

## **Item: 4**

**Orkney Islands Area Licensing Board: 10 October 2019.**

**Licensing (Scotland) Act 2005.**

**Application for Variation of Premises Licence.**

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

**Report by Clerk to the Board.**

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

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

### **2. Recommendations**

**It is recommended:**

That the Board determines the application by Chivas Brothers Ltd for a variation of a premises licence held in respect of the Visitor Centre, Scapa Distillery, 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.**

The Board's Statement of Alcohol Licensing Policy generally permits off-sale operating hours of 10:00 to 22:00 each day.

#### **3.3.**

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.

### **3.4.**

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 the Visitor Centre, Scapa Distillery, St Ola, since 18 December 2014 by Chivas Brothers Ltd.

### **4.2.**

On 12 July 2019, Chivas Brothers Ltd submitted an application for variation of the premises licence.

### **4.3.**

The variation application requests:

- Introduction of on-sales.
- Access by children and young persons.
- Increase in capacity due to on-sales provision.
- Provision of activity of recorded music.

## **5. Operating Hours**

### **5.1.**

The premises are currently licensed for off-sales only, as follows:

- 10:00 to 22:00 on Mondays to Sundays inclusive.

### **5.2.**

The application requests on-sale operating hours, as follows:

- 10:00 to 22:00 on Mondays to Sundays inclusive.

### **5.3.**

The applicant has provided the following information regarding the proposed on-sale operation of the premises:

“Guided tours of the distillery will be conducted starting at 9.30 and hourly thereafter finishing at the tasting area / sales room within the visitors centre.

The premises will be used to provide customers with an opportunity to taste before they buy.

They will also be used for tutored tastings where customers can purchase a tasting package and be guided through the tasting by one of the guides without having to take the tour if they either (a) don't have time or want to take the tour or (b) if the centre doesn't have capacity on their tours."

#### **5.4.**

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

### **6. Effect on Premises Operation and Other Changes**

#### **6.1.**

The extent and layout of the premises will not be affected by the proposed variation.

#### **6.2.**

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

#### **6.3.**

As a consequence of the variation application request for on-sale operating hours, the following matters are also requested:

- Access by children and young persons.
- Increase in capacity – on-sales – 21 persons.

#### **6.4.**

The application also requests the activity of recorded music for the first time.

### **7. Consultation**

The required notices were issued to the statutory consultees on 16 July 2019 and the application was published on Orkney Islands Council's website from 26 July 2019. The last date for objections or representations to be received was 16 August 2019. No submissions were received.

### **8. Financial Implications**

The appropriate application fee of £100 has been paid.

## **9. Legal Aspects**

### **9.1.**

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.

### **9.2.**

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

- Introduction of on-sales.
- Access by children and young persons.
- Increase in capacity due to on-sales.
- Introduction of new activity of recorded music.

### **9.3.**

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.

### **9.4.**

The grounds for refusal under the Act are as follows:

#### **9.4.1.**

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.

#### **9.4.2.**

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.

### **9.4.3.**

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.

### **9.4.4.**

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.

### **9.5.**

Anyone lodging an objection on the ground detailed at section 9.4.4 above must specify the locality on which they are basing their objection.

### **9.6.**

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

### **9.7.**

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.

## **10. Contact Officers**

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