

## The Highland Licensing Board

Meeting – 1 August 2023

Agenda Item	8.1
Report No	HLB/082/23

### 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, 11 Lochside Place, Edinburgh, EH12 9HA.

#### 1.0 Description of premises

1.1 The premises is a visitor centre situated in the village of Carbost. It comprises a visitor centre with retail and exhibition facilities, a separate tour/tasting area, a café/meeting area, external areas and a staff shop.

#### 2.0 Summary of variation application

##### 2.1 Variation sought

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

- (1) Change wording in relation to “other activities” in 5(f) to include:-
  - (a) Use of internal and external areas for holding of markets;
  - (b) Reference to pop up bars and temporary structure in external areas.

#### 3.0 Background

- 3.1 On 15 June 2023 the Licensing Board received an application for a major variation of a premises licence from Diageo Scotland Ltd per Messrs Morton Fraser.
- 3.2 The application was publicised during the period 19 June 2023 until 10 July 2023 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, the following timeous representation has been received and is appended:

1. Representation from Environmental Health on 10 July 2023 (Appendix 1)

Reference to this representation is addressed in the LSO comments at 5.1

3.6 The applicant and the objector have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

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

#### **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 premises comprise a visitor centre with retail and exhibition facilities, a separate tour/testing area, a café/meeting area, external areas and a staff shop.
- (ii) The variation is change in wording to “other activities” in 5 (f) to include:
  - 1. Use of internal and external areas for holding of markets;
  - 2 . Reference to pop up bars and temporary structures in external areas.
- (iii) Application is within HLB policy.
- (iv) Application complies with the licensing objectives.
- (v) Application for a market operator’s licence is currently going through the system to utilise the site to its full potential. This approach is being taken by a number of distillery operators.
- (vi) No objections have been received in respect of this application.
- (vii) I have no objections to this application.
- (viii) Representation has been received from Environmental Health and following consultation between the applicant and Environmental Health, a special condition will be attached to address these concerns.

## **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

The existing special condition will continue to apply and it is recommended that the following additional special condition be attached:

The outside areas should be controlled and reasonable efforts must be made so as to minimise potential noise and/or light nuisance to neighbours and any amplified sound to be maintained at a reasonable level. Where there is to be any event in the evenings in external areas involving amplified music, the premises licence holder will consult with Environmental Health in relation to target sound levels.

### **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special condition detailed at para 7.3 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: 18 July 2023

Author: Carol Nicolson

Appendices: Appendix 1 – Representation from Environmental Health received on 10 July 2023

## **Appendix 1**

Representation received from Environmental Health on 10 July 2023

- The applicant wishes to extend the external areas of the premises licence and allow alcohol consumption in these areas, with bars and temporary structures. The distillery is in close proximity to residential homes and there are concerns in relation to noise disturbance / noise nuisance at these residential homes, depending on the frequency and type of entertainment.
- In relation to live or recorded music noise and crowd noise, Environmental Health would be looking for inaudibility at the nearest residential homes, depending on the frequency and type of entertainment.