



Pinsent Masons

BY EMAIL

The Licensing Department,
Doncaster Council,
The Civic Offices,
Waterdale,
Doncaster
DN1 3BU

Our Ref :676211.07000

6 July 2018

Dear Sir

REPRESENTATION TO THE GRANT OF A PREMISES LICENCE AT THE BARN, LOVERSALL FARM, BUBUP HILL, LOVERSALL, DONCASTER, DN11 9DD

We are instructed by Joanne and Nigel Lee, owners of Loversall Farm Day Nursery, Loversall, Doncaster, DN11 9DD. We are advising our client in relation to the grant of a premises licence application submitted by Stephanie Lee in relation to The Barn, Loversall Farm, Bubup Hill, Loversall, Doncaster, DN11 9DD. Please take this letter as a formal representation to the application.

1. BACKGROUND

Our client operates a children's day nursery in the adjacent building to the proposed application premises. The nursery has been very successful and has been rated as Outstanding by Ofsted for approximately 10 years now. It has an excellent reputation locally and the nursery is used by many parents, most of whom are professionals, because of the safe, quiet location in a hamlet on a farm.

When our client set up the nursery they were awarded the Nursery Management Today Magazine award for the best Newcomer Nursery in the UK, an award for the best nursery opened within the last 3 years. This information is provided as it is important to understand the quality of the nursery and the standard of care that the nursery provides.

Our client would like to stress from the outset that they do not object to there being a premises licence granted and they are not seeking that the application be refused, only that no sale of alcohol or entertainment takes place during the hours the nursery is operating.

2. NURSERY LAYOUT

The nursery's baby room is on the 1st floor and has a large viewing window which looks directly over the courtyard and the 3-5's room and art studio has windows on the ground floor directly out on to the nursery courtyard. The sensory garden and nursery courtyard are immediately adjacent to the courtyard area in the application. The recent splitting of the courtyard has now

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led to the creation of another play area which is also only separated from the Courtyard by a fence.

3. **GROUNDS FOR THE REPRESENTATION**

The representation considers the Doncaster Council Statement of Licensing Policy ("**SOLP**"), as well as, the revised guidance issued under section 182 of the Licensing Act and will focus on the relevant licensing objectives.

3.1 **The protection of children from harm**

There are a number of legal statutory obligations and regulations which the nursery needs to comply with to maintain its registration with Ofsted. The operation of events during times when children are present at the nursery would result in these obligations and duties not being achieved or undermining them to such an extent that it may result in the closure of the business, if customers of the applicant premises were to be under the influence of alcohol. This is not withstanding how parents would feel about having their children exposed to bawdy behaviour and the inevitable security risks associated with the proximity of unspecified numbers of unknown adults that are under the influence of alcohol.

Security at day nurseries is a paramount concern; permitting a use where alcohol is served would result in numerous unknown adults being under the influence of alcohol, which is unsuitable within sight and earshot of impressionable young children. This would be in breach of the nursery's legal duty to safeguard children in its care and would lead to proceedings being brought against the nursery's owners.

As the outlined licensed area for the application premises abuts the nursery there are real concerns that if alcohol were to be sold or entertainment undertaken that this will have a real effect on the nursery's duty to safeguard the children in their care, as detailed above.

The above concerns in relation to the protection of children from harm, reiterate those in the SOLP in particular at paragraphs 4.36 - 4.37 of the policy. Our client is aware that Doncaster Council Early Years Service has real concerns with this application due to its proximity to the nursery and as stated in the SOLP, it is hoped that the Licensing Authority will give those concerns considerable weight also.

As such we would request that the sale of alcohol and any regulated entertainment is only granted for hours that the nursery is not in operation.

3.2 **The prevention of public nuisance**

Due to the proximity of the application premises to the nursery, noise created by the premises should the licence be granted to allow the sale of alcohol and therefore allow amplified live music and recorded music¹ to take place during the hours the nursery is open, will have a detrimental effect on the premises. As can be appreciated young children sleep at regular periods through-out the day and any noise created by the applicant would have a detrimental effect on this. For this reason it is requested that the sale of alcohol and any regulated entertainment is only granted for hours that the nursery is not in operation.

