

# **Item: 5**

**Orkney Islands Area Licensing Board: 6 October 2022.**

**Licensing (Scotland) Act 2005.**

**Application for Variation of Premises Licence.**

**Chivas Brothers Limited – Scapa Distillery Visitor Centre, St Ola.**

**Report by Clerk to the Board.**

## **1. Purpose of Report**

To consider an application from Chivas Brothers Limited for variation of a premises licence held in respect of Scapa Distillery Visitor Centre, St Ola.

## **2. Recommendations**

**It is recommended:**

That the Board determines the application from Chivas Brothers Limited for variation of a premises licence held in respect of Scapa Distillery Visitor Centre, St Ola.

## **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.**

In relation to overprovision, on 3 May 2018, the Board determined the following:

#### **3.2.1.**

There is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.

#### **3.2.2.**

The Board concluded that there was not a dependable causal link between the evidence provided to the Board and the operation of licensed premises, to suggest that a saturation point had been reached, or was close to being reached, within the locality of Orkney defined by the Board.

### **3.3.**

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.

### **3.4.**

In accordance with the Licensing (Scotland) Act 2005, the Board's Statement of Alcohol Licensing Policy generally permits off-sale operating hours of 10:00 to 22:00 each day.

### **3.5.**

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.

### **3.6.**

The full policy document is available from the Related Downloads section [here](#).

## **4. Introduction**

### **4.1.**

A premises licence has been held at Scapa Distillery Visitor Centre, since 18 December 2014, by Chivas Brothers Limited.

### **4.2.**

On 31 August 2022, Chivas Brothers Limited submitted an application for variation of the premises licence, details of which are provided at sections 5 and 6 below.

## **5. Extent of Premises and Capacities**

### **5.1.**

The existing premises licence relates to the Visitor Centre, including a separate toilet block. The application requests an increase in the extent of the licensed premises by the construction of a separate Tasting Room and Terrace.

## **5.2.**

The following plans are attached as appendices to this report:

- Appendix 1 – Layout plan of the Tasting Room and Terrace.
- Appendix 2 – Location plan showing the existing Visitor Centre and toilet block, together with the Tasting Room and Terrace.

## **5.3.**

The on-sale capacity of the premises will increase by 15 persons, from 21 to 36 persons, with the inclusion of the Tasting Room and Terrace.

## **5.4.**

The current off-sale capacity of the premises, extending to 3.08 square metres, will not be affected by the proposed variation.

## **6. Activities**

### **6.1.**

Mandatory operating plans associated with premises licences require licensees to indicate activities to be provided in premises.

### **6.2.**

The existing premises licence permits the activity of Recorded Music. The application indicates the additional activity of Outdoor Drinking Facilities for the first time on the Terrace associated with the Tasting Room.

## **7. On and Off-sale Operating Hours**

For information, the premises are currently licensed for both on and off-sale operating hours from 10:00 to 22:00 on Mondays to Sundays inclusive. The operating hours will not be affected by the proposed variation.

## **8. Consultation**

The required notices were issued to the statutory consultees on 31 August 2022 and the application was published on Orkney Islands Council's website from 2 September 2022. The last date for objections or representations to be received was 23 September 2022. No objections or representations were received.

## **9. Financial Implications**

The appropriate application fee of £100 has been paid.

## **10. Legal Aspects**

### **10.1.**

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.

### **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 extent of premises.
- Increase in on-sale capacity.
- Provision of additional activity.

### **10.3.**

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.

### **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](mailto:gavin.mitchell@orkney.gov.uk).

Sheila Tulloch, Depute Clerk to the Board, extension 2213, Email [sheila.tulloch@orkney.gov.uk](mailto:sheila.tulloch@orkney.gov.uk).

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

### **12. Appendices**

Appendix 1 – Layout plan of the Tasting Room and Terrace.

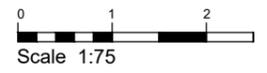
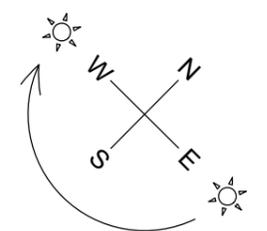
Appendix 2 – Location plan showing the existing Visitor Centre and toilet block, together with the Tasting Room and Terrace.

All activities occur throughout

**Key**

-  Emergency Bulkhead Lighting
-  Smoke Detector  
Minimum distance to light fitting 300mm.
-  Emergency Bulkhead Light Fire Exit Sign
-  Children and young persons access

DATE	REVISION	REV	DRW	CHK
25/08/22	first issue	P01	RM	MF
25/08/22	Green line and notes added.	P02	RM	MF



