

Notice of Hearing



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Date: 10 February 2015
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**A Licensing Acts Panel meeting will be held on
Wednesday, 25 February 2015 at 2.00 pm
In Meeting Room 1, Old Abbey House, Abingdon, OX14 3JE
to consider the following matter:**

the relevant representations received in respect of an application for a premises licence for

Domino's Pizza, 135 Ock Street, Abingdon.

under the Licensing Act 2003.

The details of all parties to the hearing are contained in the agenda pack.

A handwritten signature in black ink, appearing to read 'M Steed', is positioned above the title of the signatory.

Head of Legal and Democratic Services

Agenda

Open to the Public including the Press

Council's vision

The council's vision is to take care of your interests across the Vale with enterprise, energy and efficiency.

1. Election of a chairman

To elect a chairman for this hearing.

2. Declarations of interests

To receive any declarations of disclosable pecuniary interests in respect of items on the agenda for this meeting.

3. Procedure

(Pages 3 - 7)

To note the procedure for this meeting.

4. Application for a premises licence for Domino's Pizza, 135 Ock Street, Abingdon.

(Pages 8 - 20)

To consider the head of legal and democratic service's report.

Exempt information under section 100A(4) of the Local Government Act 1972

None

VALE OF WHITE HORSE DISTRICT COUNCIL

LICENSING ACT 2003

LICENSING ACTS PANEL – PROTOCOL AND PROCEDURE

1.0 Introduction

- 1.1 This protocol and procedure has been adopted by the council's Licensing Acts Committee in order to ensure that all meetings are carried out in accordance with the law and all parties receive a fair hearing.
- 1.2 For the purposes of this protocol and procedure the following terms have the meanings assigned to them:-
- (a) "the Act" means the Licensing Act 2003.
 - (b) "the parties" means all persons to whom a notice of hearing has been given.
 - (c) "the regulations" means the Licensing Act 2003 (Hearings) Regulations 2005 as amended.
 - (d) "exempt information" means those categories of information set out in Schedule 12A to the Local Government Act 1972 as amended.
- 1.3 This document has been prepared having regard to the statutory provisions contained in the Act, the Regulations, the Guidance issued by the Secretary of State for Culture, Media and Sport (latest version issued June 2013) and the LACORS Guidance for Local Authorities dated March 2005.

2.0 The licensing objectives and statement of policy

- 2.1 The Act sets out four licensing objectives which are fundamental to the decision making of the panel. The licensing objectives are follows:-
- (a) The prevention of crime and disorder.
 - (b) Public safety.
 - (c) The prevention of public nuisance.
 - (d) The protection of children from harm.
- 2.2 Any application or licensing matter which comes before a panel will be treated on its own merits having regard to the following issues:-
- (a) The promotion of the four licensing objectives.
 - (b) The council's statement of licensing policy.
 - (c) The most recent guidance issued by the Secretary of State for Culture, Media and Sport.
 - (d) The merits of the application and the representations received from the parties.

3.0 **Before the hearing**

- 3.1 The council has a duty to hold a hearing within a timescale specified in the regulations. In most cases the timescale is 20 working days calculated from the end of the relevant representation period. However, there are other cases where the timescale is shorter ranging from between 5 and 10 working days depending on the nature of the case in question. The council will ensure adequate notice is given to the parties involved.
- 3.2 The council will send all parties a notice of hearing giving details of the date, time and venue for the panel meeting. This notice will normally be sent giving at least 10 working days' notice of the hearing, although in some cases a shorter notice period is required.
- 3.3 The council will use its reasonable endeavours to email the notice to any of the parties who consent to that approach but shall also send the notice and the accompanying documents by first class post in every case.
- 3.4 The notice of hearing will normally be accompanied by an agenda, together with a report from the licensing officer which shall set out the details of the case.
- 3.5 The sub-committee will take into account the party response forms when considering the procedure to be adopted at the hearing.

4.0 **The panel**

- 4.1 The membership of the panel has been determined as set out in the decision of the Licensing Acts Committee.
- 4.2 Members will only be permitted to take part in determining a case if they have been present throughout the whole hearing and have no conflict of interest in the matter.
- 4.3 The quorum is 3 members who shall determine any issue by a simple majority of votes. If the votes are tied the chairman of the panel will have a second or casting vote.