The issue of litter by way of glasses/wine bottles and cigarette ends being discarded will also be an issue, therefore, we request that a condition be added to the premises licence to ensure that prior to the nursery being opened each day the applicant ensures that there is no litter in the relevant areas that would affect the nursery operation.

¹ The Licensing Authority will be aware of the deregulation of licensable activities under the Live Music Act 2012. Whereby amplified live music and recorded music can be played by premises authorised to sell alcohol for consumption on those premises, at a time when the premises are open for the purpose of being used for the supply of alcohol for consumption on the premises (S177A (1)(b) Licensing Act 2003).



The above concerns in relation to public nuisance, reiterate those in the SOLP in particular at paragraphs 4.20 - 4.30 of the policy.

3.3 The prevention of crime and disorder

Again, due to the proximity of the application premises to the nursery, should the application be allowed to sell alcohol during the hours that the nursery is open, the issue of loud and excited adults who have been drinking could give rise to minor anti-social behaviour (such as swearing), that again would have a very negative effect of the nursery. Again, for this reason it is requested that the sale of alcohol and any regulated entertainment is only granted for hours that the nursery is not in operation.

3.4 Planning

The applicant premises is subject to a recent planning permission which sets out relevant hours of operations and conditions. We would request that the granted hours on the planning application are reflected on the premises licence and indeed the relevant conditions are mirrored on the premises licence so that should it be the case that these conditions are breached, that enforcement action can be undertaken by way of Licensing Act enforcement also.

4. AMENDMENTS TO THE APPLICATION

It is with all of the above in mind that we would ask that the hours and licensable activities be amended as follows:

Opening Times:

- Sunday - 09:00 - 22:00
- Monday - 09:00 - 22:00
- Tuesday - 09:00 - 22:00
- Wednesday - 09:00 - 22:00
- Thursday - 09:00 - 22:00
- Friday - 09:00 - 23:00
- Saturday - 09:00 - 23:00

Seasonal Variations: the hours to be 0900-2300 for New Year's Day, Good Friday, Easter Monday, Early May bank holiday, Spring bank holiday, Summer bank holiday, Christmas Day, Boxing Day ("**Bank Holidays**")

That the only licensable activity be the "sale of alcohol on the premises" at the following times, (when the nursery is closed):

- Sunday – 09:00 – 22:00
- Monday – 18:15 – 22:00
- Tuesday – 18:15 – 22:00
- Wednesday – 18:15 – 22:00
- Thursday – 18:15 – 22:00



- Friday – 18:15 – 23:00
- Saturday – 09:00 – 23:00

Seasonal Variations: the hours to be 0900-2300 for New Year's Day, Good Friday, Easter Monday, Early May bank holiday, Spring bank holiday, Summer bank holiday, Christmas Day, Boxing Day ("**Bank Holidays**").

4.1 **Conditions to be added to the premises licence**

That the following conditions be added to re-inforce the above:

1. The Courtyard, labelled 'Outside Courtyard with removable Marquee' and 'Rear Courtyard' on the attached Licensing Plan, shall not be used as a seating area or area for the gathering of people or playing of music (live or recorded) between the hours of 7.00 am to 18.15 pm Monday to Friday or for any purpose other than (i) as a means of pedestrian access to the permanent toilet facilities and (ii) for the erection and retention of one marquee for not more than 25 working days (Monday to Friday) during any twelve month period.
2. Any marquee erected within The Courtyard, labelled 'Outside Courtyard with removable Marquee' and 'Rear Courtyard' on the attached Licensing Plan, shall not be erected for more than 5 consecutive working days (Monday to Friday).
3. The Courtyard, labelled 'Outside Courtyard with removable Marquee' and 'Rear Courtyard' on the attached Licensing Plan, and any marquee erected within it shall not be used for functions and/or other gatherings except between the hours of 18.15 pm to 07.00 am Monday to Friday and at any time on Saturdays, Sundays and Bank Holidays.
4. Prior to The Courtyard, labelled 'Outside Courtyard with removable Marquee' and 'Rear Courtyard' on the attached Licensing Plan, being brought into use for functions and/or gatherings a 2 m high solid fence shall be erected to provide a physical barrier between the Day Nursery from the business hereby approved. The fencing shall be carried out in accordance with a scheme previously approved in writing by the LPA. The fencing shall thereafter be so retained and adequately maintained so as to be fit for purpose.
5. Provision shall be made for the free and uninterrupted pedestrian access at all times to and from Loversall Farm Day Nursery, Loversall, Doncaster, DN11 9DD ("**the Nursery**") across The Courtyard, labelled 'Outside Courtyard with removable Marquee' and 'Rear Courtyard' on the attached Licensing Plan and access way to accommodate the emergency evacuation of children and staff from Nursery buildings.
6. During the hours of 7.00 am to 18.15pm Monday to Friday (Except the following: New Year's Day, Good Friday, Easter Monday, Early May bank holiday, Spring bank holiday, Summer bank holiday, Christmas Day, Boxing Day ("**Bank Holidays**") all external doors and windows opening into The Courtyard, labelled 'Outside Courtyard with removable Marquee' and 'Rear Courtyard' on the attached Licensing Plan, shall be kept closed except for the purposes of access and egress.
7. Drinks, open bottles and glasses will not be taken from the licensed area at any time. Empty bottles and glasses will be collected regularly and promptly. Glass and other sharp objects will be stored and disposed of safely using suitable receptacles. Receptacles will be secured and not accessible to the customers.
8. The premises shall be and remain predominantly an events space and not become a bar or drinking establishment, with all functions being pre-arranged.



9. Activities taking place on the premises will be designed and operated so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties.
10. Noise at the premises will be inaudible at the nearest noise sensitive premises, to include Loversall Farm Day Nursery, Loversall, Doncaster, DN11 9DD ("**the Nursery**") at all times the Nursery is open, namely 0700-1815 Monday to Friday (except Bank Holidays).
11. There will be no external loudspeakers at all times Loversall Farm Day Nursery, Loversall, Doncaster, DN11 9DD is open, namely 0700-1815 Monday to Friday (except Bank Holidays).
12. Noise from plant or machinery will be inaudible at the nearest noise sensitive premises, to include Loversall Farm Day Nursery, Loversall, Doncaster, DN11 9DD at all times the Nursery is open, namely 0700-1815 Monday to Friday (except Bank Holidays) Plant and machinery will be regularly serviced and maintained to meet this level.
13. The PLH/DPS will ensure that litter arising from people using the premises is cleared away regularly and that it is cleared daily by 0700hrs Monday to Friday, in particular in the Courtyard, labelled 'Outside Courtyard with removable Marquee' and 'Rear Courtyard' as well as the 'Front Garden' on the attached Licensing Plan.
14. That Temporary Event notices will not be applied for that would allow licensable activities to take place at all times the Nursery is open, namely 0700-1815 Monday to Friday (except Bank Holidays).

Please note that we are aware that the fence mentioned in paragraph 4 has been built already, but for ease the whole condition has been inserted.

4.2 Conditions to be removed from the current application and replaced with those above:

- The duty manager will ensure that during public entertainment the noise level is such as not to cause disturbance to any noise sensitive premises.
- The barn has planning permission to operate Sunday to Thursday 09.00 to 22.00 Friday and Saturday 09.00 to 23.00 a condition of the licence is to only operate the Barn depending on the current planning permission at the time
- Further licensable activity will take place in the meadow away from residential properties.

4.3 Plan

The current licensing plan submitted with the application (Appendix 1) does not reflect the exact layout of the application premises, it is, therefore, requested that an accurate scale red-lined drawing be submitted and that the attached red-line plan (Appendix 2) showing the extent of licensed area being annexed to the application also.

5. SUMMARY

Should the applicant be minded to amend the application to reflect the above changes in hours and activities, to add the additional conditions, to remove the conflicting conditions, amend the current licensing plan and add the further red-lined plan to show the exact extent of the licensed area, then our client will withdraw their representation.



We should be grateful if you would please confirm receipt of this representation and should you have any queries please contact Christopher Rees-Gay at our Leeds Office.

