

The Highland Licensing Board

Meeting – 22 June 2021

Agenda Item	10.6
Report No	HLB/057/21

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

Dalwhinnie Distillery Visitor and Shop

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence Diageo Scotland Limited, 5 Lochside Way, Edinburgh Park, Edinburgh, EH12 9DT.

1.0 Description of premises

1.1 Dalwhinnie Distillery sits at the heart of Cairngorm National Park and is one of the highest whisky producing distilleries in Scotland. It is located some 40 miles from Inverness, just off the A9 Inverness-Perth road. The premises consists of a Visitor Centre and Shop, it is a single storey building with area of warehouse, additional buildings and external area.

2.0 Summary of variation application

2.1 Variation sought

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

1. Change in wording in Section 5 to permit restaurant facilities and bar meals with ancillary of wording. Additional wording inserted under 'outwith core hours' to read: Restaurant facilities and Bar Meals: 'Food may be available in external and internal areas prior to commencement of core hours.'
2. Change in on sale capacity to 450 to permit use by 200 in external area.
3. Layout plan - increase in external area.

3.0 Background

3.1 On 29 April 2021 the Licensing Board received an application for a major variation of a premises licence from Diageo Scotland Limited.

- 3.2 The application was publicised during the period 14 May until 3 June 2021 and confirmation that the site notice was displayed has been received.
- 3.3 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.
- 3.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 3.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.6 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, both the applicant and the objector have been invited to submit a written representation to state their case.

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 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.
- 4.2 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.

- 4.3 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.
- 4.4 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.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

- (i) Dalwhinnie Distillery has held a premises licence since 2009.
- (ii) The premises are a major tourist attraction, their operating history is very satisfactory and compliance checks by the LSO have shown high standards of diligence.
- (iii) The premises operate of a substantial site at the north end of Dalwhinnie village.
- (v) The application seeks to assist the operators in offering a broader experience for the thousands of visitors they receive every year.
- (vi) The provision of food is now being offered and accordingly the relevant categories of "Restaurant and Bar meals" are requested in the list of approved activities at section 5 of the operating plan.
- (vii) In addition a substantial outside area located entirely within the Distillery site is requested to be included in the licensed footprint of the Premises in order to provide whisky themed experiences for visitors. Accordingly, the capacity total at section 7 has been altered to allow for these extra persons.
- (viii) In the view of the LSO these alterations to the premises licence do not threaten the licensing objectives.
- (ix) During the consultation phase of this application no objections or representations have been received by the Board.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (2) Highland Licensing Board Equality Strategy

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

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

7.3 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/89
Date: 7 June 2021
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