

CAMBRIDGE CITY COUNCIL

REPORT OF: The Assistant Licensing Officer

TO: Licensing Sub-Committee 20th October 2009

APPLICATION: Application to vary Premises Licence:
Domino's Pizza, 27 Hills Road, Cambridge, CB2 1NW

WARD: Petersfield

1 INTRODUCTION

1.1 To consider and determine this application to vary the premises licence for Domino's Pizza, taking into account the representation of the responsible authority detailed in paragraph 4, the interested parties detailed in paragraph 5 and the policy considerations detailed in paragraph 6 of the report.

1.2 DPGS Limited are seeking to vary the premises licence as follows:

Late Night Refreshment (indoors and outdoors)

Mon – Sun 23:00 to 05:00

Hours premises are open

Mon – Sun 07:00 to 05:00

1.3 A copy of the relevant application, plan and existing licence is attached at Appendix A.

1.4 The Sub-Committee's decision must be made with a view to promoting one or more of the four licensing objectives, namely:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

2 BACKGROUND

2.1 Domino's Pizza is an established business situated in Hills Road. The premises comprise a Domino's home delivery store, with the vast majority of pizzas home delivered. The rest are collected for consumption off the premises, as there are no sit down facilities. The premises are not situated within a cumulative impact area.

2.2 The existing premises licence was granted under officer's delegated powers in December 2005 for the provision of late night refreshment from 23:00 to 00:00

Sunday to Thursday and 23:00 to 01:00 Friday and Saturday. The opening hours of the premises are currently 11:00 to 00:00 Sunday to Thursday and 11:00 to 01:00 Friday and Saturday. The applicant is seeking to extend the hours due to high demand from the general public.

3. LICENSING OBJECTIVES ADDRESSED BY APPLICANT

- 3.1 The Operating Schedule submitted by the applicant in part P of the application addresses the four licensing objectives. Paragraphs 8.28-8.32 and Section 10 of the Guidance refer to the operating schedule and licence conditions. Proposals can be translated directly into conditions attached to the premises licence. They should be realistic and within the control of the applicant/management responsible for running the premises.

For the variation, the applicant has proposed a number of additional steps in the operating schedule. These could be translated into appropriate conditions and will be in addition to those already on the existing licence.

Public Safety

In the event of a greater number of people congregating in the premises than is conducive to public safety, customers will be asked to leave the store and encouraged to take advantage of the home delivery service.

Prevention of Public Nuisance

Music will not be played in the premises.

Persons who visit the store and regularly leave the premises in a noisy fashion shall be banned.

The proposed additional conditions have also been considered within the Police representation. Please see paragraph 4.1 below.

4. REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

- 4.1 A representation has been received from the Police and is attached at Appendix B. The representation relates to all four licensing objectives – the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The Police state in their representation a number of reasons which they believe are likely to impact on the four licensing objectives. The police are proposing the following conditions, in addition to those mentioned in paragraph 3.1 above.

The Prevention of Crime and Disorder

A digital CCTV system with appropriate recording equipment will be installed, operated and maintained throughout the premises internally to cover all public areas with sufficient numbers of cameras as agreed with Cambridge Police. Images shall be retained for 31 days and made available to the police or authorised officer on reasonable request. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy with GMT.

Glassware or bottles are not to be supplied to customers.

Whilst licensable activities are taking place the premises will operate the Cambac (Cambridge Business Against Crime) radio system which will be switched on and monitored by a responsible staff member whilst the premises are open to the public

Public Safety

An incident book is kept on the premises and staff are trained in the completion of this.

Incident reports containing the names and details of offenders will be passed to the City

Cambac manager.

Regular health & safety risk assessments are carried out.

Patrons will be asked to leave in the event of a greater number of people congregating within the premises than is conducive to public safety.

Patrons will be actively discouraged from congregating outside the front of the premises.

The Prevention of Public Nuisance

All doors and windows will be kept closed at night to prevent noise nuisance .

Music will not be played within the premises

Patrons will be asked to leave the premises quietly and with due consideration for neighbouring properties. Notices will be displayed in a prominent customer facing area to that effect.

