, Kirkwall.

2. Recommendations

It is recommended:

That the Board determines the application by Grooves Live Ltd for a variation of a premises licence held in respect of The Black Dog (previously Café Lolz), 21 Albert 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 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).

3.2.

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.

3.3.

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. Introduction

4.1.

A premises licence has been held at 21 Albert Street, Kirkwall, since 1 September 2009, firstly by Smiddies Ltd, then by Lorraine A Pilkington-Tait and then by Grooves Live Ltd.

4.2.

On 19 February 2019, Grooves Live Ltd submitted an application for variation of the premises licence. Details of the application are provided at sections 5 to 7 below.

5. Extent of Premises

5.1.

The application requests a reduction in the extent of the licensed premises by the cessation of use of a seating area at first floor level. A layout plan of the premises is attached at Appendix 1 to this report.

5.2.

The on-sale capacity of the premises will decrease by 40 persons from 100 to 60.

5.3.

The areas accessible by children and young persons will decrease with the cessation of use of the first floor seating area.

6. Operating Hours

6.1.

The premises are currently licensed for on-sales only, incidental to food, as follows:

- 11:00 to 21:00 on Sundays to Thursdays inclusive.
- 11:00 to 22:00 on Fridays and Saturdays.
- From 1 November to 28 or 29 February each year:
 - 11:00 to 18:00 on Sundays to Thursdays inclusive.
 - 11:00 to 21:00 on Fridays and Saturdays.
- Terminal on-sale operating hour of 01:00 any morning for private functions; functions held on the premises relating to a local festival or agricultural show.

- Terminal on-sale operating hour of 01:30 any morning during the festive period, specified as 24, 25, 26 and 31 December and 1/2 January each year.

6.2.

The application requests the following on-sale operating hours:

- 11:00 to 24:00 on Sundays to Thursdays inclusive.
- 11:00 to 01:00 on Fridays and Saturdays.
- Terminal on-sale operating hour of 01:00 any morning for private functions; functions held on the premises relating to a local festival or agricultural show; or for the festive season, being 24/25 December until 2/3 January each year.

6.2.1.

The application requests that the current restriction that on-sales be incidental to food be removed.

6.3.

The proposed variation of the on-sale operating hours is within those permitted in terms of the Board's Statement of Alcohol Licensing Policy.

7. Changes to Activities

The application requests changes to the activities carried on in the premises:

- Provision of the activity of bar meals for the first time (restaurant facilities are already provided in terms of the current premises licence).
- Cessation of the activity of televised sport.

8. Consultation

The required notices were issued to the statutory consultees on 21 February 2019 and the application was published on Orkney Islands Council's website from 25 February 2019. The last date for objections or representations to be received was 18 March 2019. No submissions were received.

9. Financial Implications

The appropriate application fee of £100 has been paid.

10. Legal Aspects

10.1.

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 variation that is not a minor variation.

10.2.

The following elements of the application mean that it is not a minor variation and therefore must be determined by the Board:

- Increase in operating hours.
- Removal of requirement that alcohol sales be incidental to food.
- Changes to extent of premises by removal of first floor seating area.
- Introduction of new activity of bar meals.
- Removal of activity of televised sport.

10.3.

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.

10.4.

The grounds for refusal under the Act are as follows:

10.4.1.

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.

10.4.2.

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.

10.4.3.

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.

10.4.4.

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.

10.5.

Anyone lodging an objection on the ground detailed at section 10.4.4 above must specify the locality on which they are basing their objection.

10.6.

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

10.7.

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.

