

Item: 4

Orkney Islands Area Licensing Board: 1 May 2025.

Licensing (Scotland) Act 2005.

Application for Variation of Premises Licence.

**Highland Distillers Limited – Visitor Centre, Highland Park Distillery,
Holm Road, Kirkwall.**

Report by Clerk to the Board.

1. Overview

- 1.1. A premises licence has been held at the Visitor Centre, Highland Park Distillery, Holm Road, Kirkwall, since 1 September 2009, by Highland Distillers Limited.
- 1.2. On 25 February 2025, Highland Distillers Limited submitted an application for variation of the premises licence, details of which are provided at section 3 below.

2. Recommendations

- 2.1. It is recommended that members of the Board:
 - i. Determine the application from Highland Distillers Limited for variation of a premises licence held in respect of the Visitor Centre, Highland Park Distillery, Holm Road, Kirkwall.

3. Application for Variation of Premises Licence

- 3.1. The premises are currently licensed for the following off-sales operating hours:
 - 10:00 to 22:00 on Mondays to Sundays inclusive.
- 3.2. The application requests:
 - Increase in the extent of the licensed premises by the inclusion of two additional rooms at the Visitor Centre.
 - To permit activities of recorded music, live music and whisky tasting packages, in addition to previously permitted films.
 - To permit on-sales from 10:00 to 22:00 on Mondays to Sundays inclusive with capacity of 40 persons.
- 3.3. The current off-sale capacity of the premises, extending to 10.485 square metres, will not be affected by the proposed variation.
- 3.4. A layout plan of the premises is attached at Appendix 1 to this report.

4. Consultation

- 4.1. The required notices were issued to the statutory consultees on 3 March 2025 and the application was published on Orkney Islands Council's website from 4 March 2025. The last date for objections or representations to be received was 25 March 2025. No objections or representations have been received.

5. Policy Position

- 5.1. In accordance with section 6 of the Licensing (Scotland) Act 2005 ("the 2005 Act"), the Board has published a Statement of Alcohol Licensing Policy which 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).
- 5.2. In relation to overprovision, on 27 April 2023, the Board determined the following:
- There is no overprovision of licensed premises or licensed premises of a particular description within the locality of Orkney defined by the Board.
 - The Board concluded that, on a balance of probabilities, there was not a dependable causal link between the availability of alcohol in Orkney and alcohol-related harm, in that, based on the evidence of harm in the locality of Orkney as defined by the Board, it was unlikely, on balance, that alcohol availability was a cause of harm in Orkney, or that increasing the availability of alcohol in Orkney would increase that harm.
- 5.3. In accordance with the 2005 Act, the Board's Statement of Alcohol Licensing Policy generally permits off-sale operating hours of 10:00 to 22:00 each day.
- 5.4. 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.
- 5.5. The on-sale operating hours requested in the application fall within the range of hours permitted in the Board's Statement of Alcohol Licensing Policy.
- 5.6. The full policy document is available from the Related Downloads section [here](#).

6. Legislative Position

- 6.1. The 2005 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.
- 6.2. Because the application requests the following changes, it is not a minor variation and therefore must be determined by the Board:
- Increase in the extent of the licensed premises.
 - Provision of additional activities.
 - Provision of on-sales for the first time.
 - Provision of on-sales capacity for the first time.
- 6.3. 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.
- 6.4. The grounds for refusal under the Act are as follows:
- 6.4.1. 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.
- 6.4.2. 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.
- 6.4.3. 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.

- 6.4.4. 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.
- 6.5. Anyone lodging an objection on the ground detailed at section 6.4.4 above must specify the locality on which they are basing their objection.
- 6.6. Where the Board refuses an application, the Board must specify the ground for refusal. If the ground for refusal is that specified in the ground detailed at section 6.4.2 above, the Board must specify the licensing objective or objectives in question.
- 6.7. 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.

