

## The Highland Licensing Board

Meeting – 05 August 2025

Agenda Item	8.2
Report No	HLB/62/25

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

**Dalwhinnie Distillery Visitor Centre and Shop, Dalwhinnie, Inverness-shire, PH19 1AA**

### 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 Dalwhinnie Distillery is located to the west of the A9 Perth–Inverness road some 10 miles south of Newtonmore. The premises consists of a Visitor Centre and shop, being a single storey building with area of warehouse and additional room, two other buildings and external areas.

#### 2.0 Summary of variation application

##### 2.1 Variation sought

The applicant seeks to vary the premises licence as follows:

(1) Replacement of condition which reads "Any sale of alcohol for consumption on the premises prior to 1100 hours will only be done as part of a "supervised tasting" carried out and supervised by either the holder of a Scottish Personal Licence or a person who has completed two hours prescribed training as per the Licensing (Training of Staff) (Scotland) Regulations 2007" with " Alcohol for consumption on the premises prior to 1000 hrs on any day may only be sold to persons participating in a formal tasting or sampling session, or to such persons following on from their participation in a formal tasting or sampling session, and a notice to that effect will be displayed on the premises."

(2) Increase in off-sale capacity to 49.59m2.

(3) Inclusion of display shelving in Wallace room. Removal of Table 5 in retail area. Revised drawing for external area with amended locations and dimensions for containers and Tent and Legend clarifying position regarding children and young persons.

### **3.0 Background**

- 3.1 On 19 June 2025 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 23 June 2025 until 14 July 2025 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 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)

### **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) Application is sought for a major variation to add an alcohol display area to The Wallace Room, which is an area used solely for tutored whisky tastings. This display shelving will be used for display purposes only to showcase a small selection of whiskies that form part of the tutored whisky tastings taking place within the Wallace Room with no sale of alcohol from this area of the premises.
- ii) The installation of this display shelving will result in an increase in off sales capacity from the current 46.11m<sup>2</sup> to 49.59m<sup>2</sup>. In terms of the Board's 2023 overprovision policy statement, 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 30 square metres.
- iii) The aim of the Board's overprovision policy is to promote the licensing objective of protecting and improving public health.
- iv) Each application, however, is still required to be determined on its own merits. Whilst it is a diversion from the overprovision policy, it is accepted that the requested application for increase in capacity relates to a specialised product sold in a unique way, likely to appeal mainly to whisky enthusiasts as opposed to off sales purchases made in larger multiple grocery stores. The latter tend to offer the greatest availability, accessibility and affordability of alcohol in single locations which are deemed to remain the key factors affecting patterns of alcohol consumption.
- v) The Board accordingly reserves the right to grant such an application where it considers that the licensing objectives would not be undermined by the specific proposals set out in the application, or that

those objectives would not be undermined if the applicant's operating plan were to be modified or the grant of the licence made subject to appropriate conditions, and that no ground of refusal other than overprovision would apply.

- vi) However, it will be for the applicant to demonstrate to the Board, by providing robust and reliable evidence, that the grant of the application would not undermine the licensing objectives or that the benefits in granting the application outweigh the Board's overprovision policy.
- vii) Application is sought to replace the current wording of the special condition attached to the licence and replace with wording as detailed at Section 7.3. This wording has previously been approved by the Highland Licensing Board and is attached as a condition to several other distilleries across the board area.
- viii) Application is sought for minor amendments to the layout plans within the retail area and external area and suitable layout plans detailing said amendments have been submitted with this application.
- ix) 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.
- x) Following the public 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 2023-28
- (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 condition will continue to apply and no additional local conditions are considered necessary.

### **7.3 Special conditions**

Existing special condition will continue to apply and the Board may wish to consider the following special condition:

(1) Alcohol for consumption on the premises prior to 1000 hrs on any day may only be sold to persons participating in a formal tasting or sampling session, or to such persons following on from their participation in a formal tasting or sampling session, and a notice to that effect will be displayed on the premises."

### **Recommendation**

The Board is invited to determine the above application.

If the Board is minded to grant the application, to agree the proposed local/special conditions detailed at paras. 7.2 and 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/INBS/89  
Date: 16 July 2025  
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