

## The Highland Licensing Board

Meeting – 4 February 2014

Agenda Item	11.1
Report No	HLB/014/14

### Application for a Major Variation of Premises Licence under the Licensing (Scotland) Act 2005

Tomatin Distillery Visitor Centre, Tomatin, Inverness IV13 7YT

#### Report by the Clerk to the Licensing Board

##### Summary

REF: HC/INBS/177

This Report relates to an application for a Major Variation of Premises Licence.

**Premises:** Tomatin Distillery Visitor Centre, Tomatin, Inverness IV13 7YT

**Applicant:** The Tomatin Distillery Co. Ltd, Tomatin, Inverness IV13 7YT

## 1 Description of Premises

Distillery Visitor Centre for the purpose of on and off sales and tutor tastings.

### 1.1 Previous Core Operating Hours

#### Off Sales:

Monday to Saturday 10.00 hrs to 20.00 hrs

Sunday 12.30 hrs to 20.00 hrs

## 2 Summary of Variation Application

### 2.1 Variation Sought

1. Variation to sell On Sales 10.00 hrs to 22.00 hrs Monday to Sunday.
2. Variation to Off Sales on Sundays to commence from 10.00 hrs.
3. Variation to Off Sales termination hours Monday to Sunday to 22.00 hrs.
4. Deletion of current wording in seasonal variations.
5. Addition to children's policy in respect of new on sales.
6. Amendment to list of approved activities to include conference/restaurant/reception/club meeting/live performance facilities.

## 3 Background

- 3.1 On 21 November 2013 the Licensing Board received an application for a Major Variation of a Premises Licence on behalf of the applicant.

3.2 The Board has advertised the application on the Council's website for a period of 21 days and the applicant has to display the Notice on site for the same period (02 December 2013 to 23 December 2013). Confirmation of display of the site notice has been received.

3.3 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, The Council's TEC Services (Environmental Health), Planning and Building Standards were consulted on the application.

Notification and a copy of the application have been sent to NHS Highland and the local Community Council for the area.

3.4 Notice of the application has been sent to and all the people listed under S21(1) of the Act.

3.5 No objections have been received in respect of the application.

#### **4 Legislation**

4.1 The Licensing Board must in considering and determining the application, consider whether any grounds of refusal apply and if none of them applies, the Board must grant the application.

Relevant grounds of refusal may be: -

1. the grant of the application will be inconsistent with one or more of the licensing objectives;
2. that having regard to (i) the nature of the activities carried on or proposed to be carried on in the subject premises, (ii) the location character and condition of the premises, and (iii) the persons likely to frequent the premises, the Board considers the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;
3. having regard to the number and capacity of (i) licensed premises of the same or similar description as the subject premises (taking account of the proposed variation), in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be over provision of licensed premises or licensed premises of that description in the locality.

4.2 The Board has power where, if they would refuse the application as made, but if a modification is proposed by them and accepted by the applicant, the application can be granted as modified.

## **5 Licensing Standards Officer's Comments**

Tomatin distillery has a bespoke Visitor Centre which houses a meeting area and a shop selling examples of the whiskies made at the Distillery and other tourist merchandise. Tastings of whiskies are also offered in this location. Previously the premises have offered only an off sales facility, tastings have been given gratuitously as part of the tours.

Application is now made to allow on sales within the premises. This is to primarily enable an expansion of business by selling tutored tastings of products and also allowing customers to purchase a "dram" of any malt whisky to enable them to try it before buying a bottle through the off sales facility. The Premises will not be run as a commercial bar. Similar arrangements have been approved by the Highland Licensing Board for the Ardnamurchan Distillery.

The hours desired for on sales are outwith policy in that commencement of core hours is sought from 10.00 hrs. This is asked for to facilitate the tourist and visitor market as the Distillery receives coach tours where a tour of the Distillery is built into the tour operators schedule and these commence from 10.00 hrs. Distilleries in Ardnamurchan and Easter Ross have been granted these hours for similar reasons.

As part of this application it is requested that the off sales hours which are within the Board's Policy run co-terminously with the on sales hours.

The sales of alcohol for consumption on the premises will be minimal and will not be reflective of a traditional bar. The LSO is confident that no adverse effect will be occasioned to the licensing objectives. Having visited the premises on several occasions for compliance visits the venue and its environs are entirely suitable for the on sale of alcohol as sought in this variation application.

It is requested that the current seasonal variation reflecting reduced winter hours be removed as this constrains the applicants from taking on extra visitor business in the winter months.

It is further requested that the range of approved activities be expanded within Section 5 of the Operating Plan to allow conference facilities, restaurant facilities, receptions, club meetings and live performances, which the applicant requires as options for expanding the use of the current Visitor Centre and making better commercial use of the facilities it provides and has the potential for providing.

The compilation of a children's policy has been made to reflect the on sales provision sought. The Policy is seen as adequate in meeting the fifth licensing objective.

The premises have a blemish free operating history and compliance visits carried out by the LSO indicate a high standard of diligence to the licensing requirements.

## **6.0 HLB Local Policies**

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) Schedule of Local Conditions
- (iv) Highland Licensing Board combined Equality Scheme

## **7.0 Conditions**

### **7.1 Mandatory Conditions**

If the application is approved the Mandatory Conditions set out in Schedule 3 of the Act will apply.

### **7.2 Local Conditions**

None recommended.

## **8 Recommendation**

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/177

Date: 06 January 2014

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/Application Form.

Licensing Board Policy Statement from 1 December 2013 to 30 November 2016