

## The Highland Licensing Board

Meeting – 11 August 2015

Agenda Item	9.2
Report No	HLB/085/15

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

Dows Stores, Deshar Road, Boat of Garten PH24 3BN

Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of premises licence by the Partnership of Dows, per D C Dow.

#### 1.0 Description of Premises

1.1 The premises are a small rural community shop selling a range of household goods and foodstuffs. A small range of alcohol is also offered for sale.

#### 2.0 Current Operating Hours

2.1 The premises currently enjoys the following operating hours:

Off Sales:

Monday to Saturday 10.00 hours to 18.00 hours

Sunday 12.30 hours to 18.00 hours

#### 3.0 Summary of Variation Application

##### 3.1 Variation Sought

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

Operating Plan:

1. Increase core hours to commence from 10.00 hrs on Sundays.
2. Alter terminal hour Monday to Sunday to 22.00 hours.

Premise Licence:

3. Amend name to Dows Store.

## **4.0 Background**

- 4.1 On 1 July 2015 the Licensing Board received an application for a major variation of a Premises Licence from the Partnership of Dows, per D C Dow, Deshar Road, Boat of Garten PH24 3BN.
- 4.2 The application was publicised during the period 03 July until 24 July 2015 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 (Boat of Garten).
- 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:

[http://www.highland.gov.uk/downloads/download/428/liquor\\_licence\\_objections\\_appeals\\_notices\\_of\\_determination](http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination)

## **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. having regard to the number and capacity of licensed premises of the same or similar description as the subject premises (taking account of the proposed variation) in the locality in which the subject premises are situated, 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 that description in the locality.

5.2 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.

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:-

Dows Store, Boat of Garten, is a detached family grocery store with a small café area incorporated within the building.

The premises sell alcohol purely as an off sale commodity from a display within the shop part of the premises. The operating history of the premises is unblemished and the LSO has conducted compliance visits on a number of occasions which has shown that the requirements of the Licensing (Scotland) Act 2005 are being fully met.

The applicant seeks to vary the core trading hours of the premises to better serve customer demand, allowing opening from 10.00 hrs on Sundays, as well as varying the terminal hour to 22.00 hrs for the entire week. Such variation is in accordance with the permitted hours for off sales under the Licensing (Scotland) Act 2005.

In addition the application seeks to update the name of the premises to Dows Store which reflects the most recent transfer of the business to the Dow family.

The LSO is confident that should this application be granted there will be no adverse effect on the Licensing Objectives locally.

## **7.0 HLB Local Policies**

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (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 and none are recommended.

### **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/329

Date: 25 July 2015

Author: Wendy Grosvenor

Background Papers:

- The Licensing (Scotland) Act 2005/Application Form.