For Further Information please contact:

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Implications of Report

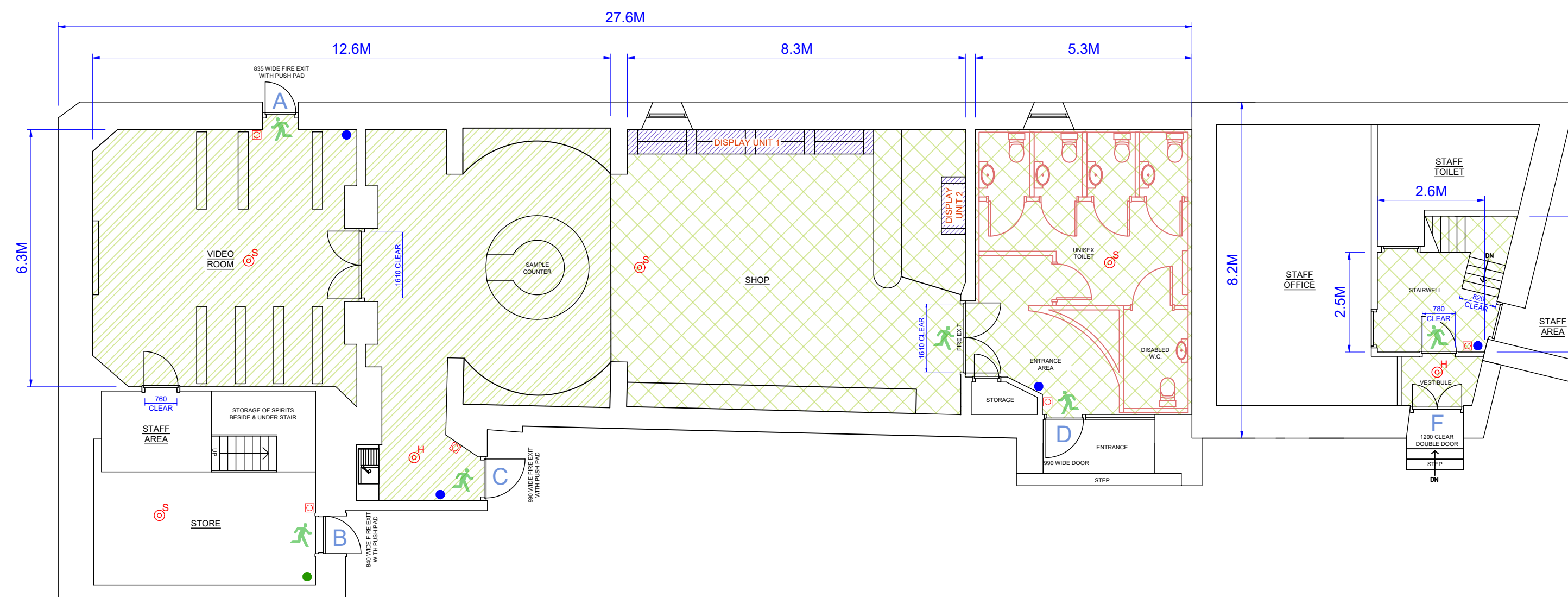
1. **Financial:** The appropriate application fee of £100 has been paid.
2. **Legal:** The legal aspects are contained within the body of this report.
3. **Corporate Governance:** In terms of Section 30 of the Licensing (Scotland) Act 2005, a Premises Licence Variation Application is to be determined by the Licensing Board.
4. **Human Resources:** None.
5. **Equalities:** None.
6. **Island Communities Impact:** None.
7. **Links to Council Plan:** None.
8. **Links to Local Outcomes Improvement Plan:** None.
9. **Environmental and Climate Risk:** None.
10. **Risk:** None.
11. **Procurement:** None.
12. **Health and Safety:** None.
13. **Property and Assets:** None.
14. **Information Technology:** None.
15. **Cost of Living:** None.

List of Background Papers

Application for Variation of Premises Licence by Highland Distillers Limited.

Appendix

Appendix 1 – Layout plan of the premises.

