

Item: 4

Orkney Islands Area Licensing Board: 22 January 2026.

Licensing (Scotland) Act 2005.

Application for Variation of Premises Licence.

Swannay Brewery, Swannay by Evie, Birsay.

Report by Clerk to the Licensing Board.

1. Overview

- 1.1. A premises licence has been held at Swannay Brewery, Swannay by Evie, Birsay, since 30 June 2016 by Highland Brewing Company Ltd.
- 1.2. On 21 November 2025, Highland Brewing Company Ltd submitted an application for variation of the premises licence in respect of Swannay Brewery, Swannay by Evie, Birsay, details of which are provided at section 3 below.

2. Recommendation

- 2.1. It is recommended that the Board:
 - i. Determines the application from Highland Brewing Company Ltd for variation of the premises licence held in respect of Swannay Brewery, Swannay by Evie, Birsay.

3. Application for Variation of Premises Licence

- 3.1. The application requests the inclusion of the additional activities of theatre and televised sport at the premises. A layout plan showing the premises is included at Appendix 1 to this report.
- 3.2. The current operating plan permits the activities of conference facilities, restaurant facilities, bar meals, receptions (including weddings, funerals, birthdays, retirements, etc), club or other group meetings, recorded music, live performances, dance facilities, films and brewery tours. These activities are unaffected by the application.
- 3.3. There will be no change to the on-sale operating hours provided for in the current operating plan, as follows:

- 10:00 to 24:00 on Monday to Thursday.
 - 10:00 to 01:00 on Friday/Saturday and Saturday/Sunday.
 - 10:00 to 24:00 on Sunday.
 - Terminal hour of 01:00 in any morning for events held on the premises relating to annual agricultural shows, local festivals and private functions.
 - Terminal hour of 01:30 any morning for weddings.
 - Terminal hour of 01:00 in any morning during the festive season being 24/25 December until 2/3 January each year.
- 3.4. No change is requested to the on-sale capacity of 75 persons.
- 3.5. There will be no change to the off-sale operating hours provided for in the current operating plan, as follows:
- 10:00 to 22:00 on Monday to Sunday.
- 3.6. No change is requested to the off-sale capacity of 25.61 square metres.
- 3.7. There will be no change to the terms of access or areas accessible by children and young persons provided for in the operating plan as follows:
- All ages of children and young persons are permitted and baby changing facilities are included in the unisex toilet.
 - Children and young persons are permitted unaccompanied between 10:00 and 22:00. Outwith those times or for the duration of a function they must be accompanied by a person aged 18 years or older.
- 3.8. Section 147(1) of the Licensing (Scotland) Act 2005 (the Act) provides the following definitions:
- “Child” means a person under the age of 16.
 - “Young persons” means a person aged 16 or 17.
- 3.9. Mandatory operating plans associated with premises licences require licensees to provide specific information regarding access by children and young persons.

4. Consultation

- 4.1. The required notices were issued to the statutory consultees on 21 November 2025 and the application was published on Orkney Islands Council’s website from 21 November 2025. The last date for objections or representations to be received was 15 December 2025. No objections or representations were received.

5. Policy Position

- 5.1. In accordance with the Licensing (Scotland) Act 2005 (the Act), 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).
- 5.2. The Board's Statement of Alcohol Licensing Policy generally permits on sale operating hours as follows:
- 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 in any morning.
 - For weddings, a terminal on-sale operating hour of 01:30 in 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.
- 5.3. 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.
- 5.4. The full policy document is available from the Related Downloads section [here](#).

6. Legislative Position

- 6.1. 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.
- 6.2. Because the present application requests the inclusion of additional activities it is not a minor variation and therefore must be determined by the Board.
- 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 the 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.

6.8. Where the Board grants the application, the Board may impose such other proportionate conditions as it considers necessary or expedient for the purposes of

the licensing objectives. The Board may not impose a condition which is inconsistent with an existing mandatory condition, which would have the effect of making a mandatory condition more onerous or restrictive, or which relates to a matter (such as planning, building control or food hygiene) which is regulated under another enactment.

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:** As above.
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. **Environmental and Climate Risk:** None.
8. **Risk:** None.
9. **Procurement:** None.
10. **Health and Safety:** None.

List of Background Papers

Application for Variation of Premises Licence by Highland Brewing Company Ltd.

Appendix

Appendix 1 – Layout Plan showing the Swannay Brewery premises.

