

The Highland Licensing Board

Meeting – 25 April 2022

Agenda Item	9.5
Report No	HLB/039/22

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

Talisker Distillery, Carbost, Isle of Skye, IV47 8SR

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Diageo Scotland Limited per Morton Fraser LLP.

1.0 Description of premises

1.1 The premises is a working distillery in the village of Carbost on the Isle of Skye. The distillery comprises a two storey building, separate warehousing and a two storey office block. Within the production building there is a staff sales area on the ground floor and tasting rooms on the first floor. The main visitor centre contains exhibitions and tour facilities and a retail area.

2.0 Summary of variation application

2.1 Variation sought

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

- (1) Amend premises description;
- (2) Change of wording in relation to seasonal hours;
- (3) Inclusion of the following activities in Q5: restaurant facilities, bar meals, theatre and outdoor drinking facilities;
- (4) Deletion of existing wording in 5 relating to activities outwith core hours and inclusion of new wording;
- (5) Deletion of existing wording in 5(f) relating to additional activities and inclusion of range of further activities;
- (6) Increase of on sale capacity to 818;
- (7) Increase of off sale capacity to 94.43 m²;

- (8) Layout plans –
 - (a) Reconfiguration of retail area/distillery visitor centre;
 - (b) Reconfiguration of tasting/tour waiting area;
 - (c) Inclusion of external area adjacent to tasting/tour area;
 - (d) Addition of new building with café and private client area with associated external areas;
- (9) Substitution of premises manager.

3.0 Background

- 3.1 On 8 March 2022 the Licensing Board received an application for a major variation of a premises licence from Diageo Scotland Ltd per Morton Fraser LLP.
- 3.2 The application was publicised during the period 18 March 2022 until 8 April 2022 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 The applicant must nevertheless be given the opportunity to be heard before the Board determines the application and has accordingly been invited to attend a meeting on Microsoft Teams. The applicant has been advised of the hearings procedure.

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) The property known as Talisker Distillery is a long-established distillery and visitor centre in the rural community of Carbost on the Isle of Skye.
- (ii) The premises have operated for many years with no adverse comment and have been undergoing extensive renovation and extension over the past two years, during which time they have operated on a temporary licence. This application is to increase the licensed area of the premises, the range of activities within the premises and increase the capacity for both on and off sales.
- (iii) The activities sought would appear in general to be reasonable and appropriate for the proposed operation of the premises, but the main point of contention is the application to increase the off sales capacity from 33.83 to 94.43 m².

- (iv) This is a substantial increase and more than doubles the off sales capacity from the 40m² threshold set by the Highland Licensing Board in relation to their policy on overprovision. In terms of the Board's policy, there is a rebuttable presumption against the grant of an application for a variation of a premises licence where the grant of the application would result in the premises having an off sales capacity in excess of 40 square metres.
- (v) Each application is still required to be determined on its own merits, and whilst I accept this application can be contrasted from applications by "larger multiple grocery stores", it is a significant diversion from the overprovision policy.
- (vi) The Children's and Young Persons policy is appropriate.
- (vii) The layout plan submitted complies with the required specifications.

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 it is recommended that the following additional local condition be attached:

- (m) After 2200 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor area.

8.3 Special conditions

No further 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 condition detailed at para 7.2 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/0778

Date: 12 April 2022

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