Delivery drivers are to be instructed to enter and leave their vehicles quietly and considerately, and not to leave engines running, and to park considerately.

Patrons who frequent the premises and behave in a disorderly manner or regularly leave in a noisy fashion will be banned.

The business will primarily involve the home delivery of pizzas and other products sold at the store.

The store operates under terms of a Domino's Franchise Agreement and the business shall be conducted in accordance with that agreement.

Customers shall be encouraged to take advantage of the home delivery service, which will be the primary way in which customers will be served.

The Protection of Children from Harm

Any children that frequent the premises during the hours when late night refreshment is provided must be in the company of an adult.

- 4.2 No representations have been received from Cambridgeshire Fire & Rescue, Environmental Protection, Health and Safety, Planning, Child Protection and Trading Standards, the remaining Responsible Authorities.

5. REPRESENTATIONS FROM INTERESTED PARTIES

- 5.1 A total of forty nine representations have been received from 'interested parties' defined as: persons living in the vicinity; persons involved in a business in that vicinity and bodies representing persons living or involved in such a business. The ordinary meaning of vicinity is 'near'. The representations refer to the prevention of crime and disorder, public safety and the prevention of public nuisance. The representations are attached in their entirety at Appendix C. Not all matters raised within the representations may be relevant matters for consideration under the Licensing Act 2003.

- 5.3 Also attached at Appendix D are three representations, which were received by The Licensing Manager after the 28-day representation period.

6 POLICY CONSIDERATIONS

- 6.1 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy and any statutory guidance issued under Section 182 of the Licensing Act 2003.

- 6.2 **The Council's Statement of Licensing Policy:** the following

sections/paragraphs are applicable to this application:

- Objectives, section 2.4
- Fundamental principles 4.1 – 4.3
- Licensing Hours, sections 6.1 & 6.3
- Licence Conditions, sections 8.1 – 8.7

6.3 The Statutory Guidance: the following sections/paragraphs are applicable to this application:

Sections 2.32 – 2.40 of the guidance cover public nuisance. Section 2.32 considers it important that licensing authorities focus on impacts of the licensable activities at the premises on persons living and working in the vicinity that are disproportionate and unreasonable.

Sections 3.32 – 3.39 and Annex B (pages 118- 120) cover the provision of late night refreshment. Section 3.33 points out that the legislation impacts on premises where people may gather between 23:00 and 05:00 hours with the possibility of disorder and disturbance. Section 3.36 considers the key licensing objectives regarding late night refreshment to be the prevention of crime & disorder and public nuisance.

Section 9 covers the determination of applications, with sections 9.3 – 9.13 giving guidance to cover situations where representations have been made.

Section 10.15 – 10.18 covers duplication and other statutory provisions. The Guidance states that the Licensing Act 2003 does not affect the continued use of the powers of an environmental health officer in respect of statutory noise nuisance under the Environmental Protection Act 1990.

Sections 13.40 13.42 cover licensing hours.

Annex D (page 128) covers conditions relating to the prevention of public nuisance. The Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. The police can close premises that are causing nuisance resulting from noise emanating from the premises. The Secretary of States guidance states that these matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

6.4 Members should only impose conditions, which are proportionate and are necessary to promote the licensing objectives (10.11). Conditions which are imprecise or difficult to observe should be avoided (10.4).

7. CONCLUSIONS

7.1 The Licensing Authority has a duty under the Licensing Act 2003 by promoting the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1998. The Council must also fulfill its obligations under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in

Cambridge.

8. OPTIONS

- 8.1 Members should, having regard to the representations, take such steps as they consider are necessary for the promotion of the licensing objectives. The steps are to modify the conditions of the licence or to reject the whole or part of the application. Conditions are modified if they are altered, omitted or any new condition added. (Licensing Act 2003 section 35(4)).

9 RECOMMENDATION

- 9.1 That members' determine the application on its individual merits.

BACKGROUND PAPERS:

The following are the background papers that were used in the preparation of this report:

Guidance issued under section 182 of the Licensing Act 2003

The Council's Statement of Licensing Policy

To inspect these documents contact Debbie Stoker on ext. 7879.

The author and contact officer for queries on the report is Debbie Stoker on extension 7879.

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