

Item: 4

Orkney Islands Area Licensing Board: 2 September 2021.

Licensing (Scotland) Act 2005.

Application for Variation of Premises Licence.

Lidl Great Britain Limited – Store, Pickaquoy Road, Kirkwall.

Report by Clerk to the Board.

1. Purpose of Report

To consider an application by Lidl Great Britain Limited for a variation of premises licence held in respect of Lidl Store, Pickaquoy Road, Kirkwall.

2. Recommendations

It is recommended:

That the Board determines the application by Lidl Great Britain Limited for a variation of premises licence held in respect of Lidl Store, Pickaquoy Road, 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 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. Introduction

4.1.

A premises licence has been held at Lidl Store, Pickaquoy Road, Kirkwall, since 1 September 2009 by Lidl Great Britain Limited (previously known as Lidl UK GmbH).

4.2.

A layout plan of the premises is attached at Appendix 1 to this report.

4.3.

On 23 June 2021, Lidl Great Britain Limited submitted an application for variation of the premises licence. Details of the application are provided at section 5 below.

5. Layout Plan and Capacity of the Premises

5.1.

The off-sale display area within the premises has remained in the same area of the store through the term of the licence. The capacity has fluctuated, as follows:

- 2009 – 52.56 square metres.
- 2013 – 39.06 square metres.
- 2014 – 38.43 square metres.
- 2015 – 44.55 square metres.
- 2017 – 46.44 square metres with a further additional increase of 12.02 square metres to 58.46 square metres on a seasonal basis from 1 December to 2 January inclusive each year.

5.2.

The application requests:

- A permanent increase in off-sale display area capacity of 14.33 square metres from 46.44 square metres to 60.77 square metres.
- To retain the further additional increase in off-sale display area capacity of 12.02 square metres from 60.77 square metres to 72.79 square metres on a seasonal basis from 1 December to 2 January inclusive each year.

5.3.

The applicant has provided information to support the application, as follows:

- “The above store is due to be remerchandised on 23.08.2021, this will result in a change to the layout plan. We are also requesting to increase the alcohol capacity at the store.”

5.3.1.

On being advised that the meeting of the Licensing Board would be held on 2 September 2021, the applicant confirmed that they would proceed with their planned layout changes in the store but would not increase the alcohol display section until the application had been determined.

6. Consultation

The required notices were issued to the statutory consultees on 25 June 2021 and the application was published on Orkney Islands Council’s website from 28 June 2021. The last date for objections or representations to be received was 19 July 2021. 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.

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

- Increase in off-sales capacity.

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.

Elaine Sinclair, Legal Clerk, extension 2232, email elaine.sinclair-hill@orkney.gov.uk.

10. Appendix

Appendix 1: Layout plan of the premises.

1162 Kirkwall – Lidl GB Ltd.

Size: 6 Aisle 1173sqm

Inner Length: 49.20m

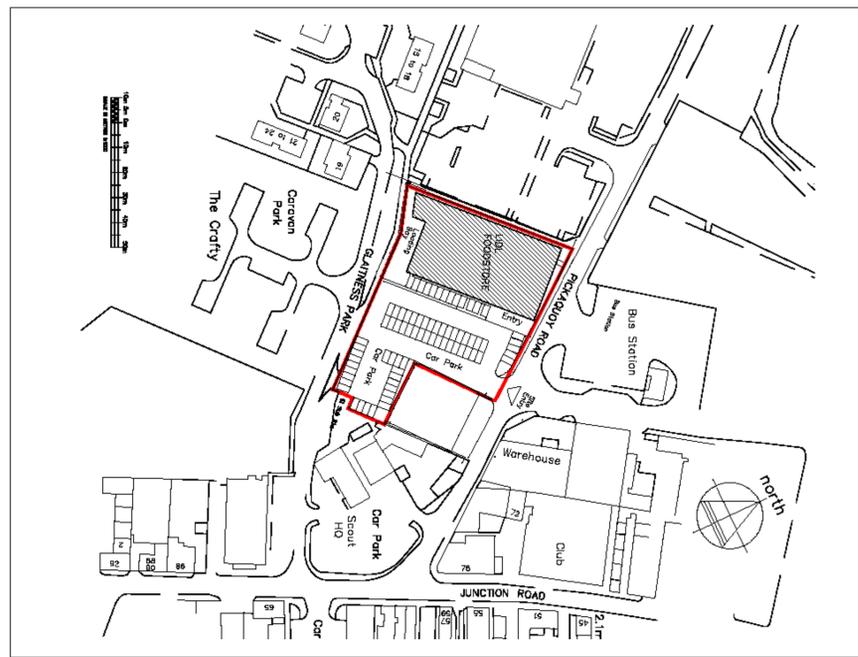
Inner Width: 23.85m

Ceiling Height: 3.30m

Updated: 22_06_21

CHILDREN AND YOUNG PERSONS ARE ENTITLED TO ACCESS ALL PUBLIC AREAS OF THE PREMISES

MAJOR VARIATION JUNE 2021



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1:1000 @ A3
 DATE: JUNE 21
 DRAWN BY: JT
 CHECKED BY: JT
 PROJECT NO.: 1162
 SHEET NO.: 1/001/381

