

## The Highland Licensing Board

Meeting – 26 November 2024

Agenda Item	7.3
Report No	HLB/108/24

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

The Cellar, 94A Old Edinburgh Road, Inverness, IV2 3HT

#### Report by the Clerk to the Licensing Board

##### Summary

This report relates to an application for a major variation of premises licence by The Grand Whisky Auction Limited, The Cellar, Invergordon, IV18 0LQ.

#### 1.0 Description of premises

1.1 The Cellar is located in an existing detached retail trading unit positioned on the outskirts of Inverness City Centre on Old Edinburgh Road. The building is used for the administration, storage, packaging and dispatching activities of a predominantly online business, where only the reception at the front is accessible to clients.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### Off sales:

Monday to Sunday: 10.00 hours to 22.00 hours

#### 3.0 Summary of variation application

##### 3.1 Variation sought

The applicant seeks to vary the premises licence as follows:

- Variation to the displaying capacity of shelves in the shop area from 7.54m<sup>2</sup> to 15.5m<sup>2</sup>.
- Change to include both consumption off the premises (predominantly) but also include consumption on premises (tasting sessions and sampling) daily from 10.00 hours to 22.00 hours.

## **4.0 Background**

- 4.1 On 01 September 2024 the Licensing Board received an application for a major variation of a premises licence from The Grand Whisky Auction Limited.
- 4.2 The application was publicised during the period 16 September until 07 October 2024 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](http://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) A provisional premises licence was granted for the premises in 2022 and confirmed in July 2024. The premises is run as a business which specialises in the sale of malt whisky by way of auction. The premises is also used as a storage facility, as well as providing a service for the packaging and despatch of whisky following on-line sales. There is a small reception area for the clients to call and collect purchases; there is also a small specialist whisky display at the reception area offering rare malts to buyers.

(ii) Application is made to include on sales along with the current off sales capability to the licence. This is purely for the purposes of providing tutored tasting sessions and sampling to pre-booked clients or small parties. There is no bar counter within the premises and alcohol will be supplied from current stock within the storage area for the tutored tasting/sampling purposes in the small reception area.

(iii) Application is made to increase the current display of 7.54 m<sup>2</sup> to 15.5m<sup>2</sup> following the installation of new display shelving around the reception area. This increase remains well within the current threshold set by Highland Licensing Board for the consideration of overprovision at 30m<sup>2</sup>.

(iv) The application in the view of the LSO is compliant with the 5 licensing objectives.

(v) During 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 2023-28
- (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

Should the Board grant the application as applied for, the Board may wish to consider attaching the following condition from the schedule of local conditions:

- Early Opening Condition: 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.

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/673  
Date: 12 November 2024  
Author: Kata Somogyi