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Drawn	Date
RM	25/08/22

Checked	Date
BW	25/08/22

Project Name  
**Scapa Distillery  
 Noust Tasting Room**

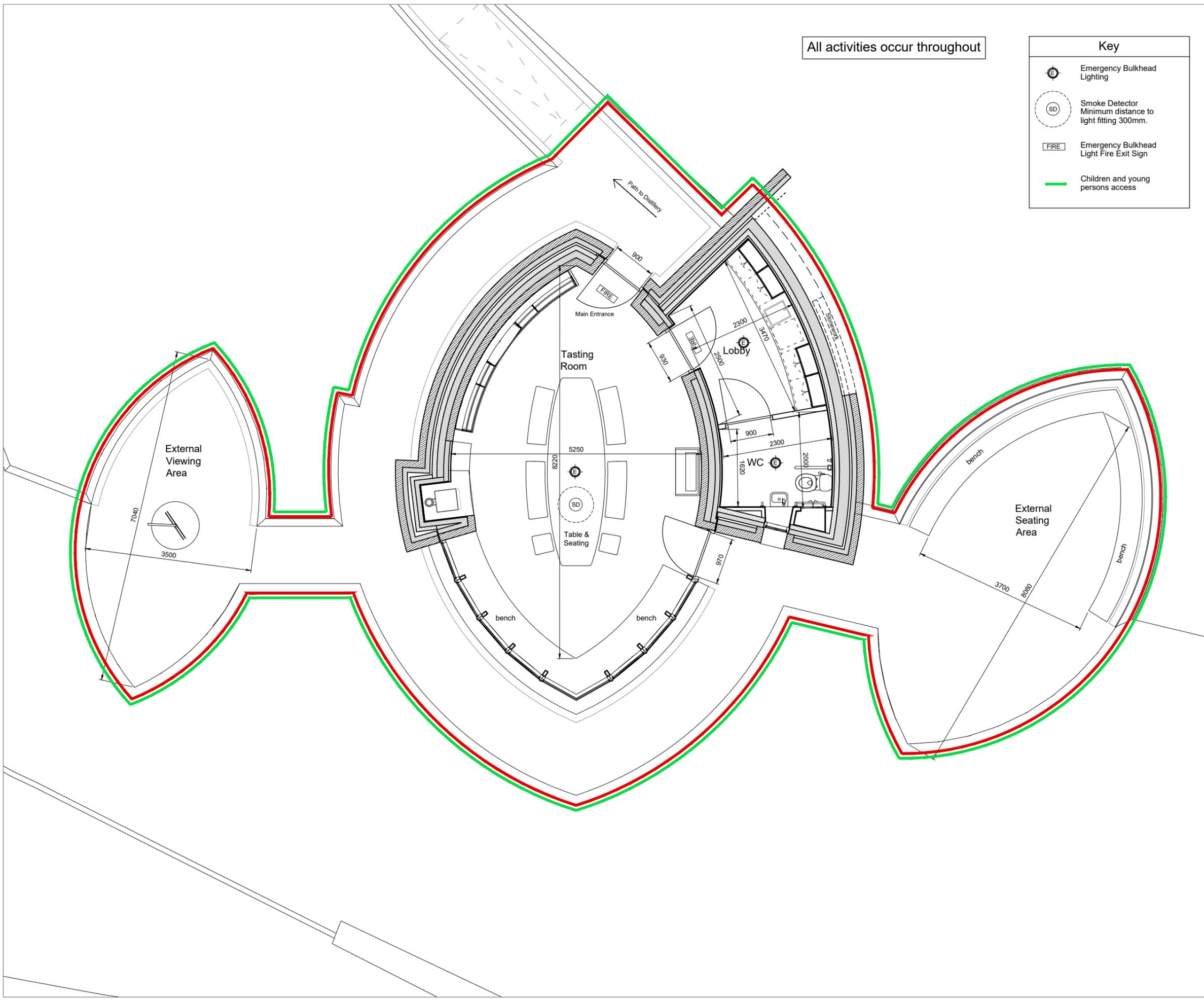
Drawing Title  
**Licensing Plan**

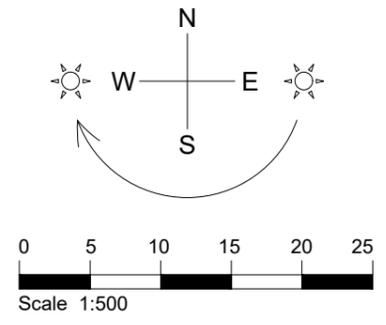
Scale **1:75 @ A3**

Sheet Status **Licensing**

Project No. **IAIV170031**

Drawing No.	Rev.
SCA-NOR-TR-XX-DR-A-99002	P02





Toilets

Visitor Centre

External Seating Area

Noust  
(Tasting Room, Lobby & WC)

External Viewing Area

Warehouse

Warehouse

Parking

Store

Warehouse

Distillery

Tun Room

Warehouse

Lingro Burn

DATE	REVISION	REV	DRW	CHK
25/08/22	First issue	P01	RM	MF
25/08/22	Additional areas hatched & noted.	P02	RM	MF
25/08/22	Scale bar and north point added.	P03	RM	MF

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Drawn	Date
RM	25/08/22
Checked	Date
MF	25/08/22

Project Name  
**Scapa Distillery**  
**Noust Tasting Room**

Drawing Title  
**Site Plan**

Scale  
**1:500 @ A3**

Sheet Status  
**Licensing**

Project No.  
**IAIV170031**

Drawing No. SCA-NOR-TR-XX-DR-A-99001	Rev. <b>P03</b>
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