

## **Item: 5**

**Orkney Islands Area Licensing Board: 25 April 2019.**

**Licensing (Scotland) Act 2005.**

**Application for Variation of Premises Licence.**

**M B Stout Ltd – Lynnfield Hotel, Kirkwall.**

**Report by Clerk to the Board.**

### **1. Purpose of Report**

To consider an application by M B Stout Ltd for a variation of a premises licence held in respect of Lynnfield Hotel, Kirkwall.

### **2. Recommendations**

**It is recommended:**

That the Board determines the application by M B Stout Ltd for a variation of a premises licence held in respect of Lynnfield Hotel, 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.**

Sections 2.8 to 2.15 of the Board's Statement of Alcohol Licensing Policy set out the relationship between licensing legislation and other statutory health and safety requirements, such as planning, building standards and food hygiene. Section 2.8 of the Policy provides that the Board will avoid duplication with other regulatory regimes and will not use its powers under the Act to arrive at outcomes that can be achieved under other legislation or by other enforcement agencies.

#### **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 Lynnfield Hotel by M B Stout Ltd since 1 September 2009.

### **4.2.**

On 19 February 2019, M B Stout Ltd submitted an application for variation of the premises licence. Details of the application are provided at section 5 below.

## **5. Extent of Premises**

### **5.1.**

The application requests an increase to the extent of the licensed premises by the construction of an extension to provide 10 additional bedrooms. A layout plan of the premises is attached at Appendix 1 to this report.

### **5.2.**

With reference to section 3.2 above, it is noted that the relevant service has advised that there is an outstanding building warrant approval in connection with the construction of the extension.

## **6. Consultation**

The required notices were issued to the statutory consultees on 22 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.

## **7. Financial Implications**

The appropriate application fee of £100 has been paid.

## **8. Legal Aspects**

### **8.1.**

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.

### **8.2.**

Because the application requests an increase to the extent of the licensed premises by the construction of an extension, it is not a minor variation and therefore must be determined by the Board.

### **8.3.**

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.

### **8.4.**

The grounds for refusal under the Act are as follows:

#### **8.4.1.**

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.

#### **8.4.2.**

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.

#### **8.4.3.**

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.

#### **8.4.4.**

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.

### **8.5.**

Anyone lodging an objection on the ground detailed at section 8.4.4 above must specify the locality on which they are basing their objection.

## **8.6.**

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

## **8.7.**

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.

