

## The Highland Licensing Board

Meeting – 6 December 2016

Agenda Item	10.3
Report No	HLB/117/16

### Application for a major variation of premises licence under the Licensing (Scotland) Act 2005

Glen Ord Distillery Visitor Centre, Muir of Ord

Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of a premises licence by Diageo Scotland Limited.

#### 1.0 Description of premises

1.1 The visitor centre sits in the middle of the Glen Ord distillery complex.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### Off sales:

Monday to Saturday: 1000 hrs to 2200 hrs  
Sunday: 1230 hrs to 1800 hrs

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

- (1) Change to allow sale of alcohol both on and off-sales on the premises.
- (2) Add on-sales hours 1000 and 2400 hrs daily
- (3) Inclusion of restaurant facilities, conference facilities, receptions, club meetings and recorded music outwith core hours.
- (4) Inclusion of recorded music, live performances, theatre and film as permitted activities.
- (5) Change wording at 5(f) re other activities to simplify and set out other permitted activities.
- (6) Inclusion of provisions to set out basis for admission of children and young persons.

- (7) Amend capacity entry
- (8) Add off-sales hours on a Sunday to commence at 1000 hrs and terminate at 2200 hrs.
- (9) Amended layout to staff shop.
- (10) Inclusion of a function room area.
- (11) Licensed foot print extended to cover the whole visitor centre.
- (12) Delete existing premises description and substitute a new description to following variation to the licence.

#### **4.0 Background**

- 4.1 On 11 October 2016 the Licensing Board received an application for a major variation of a premises licence from Diageo Scotland Limited.
- 4.2 The application was publicised during the period 28 October until 18 November 2016 and confirmation that the site notice was displayed is awaited.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and Rescue Service and the Council's Community Services (Environmental Health) and Planning and Building Standards were consulted on the application.
- 4.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 4.6 The applicant must nevertheless be given the opportunity to be heard before the Board determines the application and has accordingly been invited to the meeting. The applicant has been advised of the hearings procedure which may also be viewed via the following link:

[http://highland.gov.uk/hlb\\_hearings](http://highland.gov.uk/hlb_hearings)

#### **5.0 Legislation**

- 5.1 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 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 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 overprovision of licensed premises or licensed premises of that description in the locality.

5.2 The Board only has power either to grant the application and make a variation of the conditions to which the licence is subject or to refuse the application.

5.3 If the Board refuses the application, the Board must specify the ground for refusal and if the ground for refusal relates to a licensing objective, the Board must specify the objective in question.

## **6.0 Licensing Standards Officer**

6.1 The LSO has provided the following comments:-

6.2 The applicant has carried out a review of their current operation as a distillery visitor attraction and now applies to amend the premises licence so as to allow on-sales and offer other activities and services following a major refurbishment of the premises.

6.3 The facility now includes a visitor centre, dramming room and dramming area, function suite and a staff shop along with the usual services. The proposed activities and services will allow opportunities for additional business and they are reasonable and appropriate for this type of operation.

6.4 Highland Licensing Board policy hours for on-sales generally commence at 1100 hrs on any day. The applicant seeks to offer on-sales so as to be able to sell samples of the various whisky styles rather than offer only the "free" sample dram to customers on completion of a tour of the distillery. Tours of the distillery commence prior to 1100 hrs and the applicant has applied to sell on-sales from 1000 hrs to match with the commencement of off-sales at 1000 hrs. There is precedent for the grant of such hours for other distillery premises and each case is considered on its own merits. I am of the opinion that the earlier commencement hour for on-sales will not conflict with any of the licensing objectives.

6.5 The current licence, which is for off-sales only, stated the capacity of the display of alcohol as 33.5m<sup>2</sup>. It would appear, but has not yet been confirmed, that the capacity for the reconfigured and extended premises will be between 40 and 50m<sup>2</sup> and in excess of the Board's policy on off-sales overprovision. A verbal update will be given at the meeting following discussion with the applicant's agent.

- 6.6 The terms of entry for children and young persons requires that children must be accompanied by a suitable responsible adult. Other than not being permitted entry to the staff shop there are no restrictions on entry by young persons. Certain counters within the premises may be used as bar counters and it is considered appropriate that the Board's local conditions regarding access by children are imposed in those parts of the premises.
- 6.7 I am satisfied that the applicant has given full consideration to the licensing objectives and I have no cause to object to the variation of the premises licence.

## **7.0 HLB local policies**

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (2) 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**

There are no existing local conditions but the following local condition(s) are now recommended:

- a. Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.
- b. Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.
- c. Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.

**Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local conditions detailed at para 8.2 above.

If the Board is minded to refuse 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 objective in question.

Reference: HC/CSR/0706

Date: 23 November 2016

Author: G Sutherland

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