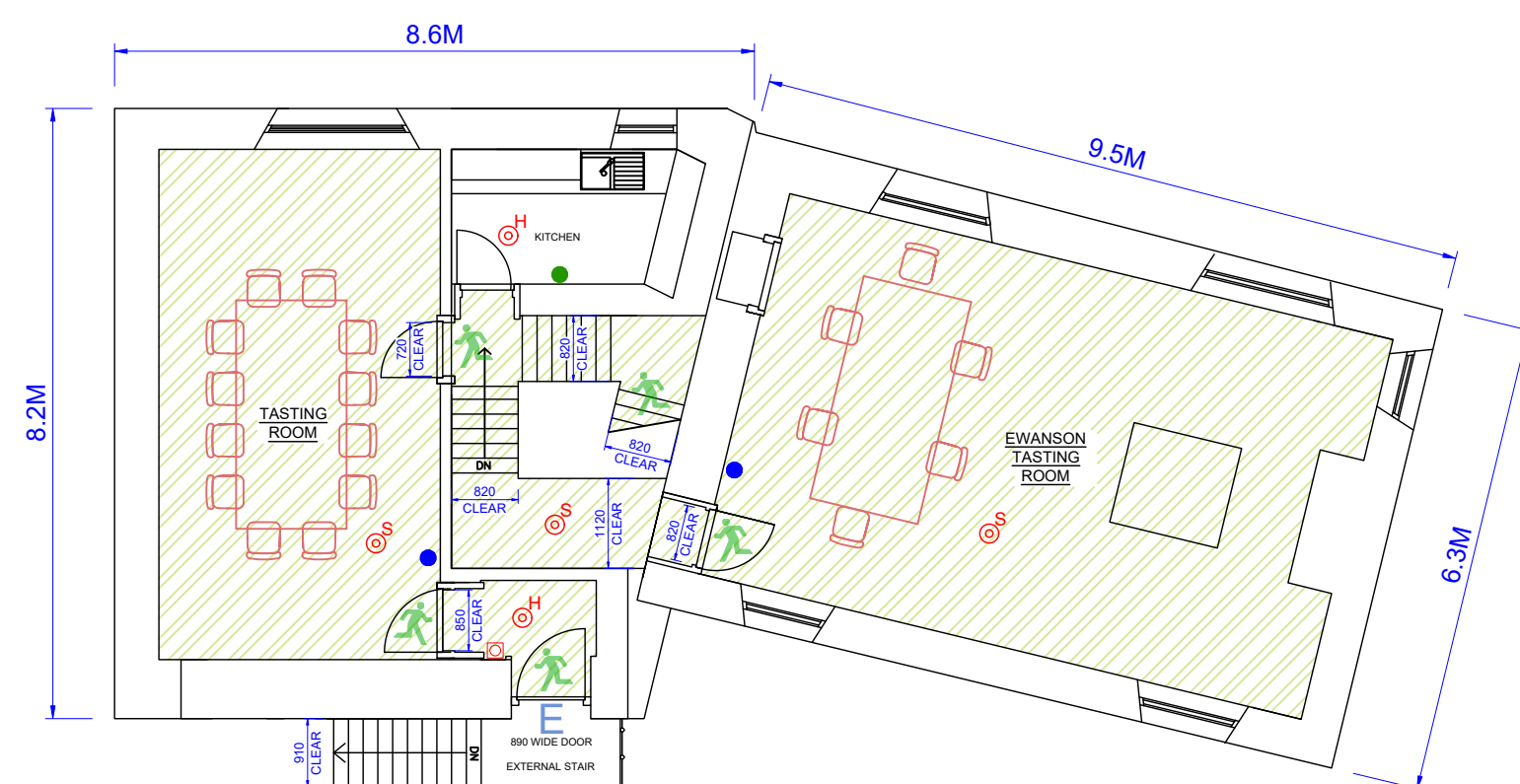


GROUND FLOOR PLAN



Scale - 1:100
when printed on A2 paper







<p>KEY:</p> <p>Display of Alcohol Total - 10.5 m2</p> <p>Area accessible to general public (including children and young persons)</p> <p>OFF-SALES AREA</p> <p>Experience, tasting, etc. (children and young persons not permitted)</p> <p>ON-SALES AREA</p>



FIRST FLOOR PLAN

Displays	Frontage (mm)	Height (mm)	Units	Number of Shelves	Type of Display		
1	3000	2375	4	5	Open Display	Full height timber shelving unit	Visible from counter
2	1400	2400	5	5	Inaccessible Display	Full height timber shelving unit	Visible from counter

Door	Width	Type	
A	835	Push bar fire lock	Locked from outside when shop is in use
B	840	Push bar fire lock	Locked from outside when shop is in use
C	990	Push bar fire lock	Locked from outside when shop is in use
D	990	Mortice lock	Unocked when shop is in use
E	890	Mortice lock	Unocked when tasting rooms are in use
F	1200	Mortice lock	Unocked when tasting rooms are in use

	Fire Information		
Symbol	Item	Type	Number
	Fire Extinguisher	CO2	2
	Fire Extinguisher	H2O	6
	Smoke detector		7
	Heat detector		4
	Fire alarm MCP		6
	Fire Exit		6

Activities	Permitted areas
Playing recorded music	All
Tasting, sampling & whisky experiences	On-Sales area only
Live performances	All
Films	All