5.0 **Hearing - general principles**

- 5.1 The parties have the right to attend the hearing and to be assisted or represented by any person (whether legally qualified or not) such as a relative, friend, their solicitor or counsel.
- 5.2 The parties will be entitled to address the members of the panel at the hearing and question any other party if given permission to do so by the panel. They will also be able to provide further information in support of their case on any points upon which the council has sought further clarification or explanation.
- 5.3 Each party will have a maximum of 20 minutes to make their representations and present their evidence unless there are some exceptional reasons to justify a longer period.
- 5.4 There is a presumption that any hearing will take place in public so that the sub-committee's decisions can be made in an accountable and transparent way, but on occasions it may be necessary to exclude the public and members of the press if the

sub-committee considers that it is in the public interest to do so. Members will consider that matter having regard to any exempt information which may need to be disclosed by any of the parties during the hearing.

- 5.5 If any party does not attend or are not represented at the hearing then the panel may take the following action:
- (a) When a party informs the council that they do not intend to attend or be represented at the hearing the panel will proceed in their absence unless it is in the public interest to adjourn the hearing to a new date. For example, if the council is informed a person cannot attend due to unforeseen personal circumstances such as illness, then the panel may adjourn the hearing to a new date.
 - (b) If any party fails to inform the council whether they intend to attend or be represented at a hearing then it is likely the panel will proceed in their absence unless there are exceptional circumstances making it necessary in the public interest to adjourn the hearing to a new date.
 - (c) Where the hearing proceeds in the absence of any party the panel will consider their representations or documentation contained in the list of documents.
- 5.6 If for any reason the hearing is adjourned to a new date the council will notify all parties of the new date, time and place of the adjourned hearing.
- 5.7 Late representations and evidence will only be considered by the panel with the agreement of all the parties present at the hearing.
- 5.8 The panel has the right to exclude any parties disrupting the hearing but will allow any excluded party to submit any information in writing which they would have given to the panel had they not been required to leave.
- 5.9 The panel will be assisted and advised by one of the council's solicitors or legal advisers and a democratic services officer will also be present to assist the members in providing a record of proceedings.
- 5.10 The licensing officer from the council will also be at the hearing to present a report and to offer advice and expertise based upon their professional knowledge of the application but without making any recommendations.

6.0 **Hearing procedure**

- 6.1 Election of chair - the panel will elect a chairman for the hearing (if not previously appointed) in the presence of the parties.
- 6.2 Welcome and introductions - the chairman will open the meeting, introducing the members of the panel and officers to the parties and then invite the parties or their respective representatives to introduce themselves.
- 6.3 Outlining the procedure – the chairman will then outline the nature of the application, the decisions to be taken and the procedure to be followed. If there are any preliminary issues made in any of the party response forms, those issues will be addressed and determined at this stage.
- 6.4 Licensing officer's report – the hearing will begin with a presentation by the council's licensing officer who will outline the application, any relevant representations received and deal with all policy and statutory guidance matters by reference to their report. members of the panel may then ask any relevant questions of the licensing officer.
- 6.5 The parties' cases – the chairman will invite the respective parties to present their cases in the following order:

- (a) the applicant
- (b) each responsible authority
- (c) each interested party
- (d) the licence holder if not the applicant

and on each occasion the cases will be dealt with in the following way:

- (a) the relevant party shall address the panel and present any witnesses within the time limit allowed by the panel
 - (b) members can then ask relevant questions
 - (c) the licensing officer may also ask relevant questions through the chairman of the panel
 - (d) although there is no intention to allow parties to cross-examine others, they may ask relevant questions through the chairman.
- 6.6 Final submissions – each party will be given the opportunity by the chairman to summarise their respective cases if they wish for a maximum period of 5 minutes each. Final submission shall be made in the following order:
- (a) interested parties
 - (b) each responsible authority

- (c) the applicant
- (d) the licence holder if not the applicant

6.7 Chairman's final comments – the chair will invite the parties to state they have had a fair opportunity to put their respective cases. The panel will deal with any issues arising prior to retiring to make their decision.

