

The Highland Licensing Board

Meeting – 2 October 2018

Agenda Item	10.3
Report No	HLB/099/18

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

Tomatin Distillery Visitor Centre, Tomatin, IV13 7YT

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by The Tomatin Distillery Company Ltd, Tomatin Distillery, Tomatin, IV13 7YT.

1.0 Description of premises

1.1 Tomatin Distillery is situated 15 miles south of Inverness via the A9 and consists of a visitor centre for the purpose on and off sales and tutored tastings.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1100 hours to 2200 hours

Off sales:

Monday to Sunday: 1000 hours to 2200 hours

3.0 Summary of variation application

3.1 Variation sought

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

(1) Due to an increase in visitor numbers, customer expectations and needs, we would like to change our core times for on sales to 0930 hours to 2200 hours and keep off sales 1000 hours to 2200 hours in order to accommodate early visitors to the Visitor Centre; many of whom are on tight tour schedule or flight times. This would allow us to run our tours more effectively in the morning, and to be able to offer all of our visitors the opportunity to taste or buy our products for the duration of time that we are open, 7 days a week, all year round.

(2) We would like to amend the music part of the operating plan to allow us to play recorded music at some point in the future within the Visitor Centre. No system is yet in place but would like to have this option.

(3) 6(d) Children's Policy amended to read: 'Children and young persons will be allowed entry to all parts of the premises between 0930 hours and 2200 hours.'

4.0 Background

4.1 On 18 July 2018 the Licensing Board received an application for a major variation of a premises licence from The Tomatin Distillery Company Limited.

4.2 The application was publicised during the period 6 August until 27 August 2018 and confirmation that the site notice was displayed has been received.

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

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. that 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, in the locality.

5.2 For the purposes of the Act, the licensing objectives are-

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children and young persons from harm.

5.3 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.

5.4 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:-

(i) Tomatin Distillery has held an alcohol premises licence for its visitor centre for several years and has operated a high quality operation with no adverse issues. The visitor centre is housed within a detached building within the grounds of the distillery.

(ii) Application has been received from the licence holders to sell alcohol on the premises from 0930 hours in the morning which is currently out with the policy hours of the Highland Board, although a paper covering such eventualities will be submitted for the Board's consideration in revising their existing policy statement on hours.

(iii) The distillery receives huge number of visitors each year, many of whom are on bespoke tours which operate to a tight schedule. It would be hugely beneficial to the distillery if customers were able to sample the range of core whiskies available, thereafter, electing or otherwise, to purchase by way of off sale after 1000 hours. The sales of whisky will be small in terms of volume and take place under the presence and guidance of the distillery's staff, who have all been well trained in the requirements of the Licensing (Scotland) Act 2005.

Precedent does exist for similar distillery operations such as those at Dalwhinnie, for the very same reasons that have been put forward within this report.

(iv) The LSO is satisfied that the arrangements in place on behalf of the applicants' are more than adequate to ensure the observance of the Licensing Objectives.

(v) In addition, a request to include the playing of recorded music as an approved activity within section 5 of the operating plan is included. The LSO has no objection to make in this regard.

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 and it is not considered necessary to attach any.

8.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application.

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/INBS/177
Date: 6 September 2018
Author: Marjory Bain