

The Highland Licensing Board

Meeting – 28 November 2023

Agenda Item	8.2
Report No	HLB/131/23

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

Balmenach Distillery, Cromdale, Grantown on Spey, PH26 3PF

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Derek Sinclair, Distilleries General Manager, 10 Cromlet Park, Invergordon, IV18 0RN.

1.0 Description of premises

1.1 Balmenach Distillery is located 20 miles southeast of Inverness close to Dulnain Bridge. It is situated in its own grounds and is open to the public for 'tastings'.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Saturday: 1000 hours to 2200 hours
Sunday: Closed

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Yes Q2: add in on sales 1000-2400 hr daily, add in Sunday 1000-2200 hrs.
- (2) Add in to column 2&3 conference to permit business meetings, receptions and club meetings, recorded music, live performances, dance, theatre in conjunction with receptions and events.
- (3) Q5(f) other activities - add in business meetings, receptions including exhibitions of e.g. Scottish music and dance, comedians, dinners, lunches and tasting and food matchings corporate, ticketed and private to be catered for by external caterers holding food hygiene pass certificates.
- (4) Q6 add in children and young persons.

(5) add in on line and telephone sales and deliveries of alcohol (see delivery driver training and guidance note).

(6) Add in additional tasting rooms (see layout plans) and permit tastings in shop area.

(7) Change of premises description to read: 'Distillery complex situated in substantial grounds in Cromdale, Grantown on Spey incorporating distillery, offering distillery tour facilities, visitor centre and tasting rooms and tasting room/shop.'

Activities relating to running such a business are carried out within the larger site.'

4.0 Background

4.1 On 25 September 2023 the Licensing Board received an application for a major variation of a premises licence from Derek Sinclair.

4.2 The application was publicised during the period 9 October until 30 October 2023 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 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:

www.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) Balmenach Distillery, Cromdale has operated a visitor centre with an alcohol premises licence since 2016.

(ii) The operating history has been incident free and visits by the LSO have shown the operators to be compliant with the terms and conditions of their licence.

(iii) A major variation has been lodged via an agent; application has been made to do on sales on a basis of 1000 hrs to 2400 hrs daily. Sales between 1000 hrs and 1100 hrs will be on the basis of tutored tastings only, as allowed for by current HLB Policy.

(iv) Sunday off sales are requested to be permitted on a 1000 hrs to 2200 hrs basis, again, these hours comply with the Licensing (Scotland) Act 2005.

(v) More extensive use is to be made of the Visitor Centre and accordingly, the range of activities to be permitted within the operating plan is requested to be broadened to include, Business Meetings, Receptions, Club Meetings, recorded music, Live performances, Dance, Theatre.

(vi) On line, telephone sales and alcohol deliveries are requested to be added to the operating plan to compliment the off sales business carried on at the Distillery.

(vii) New Tasting Rooms have been created at the Visitor Centre to host the expanded range of functions which can be booked through the Distillery. Accordingly, the premises description has been amended.

(viii) The LSO is of the opinion, that none of the changes to the operating plan affect the licensing objectives.

Following the public consultation phase of this application no objections or representations have been received by the Board.

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 Local conditions

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

- (g) Alcohol may be sold prior to 1100 hours for consumption on the premises only during a formal or tutored tasting session and only to customers taking part in such a tasting session.

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/special conditions detailed at paras. 8.2 and 8.3 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/INBS/592
Date: 13 November 2023
Author: Marjory Bain