DATE: 11/06/21
 DRAWN BY: JT
 CHECKED BY: JT
 PROJECT NO.: 1162
 SHEET NO.: 1/001/381

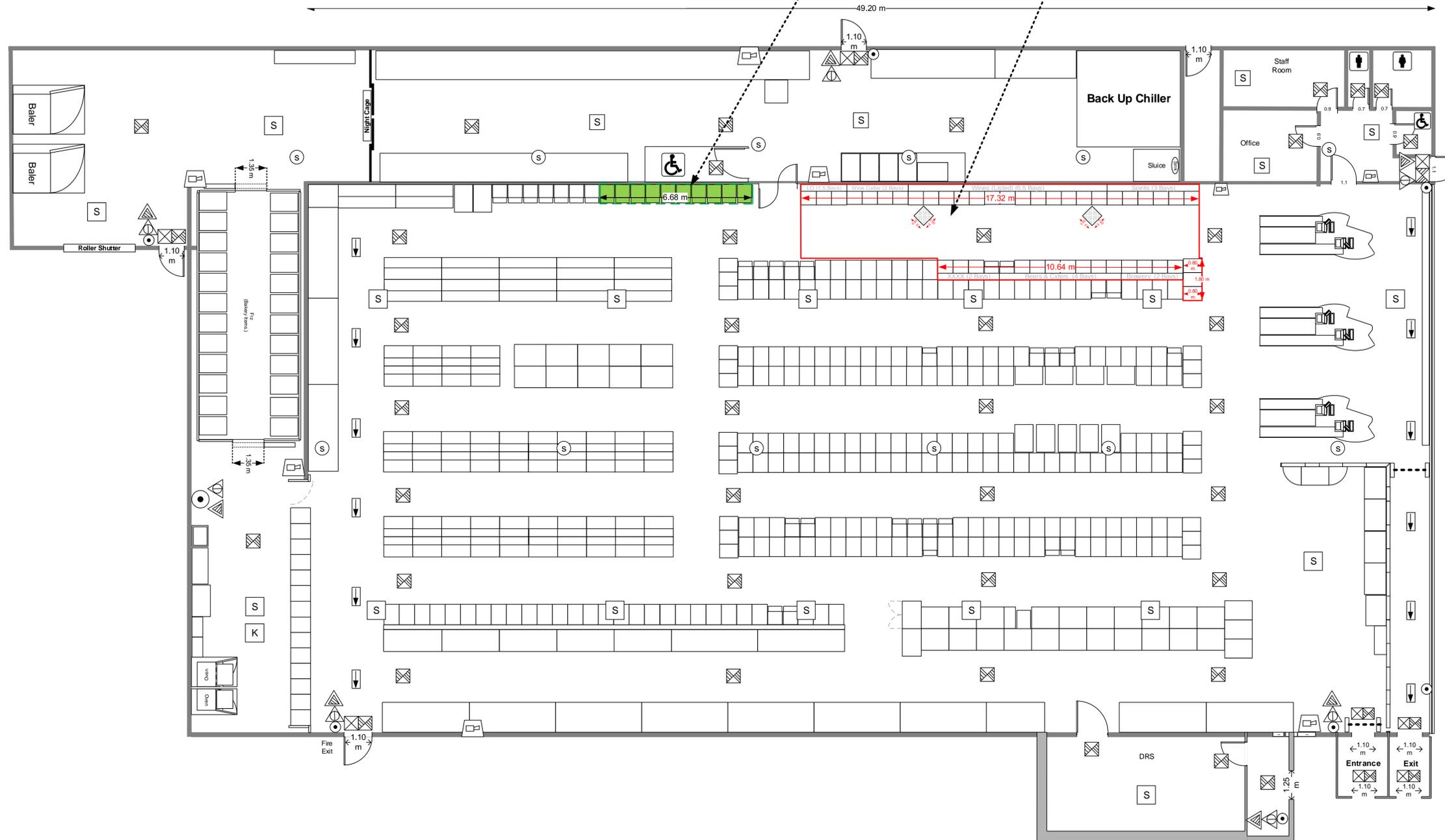
SITE LOCATION PLAN
 EXISTING FOOTPRINT
 AND ASSOCIATED CAR PARKING ETC

1st Dec – 2nd Jan ONLY

ALL YEAR ROUND

Alcohol Display Area:
Length 6.68m
Height 1.80m
12.02sqm

Alcohol Display Area:
Length 33.76m
Height 1.80m
60.77sqm



Major Variation July 2017
Scale 1:100

- FIRE SYMBOLS**
- Portable Water Extinguisher
 - Portable Foam Extinguisher
 - Portable CO₂ Extinguisher
 - Portable Dry Powder Extinguisher
 - Fire Blanket
 - Smoke Detector
 - Heat Detector
 - Warning Device Bell
 - Warning Device Sounder
 - Emergency Light
 - Emergency Exit Illuminated Sign
 - Call Point
 - Warning Device Visual
 - Fire Exit Signage
 - Smoke Detector in ceiling void
 - Fire Control Panel
- All Fire Exits Have A Push Bar & Signage
- Sprinkler (water)

23.85 m

49.20 m