Yours sincerely

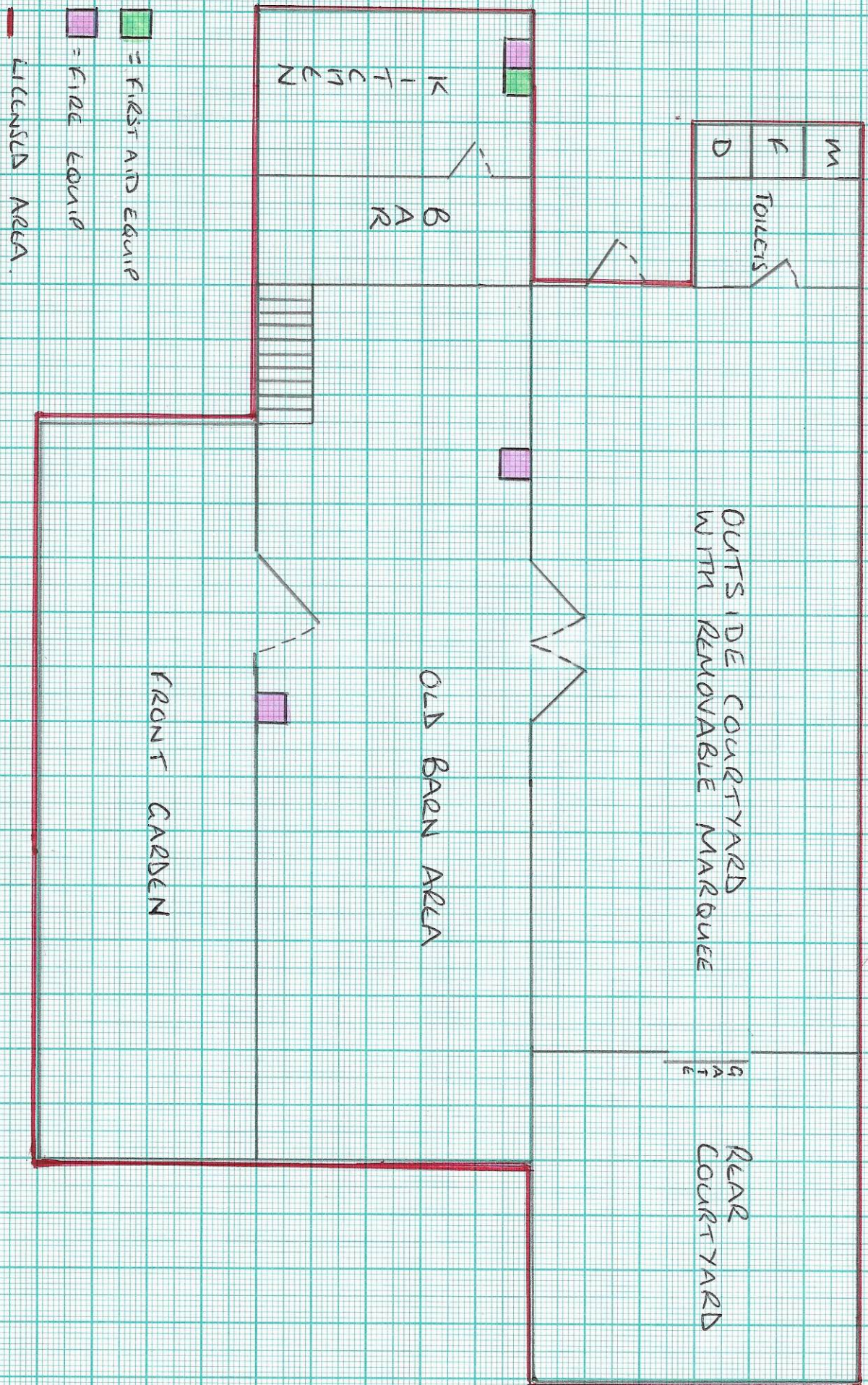


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Appendix 1 – Red Line detailed plan for The Barn – DN11 9DD