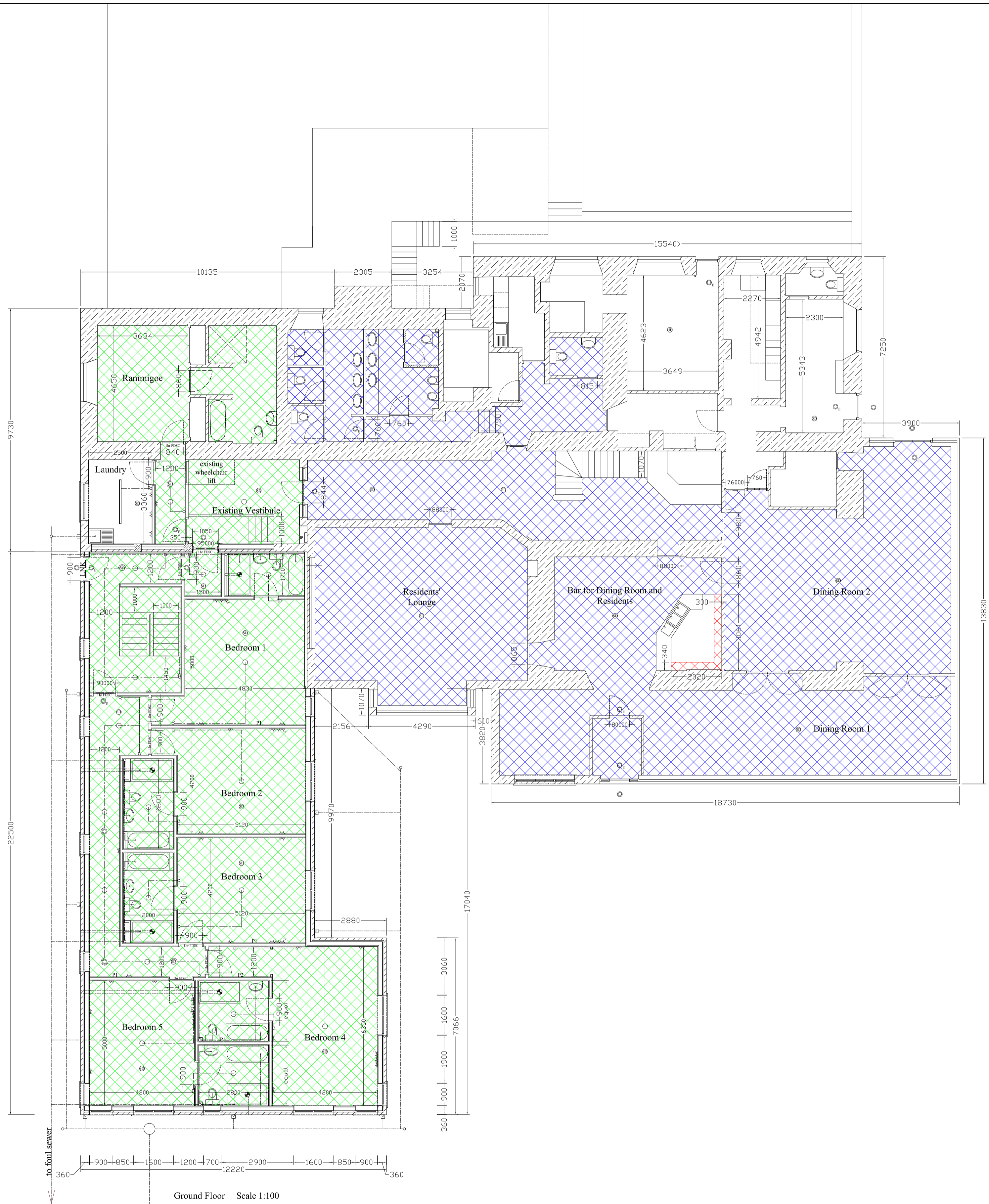
## **9. Contact Officers**

Gavin Mitchell, Clerk to the Board, extension 2233, email [gavin.mitchell@orkney.gov.uk](mailto:gavin.mitchell@orkney.gov.uk).