7.0 **After the hearing**

7.1 At the end of the hearing, the panel will retire or ask everyone apart from its legal adviser and democratic services officer to leave the room while the panel considers its decision. The panel may call upon its solicitor or legal adviser, and the democratic services officer, if it needs legal or procedural advice.

7.2 If the panel wishes to clarify any point which arose during the hearing, it will recall all parties even if only one is asked for further explanation.

7.3 When the panel has made its decision, members will return to the room or invite the parties back into the room and the chairman will report the decision of the panel to those present.

7.4 The chairman will also inform them that a written decision notice explaining the reasons behind their decision will be sent to all parties. The decision notices shall be in a form or substantially in the form as set out at the end of this document.

8.0 **Record of proceedings**

8.1 The democratic services officer shall prepare a record of the panel's proceedings which shall be signed by the chairman of the panel.

8.2 The record of the proceedings shall be retained by the council for a period of at least 6 years from the date of determination or the disposal of any appeal.

Updated May 2014

Licensing Acts Panel



Report of Head of Legal & Democratic Services

Author: Richard Brown, Licensing Officer

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E-mail: richard.brown@southandvale.gov.uk

To: Licensing Acts Panel

DATE: 25 February 2015



Application for a premises licence for Domino's Pizza, 135 Ock Street, Abingdon.

Recommendation

That the panel consider the application for a premises licence and the relevant representations and decide whether to a) grant the licence as applied for, b) grant the licence after modifying any conditions to such extent as the authority considers necessary for the promotion of the licensing objectives, c) exclude from the scope of the licence any of the licensable activities to which the application relates, d) refuse to specify a person in the licence as the premises supervisor or e) reject the application.

Purpose of Report

- 1 To present the facts and relevant representations received in respect of an application for a premises licence for Domino's Pizza, 135 Ock Street, Abingdon, to the Licensing Acts Panel in order that it can determine the application under Section 18 of the Licensing Act 2003.

Strategic Objectives

- 2 The relevant strategic objective is that of 'building the local economy'. The relevant corporate priority is that of 'maintain low levels of crime and anti-social behaviour'.

Background

- 3.1 The Licensing Act 2003 ('the Act') established a single integrated scheme for licensing premises which are used for the supply of alcohol, regulated entertainment, late night refreshment or permission to carry on some or all of these activities. In the Act these activities are referred to collectively as the 'licensable activities'.

3.2 Any assessment of licensable activities must consider and promote the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

3.3 Licences will normally be granted by the licensing officer under delegated powers but in the event of relevant representations being received regarding the grant of a premises licence the application is then referred to the Licensing Acts Panel to be considered.

3.4 An application has been received for a new premises licence (**Appendix 1**). The application is for late night refreshment, as follows:

Licensing Activity	Proposed Days and Times
late night refreshment	2300-2400, 7 days a week
Hours premises are open to the public	1000-2400, 7 days a week

3.5 No representation has been received from Thames Valley Police

3.6 No representation has also been received from Environmental Protection

3.7 A representation has been made by Abingdon Town Council which is attached as **Appendix 2**

Options

4.1 In determining the application the authority must give weight to:

- representations received from Responsible Authorities
- relevant representations received from other persons
- the Secretary of State's guidance issued under Section 182 of the Licensing Act 2003
- the council's statement of licensing policy and
- the steps necessary to promote the licensing objectives

4.2 In view of the above, the panel is requested to consider the application for a premises licence and decide whether to:

- (a) grant the licence as applied for,

- (b) grant the licence after modifying any conditions to such extent as the authority considers necessary for the promotion of the licensing objectives
- (c) exclude from the scope of the licence any of the licensable activities to which the application relates,
- (d) refuse to specify a person in the licence as the premises supervisor,
- (e) reject the application.

Financial Implications

- 5 Should the applicant or any other person wish to appeal against a decision of the council, they may do so to the Magistrates' Court. The council would incur costs should this occur, although the court may decide to award costs if the council's decision was upheld.

