

The Highland Licensing Board

Meeting – 4 December 2018

Agenda Item	8.3
Report No	HLB/128/18

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

Ben Nevis Distillery, Lochy Bridge, Fort William, PH33 6TJ

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Ben Nevis Distillery (Fort William) Limited.

1.0 Description of premises

1.1 The Ben Nevis Distillery is situated adjacent to the A82 at Lochybridge on the outskirts of Fort William and consists of a Visitor Centre with a café area on the ground floor and a function suite on the first floor. At present, only the ground floor of the premises is licensed to sell alcohol for consumption off the premises.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Sunday: 1000 hour to 2200 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) include the provision of on-sales for period 1100 hours to 0100 hours, Monday to Sunday.
- (2) extend footprint of licensed premises to include function suite on the upper floor of the premises.
- (3) on-sale capacity to be 120 persons.
- (4) appointment of a new premises manager.
- (5) additional activities within operating plan to include conference, restaurant, receptions, live performances, dance facilities and theatre.

- (6) amend operating plan to include bar meals outwith core hours.
- (7) change description of premises to reflect revised operation of premises.

4.0 Background

- 4.1 On 27 June 2018 the Licensing Board received an application for a major variation of a premises licence from Ben Nevis Distillery, Lochy Bridge, Fort William, PH33 6TJ.
- 4.2 The application was publicised during the period 28 June 2018 until 19 July 2018 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire & 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 objections or representations have been received.
- 4.6 Whilst no objections have been received, 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

The LSO has provided the following comments:-

- Ben Nevis Distillery is situated on the outskirts of Fort William adjacent to the main A82 trunk road. The Distillery has had an alcohol premises licence since 2009 to operate a Visitor Centre from which sales of whisky are made by way of off sales. The operating history is incident free and compliance visits carried out by LSO's have shown good standards of compliance with the terms and conditions of their licence.
- On the second floor of the distillery there is a purpose built function suite which in the past has periodically operated as a licensed venue under the authority of occasional licences. It is now requested to extend the footprint of the premises licence to include this area within the overall licensing footprint.
- Similarly a request is also made to be allowed to provide on sales within the new premises footprint between the hours of 11.00 and 01.00 hrs. Such hours are within the general Board Policy on licensed hours, and will allow on sales in the Visitor Centre for those customers wishing to try a rare malt prior to making a decision on purchase.
- The range of activities within Section 5 of the operating plan has been extended to cover a variety of activities which may take place within the licensed area.
- The description of the premises has been amended to accurately reflect the extended area and use of the premises.
- The LSO is of the opinion that the amended operating plan is consistent with the licensing objectives.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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 HLB local conditions

There are no existing local conditions but the following local conditions are now recommended:

- **Children**
 - 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.

8.3 Special conditions

No special conditions are considered necessary.

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/RSL/1379

Date: 20 November 2018

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