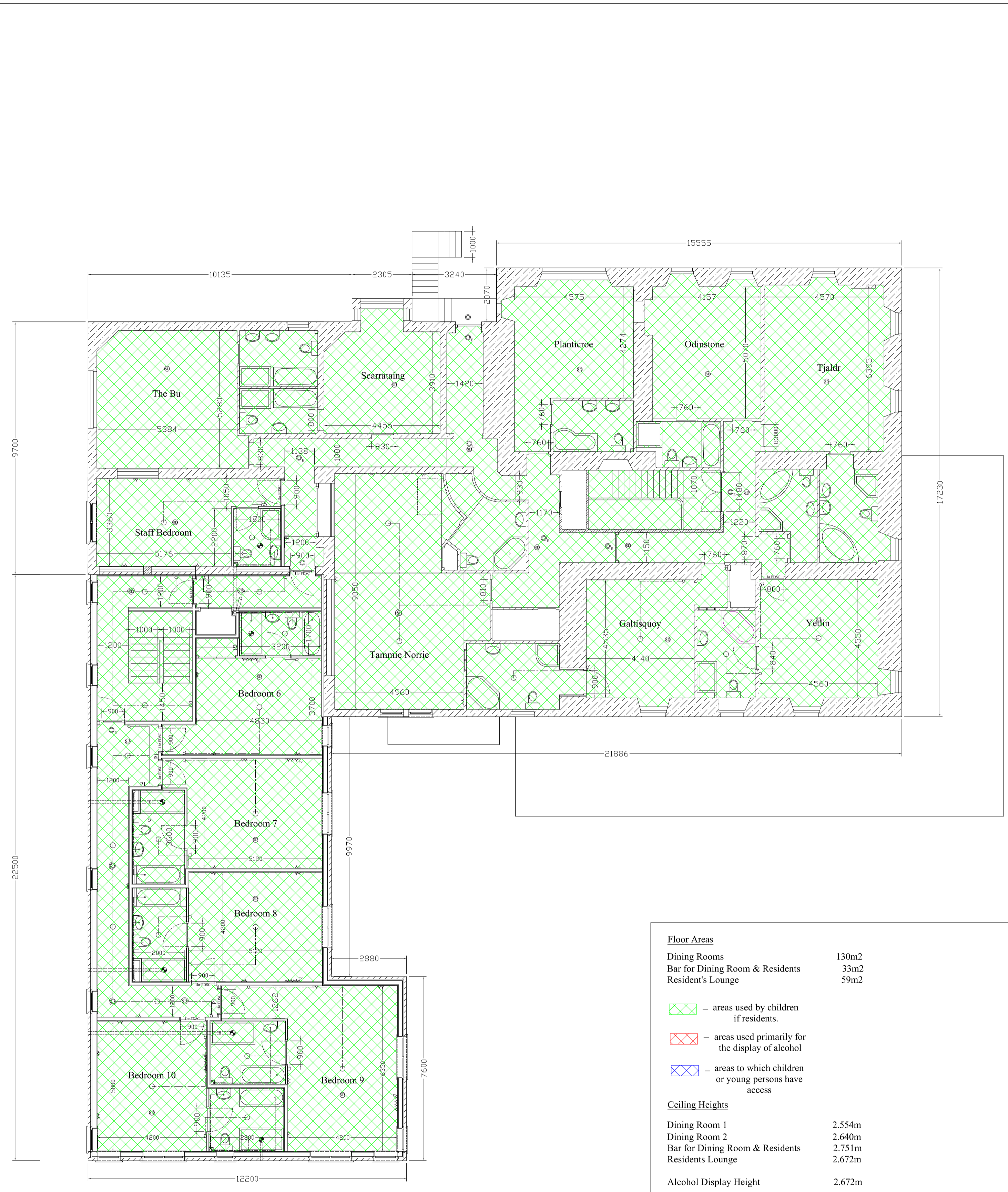
Elaine Sinclair, Legal Clerk, extension 2232, email [elaine.sinclair-hill@orkney.gov.uk](mailto:elaine.sinclair-hill@orkney.gov.uk).

## **10. Appendix**

Appendix 1: Layout plan of the premises.



Ground Floor Scale 1:100



First Floor Scale 1:100

Accommodation- Ground and First Floor Bedrooms.  
 Conference- Residents' Lounge and Dining Room 1.  
 Restaurant- Dining Rooms 1 & 2.  
 Bar Meals- Dining Rooms 1 & 2.  
 Receptions- Residents' Lounge and Dining Rooms 1 & 2.  
 Club/Group Meetings- Residents' Lounge and Dining Room 1.  
 Recorded Music- Dining Rooms 1 & 2.  
 Live Performances- Residents' Lounge and Dining Rooms 1 & 2.  
 Dance Facilities- Dining Room 1.

**Floor Areas**

Dining Rooms	130m <sup>2</sup>
Bar for Dining Room & Residents	33m <sup>2</sup>
Resident's Lounge	59m <sup>2</sup>

- ▨ - areas used by children if residents.
- ▨ - areas used primarily for the display of alcohol
- ▨ - areas to which children or young persons have access

**Ceiling Heights**

Dining Room 1	2.554m
Dining Room 2	2.640m
Bar for Dining Room & Residents	2.751m
Residents Lounge	2.672m

**Alcohol Display Height** 2.672m

- Fire Escape, Warning, Detection & Fighting Equipment**
- LNK - Lock no key.
  - △ - Water type extinguisher - capacity shown in litres.
  - △ - Dry powder type extinguisher - capacity shown in kg.
  - △ - Carbon dioxide type extinguisher - capacity shown in kg.
  - 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
  - HD - High Heat Detector

**Lynnfield Hotel, Holm Road, Kirkwall**  
**Licensee- Malcolm Brown Stout**

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 Kirkwall.  
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DO NOT SCALE- CONFIRM ALL SIZES ON SITE

