

The Highland Licensing Board

Meeting – 17 June 2014

Agenda Item	10.4
Report No	HLB/081/14

Application for a major variation of a Premises Licence under the Licensing (Scotland) Act 2005

Clynelish Distillery, Brora, KW9 6LR

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence for Clynelish Distillery, Brora, KW9 6LR.

1.0 Description of Premises

1.1 The premises are a distillery occupying extensive grounds to the west side of the main A9 road on the northern outskirts of Brora. It is a working distillery that welcomes visitors. The distillery is a relatively modern building and contains process areas, administration offices and an office block. The visitor centre is situated at the rear of this office block and has its own access. The visitor centre sells alcohol and related goods. Alcohol is sold for consumption off the premises only.

1.2 Current Core Operating Hours

Off Sales:

Monday to Saturday 1000 hrs to 1800 hrs
Sunday 1230 hrs to 1800 hrs

2.0 Summary of Variation Application

2.1 Variation Sought

The applicant seeks to vary the premises licence as follows:-

- (1) Remove reference to Visitor Centre/Shop from the description of premises and capacity of premises and cease use of the Visitor Centre/Shop and remove capacity of 9m²
- (2) Change name of Staff Shop to Temporary Visitor Centre and Shop
- (3) Increase licensed hours for Off Sales to commence at 1000 hrs on a Sunday
- (4) Add On Sales as an activity or service between 1100 hrs to 1800 hrs each day

- (5) Amend Children and Young Persons terms of entry to permit them to be present
- (6) Vary the layout plan to remove the Visitor Centre/Shop from the licensed area
- (7) Vary Description of Premises to Temporary Visitor Centre/Shop within a former Staff Shop in the grounds of a working distillery which is open for guided tours and tastings

3.0 Background

- 3.1 On 2 May 2014 the Licensing Board received an application for a major variation of Premises Licence from the Licence holder, Diageo Scotland Ltd.
- 3.2 The application was publicised during the period 6 May to 27 May 2014 and confirmation that the site notice was displayed has been received.
- 3.3 In accordance with standard procedure, Police Scotland, Scottish 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 was also sent to NHS Highland and to the local Community Council.

- 3.4 A timeous notice of objection to the application was received on 6 May 2014 from Frank Doherty, Building Standards Team Leader, a copy of which is appended.

The applicant and the objector have been invited to attend the meeting.

4.0 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. having regard to; (i) the nature of the activities 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, if 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 only power to either grant the application and make a variation of the conditions to which the licence is subject or, refuse the application.

4.3 If the Board refuses the application, the Board must specify the ground for refusal and if the ground for refusal is in relation to a licensing objective, the Board must specify the objection in question.

5.0 Licensing Standards Officer's Comments

The LSO has provided the following comments:-

- The premises licence holder is to embark on a major investment programme at Clynelish Distillery to include a new visitor centre.
- During the design and construction process they wish to continue offering visitor centre services, shop and tastings within the current, separate, staff shop which will cease to be used exclusively for that purpose. I understand that the applicant is in the process of submitting a building warrant application for the change of use of the staff shop and that a completion certificate, issued by Building Standards, may be required before members of the public can be permitted on the premises. Although that is of no consequence to consideration of this application, being a matter covered by other legislation, the Board may wish to impose a condition preventing entry to the premises by the public until an appropriate certificate is issued.
- Following from demand for tasting and sampling of products other than those historically offered free of charge for distillery visitors, the applicant seeks to add on-sales to the services and activities provided and to add terms of entry for children and young persons appropriate for the operation.
- The variations applied for are appropriate in the circumstances of the redevelopment of the Distillery and current common practice for distillery visitor centres and are within Board policy. It is confirmed that there is no bar counter on the premises and that existing alcohol displays and capacity of 12m² within the former staff shop will be continued.

6.0 Objections / Representations

I have no objections nor wish to make representations in respect of this application.

