

## The Highland Licensing Board

Meeting – 1 August 2023

Agenda Item	6.2
Report No	HLB/078/23

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

Dalwhinnie Service Station, Dalwhinnie Garage, Dalwhinnie, PH19 1AF

### Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for the grant of a premises licence in respect of Dalwhinnie Service Station, Dalwhinnie Garage, Dalwhinnie, PH19 1AF

#### 1.0 Description of premises

1.1 The Dalwhinnie Service Station is situated in the village of Dalwhinnie and consists of a single story rural petrol station with forecourt and shop area.

#### 2.0 Operating hours

2.1 The applicant seeks the following **off-sale** hours:

##### Off sales:

Monday to Sunday: 1100 hours to 2200 hours

#### 3.0 Background

3.1 On 23 May 2023 the Licensing Board received an application for the grant of a premises licence from Dalwhinnie Service Station Ltd.

The application was accompanied by a Disabled Access Statement

3.2 The application was publicised during the period 19 June 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, 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:

[Highland Licensing Board - 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 are: -

1. that the premises are excluded premises;
  2. that the Board considers, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;
  3. that the grant of the application would be inconsistent with one or more of the licensing objectives;
  4. that having regard to;
    - (i) the nature of the activities 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, or
  5. 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 If the Board would refuse the application as made, but a modification is proposed by them and accepted by the applicant, the application can be granted as so modified.

## **5.0 Licensing Standards Officer**

5.1 The LSO has provided the following comments:-

(i) A full alcohol premises licence application has been received in respect of Dalwhinnie Service Station, Dalwhinnie. These premises have for several years been a petrol/derv station serving a scattered local community, as well as travellers entering/exiting the Highland area via the A9 trunk road. The LSO is satisfied that the criteria stated in Section 123 of the Licensing (Scotland) Act 2005 has been well and truly fulfilled.

(ii) The application has been supported by both the local community and Community Council as a necessity for local grocery provision as well as fuel, with alternate facilities some 12 miles away. Dalwhinnie, has no other retail outlet supplying groceries.

(iii) The application has been overviewed by the LSO who is of the opinion that it fully complies with the 5 licensing objectives. The premises have been visited and they are suitable for the sale of alcohol as described within the application. Off sales hours applied for comply with those permitted under the Licensing (Scotland) Act 2005.

(iv) A full set of Section 50 certificates has accompanied the application together with the required disability access statement. The alcohol display capacity is well within the current threshold of 40 square metres imposed by the Board, for the consideration of over provision.

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

## **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

No local conditions are considered necessary.

## 7.3 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/681  
Date: 11 July 2023  
Author: Marjory Bain