Appendix 2 – Plan showing extent of Sale of Alcohol for The Barn – DN11 9DD

LICENCE PLAN - THE BARN & MEADOW
COVERSALL DONCASTER DN11 9DD



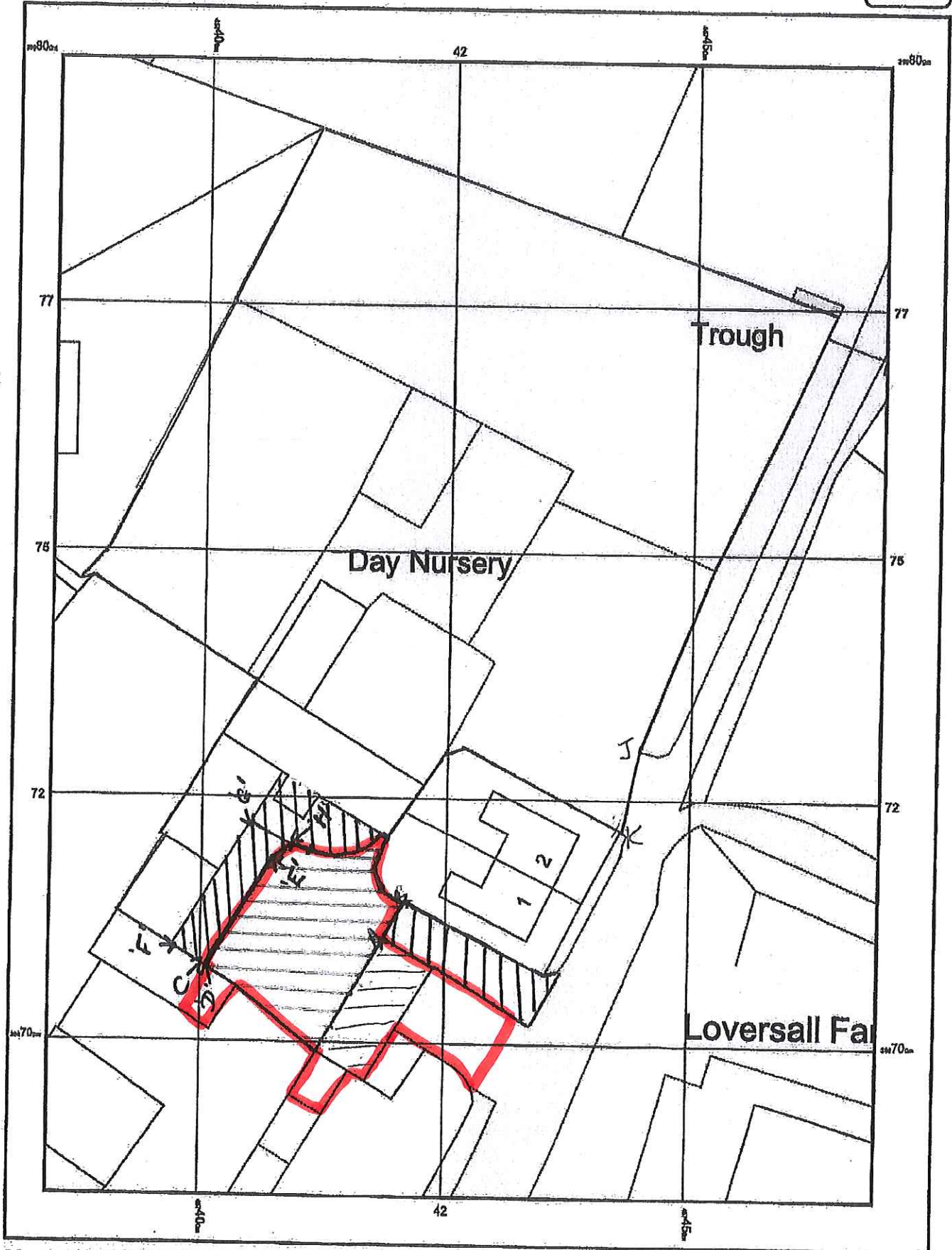
OUTSIDE COURTYARD
 WITH REMOVABLE MARQUEE

REAR
 COURTYARD

OLD BARN AREA

FRONT GARDEN

- = FIRST AID EQUIP
- = FIRE EQUIP
- LICENSED AREA.



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15m
Scale 1:500 North

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 Denotes area for the sale of alcohol on the premises only