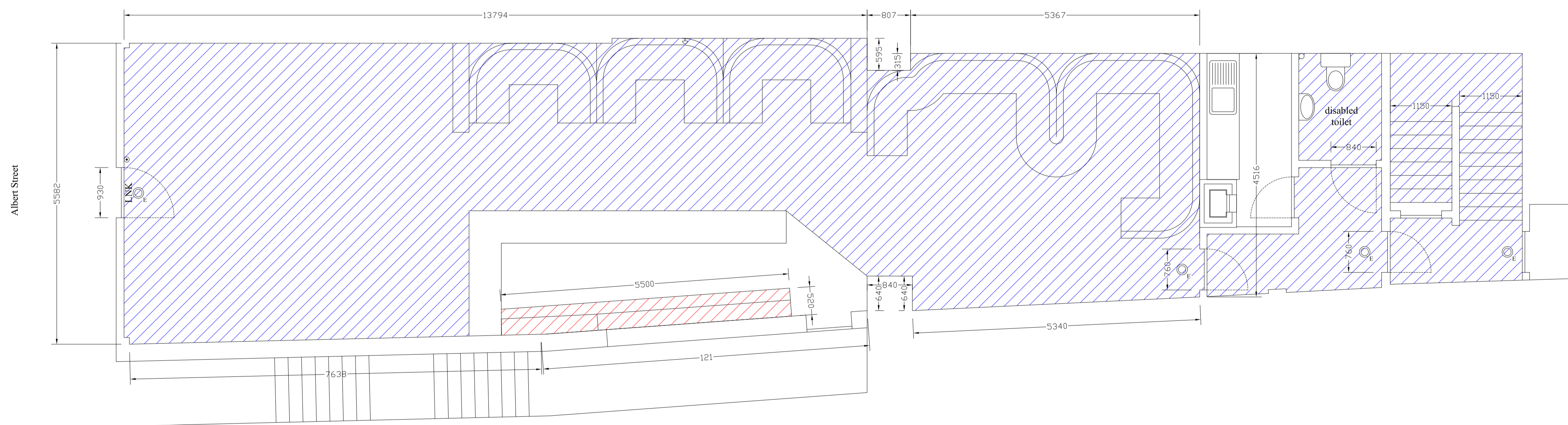
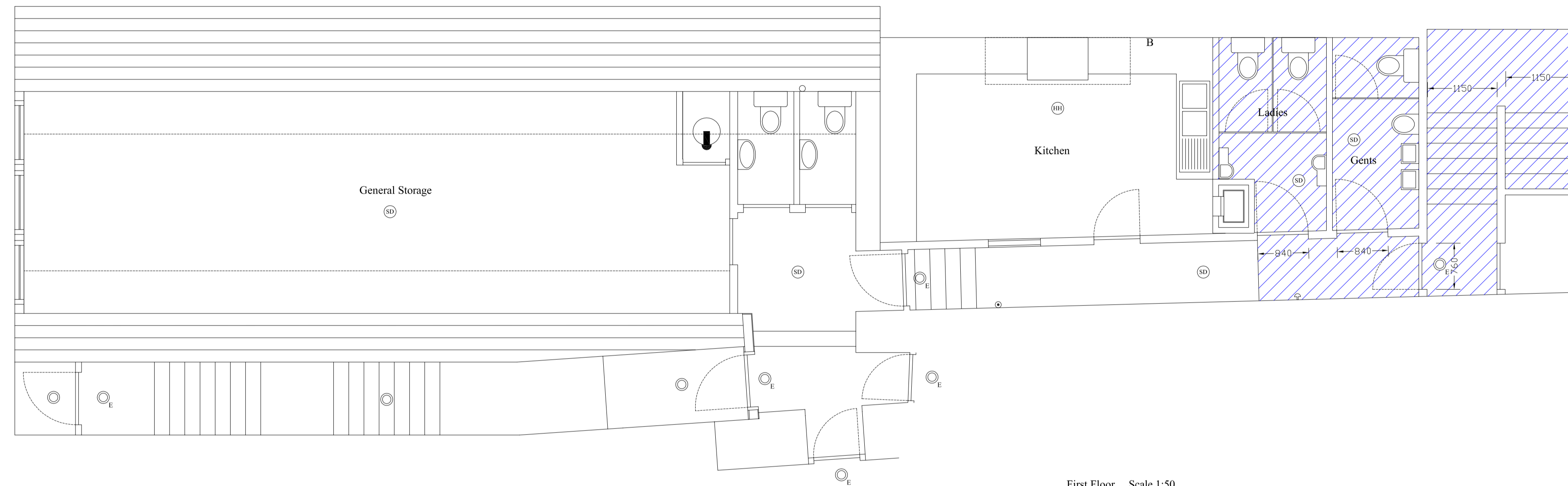
11. Contact Officers

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.

12. Appendix

Appendix 1: Layout plan of the premises.



Floor Area
 Cafe Bar 68m²

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

Activities
 Restaurant facilities.
 Bar meals.
 Receptions, including weddings, funerals, birthdays, retirements etc.
 Club or other group meetings.
 Recorded music.
 Live performances.
 Quiz nights.
 Food and drink festivals or events.
 Provision of take away for food and non-alcoholic beverages.

Ceiling Heights
 Cafe bar 3m
 Alcohol Display Height 2.4m

Fire Escape, Warning, Detection & Fighting Equipment

LNK - Lock no key.
 B - Fire blanket.
 ○ - Fire alarm call point - break glass.
 IP - Fire alarm indicator panel.
 ○ - Emergency lighting point (unlettered).
 ○ E - Emergency lighting point (with words EXIT or FIRE EXIT)
 ○ SD - Smoke Detector
 ○ H - High Heat Detector

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Project
 21 Albert Street,
 Kirkwall,
 KW15 1HP.

Title
 Licensing Plan.

Client
 Wm Neil Stevenson,
 The Old Library,
 Laing Street,
 Kirkwall,
 KW15 1NW.

Date
 8th February 2019.

Drawn By
 SJO

Scale
 1:50

Dwg No
 L1

Plan Size
 A1

To comply with The Building (Scotland) Regs 2004, as amended. DO NOT SCALE