7.0 HLB Local Policies

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) Highland Licensing Board Equality Strategy

8.0 Conditions

8.1 Mandatory Conditions

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

8.2 Local Conditions

None to apply

8.3 Special Condition

This varied licence shall not take effect fully and members of the public shall not be permitted on to the premises until any notice of the grant of a completion certificate required to be issued by Highland Council Building Standards has been submitted to Highland Licensing Board.

Recommendation

The Board is invited to determine the above application and the proposed special condition detailed at para. 8.3 above noting that the application for variation is within the policy adopted by the Board on 1 October 2013 as the Board's new policy for 1 December 2013 to 30 November 2016.

Designation: Clerk of the Highland Licensing Board

Reference: HC/CSER/0857

Date: 28 May 2014

Author: L Gunn

Background Papers: The Licensing (Scotland) Act 2005

Appendix: Objection from Building Standards dated 6 May 2014



THE HIGHLAND LICENSING BOARD

LICENSING (SCOTLAND) ACT 2005

REPRESENTATION ON VARIATION APPLICATION FOR PREMISES LICENCE

Officer in Charge, Northern Constabulary		Principal Environmental Health Officer	
Divisional Fire Officer, Highlands and Islands Fire and Rescue Service		Principal Building Standards Officer	<input checked="" type="checkbox"/>
Area Planning Manager		Licensing Standards Officer	
Director of Public Health			

Please complete the Form below in respect of the attached application for a Licence by:-

Reference:	AHM/LG/HC/CSER/0857
Name and Address of Premises:	Clynelish Distillery, Brora, KW9 6LR
Applicant:	Diageo Scotland Ltd
Variation Requested:	Vary the operating plan to remove reference to Visitor Centre/Shop from the description of premises and capacity of premises and cease use of the Visitor Centre/Shop and remove capacity; change name of Staff Shop to Temporary Visitor Centre and Shop; increase licensed hours for Off Sales to commence at 1000 hrs on a Sunday; add On Sales as an activity or service between 1100 hrs and 1800 hrs seven days; amend Children and Young Persons terms of entry to permit them to be present; vary the layout plan to remove Visitor Centre/Shop from the licensed area; vary description of premises to Temporary Visitor Centre/Shop within a former Staff Shop in the grounds of a working distillery which is open for guided tours and tastings.

LAISDAIR H MACKENZIE

 Clerk

..... Date: 2 May 2014

In terms of Section 22 of the Act, please select ONE of the following options (a), (b) or (c), and sign and date form:

- (a) ~~I HAVE NO OBJECTION TO THE APPLICATION BEING GRANTED AND I DO NOT WISH TO MAKE REPRESENTATIONS IN RESPECT OF THE APPLICATION.* or~~
 - (b) ~~I HAVE NO OBJECTION TO THE APPLICATION BEING GRANTED. I ATTACH REPRESENTATIONS IN RESPECT OF THE APPLICATION (Section 22(1)(b))* or~~
 - (c) I WISH TO OBJECT TO THE APPLICATION AND ATTACH DETAILS OF THE OBJECTION (Section 22(1)(a)) (continue on separate sheet).*
- (OBJECTIONS AND REPRESENTATIONS MUST BE LODGED BY 5PM ON TUESDAY 27 MAY 2014)

This section to be completed by Northern Constabulary only, select EITHER (1) or (2):

- (1) In terms of Section 21(4) of the Act, I declare that neither the applicant nor any connected person has been convicted of a relevant or foreign offence* or
- (2) In terms of Section 21(4) of the Act, I append a notice giving details of convictions*

* Delete as appropriate

Signature: Date: 6/5/14

Designation: BUILDING STANDARDS TEAM LEADER

**PLEASE RETURN TO CLERK, HIGHLAND LICENSING BOARD,
 COUNCIL OFFICES, DRUMMUIE, GOLSPIE, KW10 6TA**

Clynelish Distillery

Variation to Premises Licence

1. The conversion of the staff shop to a visitors centre would appear to be a conversion in terms of the Building (Scotland) Act 2003 (“changes in the occupation or use of a building to allow access by the public where previously there was none”) and a Building Warrant should be approved and a Completion Certificate accepted before occupation.

Frank Doherty

Building Standards Team Leader

06/05/2014