Legal Implications

- 6.1 The Human Rights Act 1998 requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those rights. When determining whether to grant the application the panel will be aware of human rights considerations, specifically Part 1, Article 6, the right to a fair trial, Part 2 and Article 8 the right to respect for private and family life for those making representations.
- 6.2 The hearing of all applications is subject to the principles of natural justice.
- 6.3 Section 17 of the Crime and Disorder Act 1998 states, 'without prejudice to any other obligation imposed on it, it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area'.
- 6.4 Under Schedule 5, Part 1 of the Licensing Act 2003, any person aggrieved by the decision in respect of the application may appeal to a Magistrates' Court within 21 days of the date of the decision.

Conclusion

- 7 This report provides information submitted by the applicant and one other organisations. The panel should determine this application with a view to promoting the four licensing objectives. It must, having had regard to all the relevant representations and the evidence it hears, decide whether; a) grant the licence as applied for, b) grant the licence after modifying any conditions to such extent as the authority considers necessary for the promotion of the licensing objectives, c) exclude from the scope of the licence any of the licensable activities to which the application relates, d) refuse to specify a person in the licence as the premises supervisor or e) reject the application

Background Papers

None.

Appendix 1

RECEIVED

05 JAN 2015

Application for a premises licence to be granted
under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

We Sedona UK Limited

(Name of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description Dominos Pizzeria 135 Oak Street Abingdon Oxon			
Post town	Abingdon	Postcode	OX14 5DL

Telephone number at premises (if any)	01235 523383
Non-domestic rateable value of premises	£16,250

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick as appropriate

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a statutory function or
 a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname Poulton			First names Tom		
I am 18 years old or over			<input checked="" type="checkbox"/> Please tick yes		
Current postal address if different from premises address		The MSG Group Academy House London Road Camberley			
Post town	Camberley		Postcode	GU15 3HL	
Daytime contact telephone number					
E-mail address (optional)	Tom.poulton@thmsggroup.com				

I

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input checked="" type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon	10:00	24:00				
Tue	10:00	24:00				
Wed	10:00	24:00	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)			
Thu	10:00	24:00				
Fri	10:00	24:00				
			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5) One additional hour is required, on the morning that British Summer Time commences.			
Sat	10:00	24:00				
Sun	10:00	24:00				

K.

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

L.

<p>Hours premises are open to the public Standard days and timings (please read guidance note 6)</p>	<p><u>State any seasonal variations</u> (please read guidance note 4)</p>																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Day</th> <th style="width: 20%;">Start</th> <th style="width: 20%;">Finish</th> </tr> </thead> <tbody> <tr> <td>Mon</td> <td>10:00</td> <td>24:00</td> </tr> <tr> <td>Tue</td> <td>10:00</td> <td>24:00</td> </tr> <tr> <td>Wed</td> <td>10:00</td> <td>24:00</td> </tr> <tr> <td>Thur</td> <td>10:00</td> <td>24:00</td> </tr> <tr> <td>Fri</td> <td>10:00</td> <td>24:00</td> </tr> <tr> <td>Sat</td> <td>10:00</td> <td>24:00</td> </tr> <tr> <td>Sun</td> <td>10:00</td> <td>24:00</td> </tr> </tbody> </table>	Day	Start	Finish	Mon	10:00	24:00	Tue	10:00	24:00	Wed	10:00	24:00	Thur	10:00	24:00	Fri	10:00	24:00	Sat	10:00	24:00	Sun	10:00	24:00	<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5)</p>
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Fri	10:00	24:00																							
Sat	10:00	24:00																							
Sun	10:00	24:00																							

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

Please see the attached document explaining how we will promote the four licensing objectives.

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

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Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. X
- I have enclosed the plan of the premises. X
- I have sent copies of this application and the plan to responsible authorities and others where applicable. X
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application. X
- I understand that if I do not comply with the above requirements my application will be rejected. X

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 11). If signing on behalf of the applicant, please state in what capacity.

Signature	Tom Poulton
Date	5.01.15
Capacity	Head of Property - Sedora

For joint applications, signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

LICENSING OBJECTIVES

DOMINOS PIZZA

135 Oak Street

Abingdon

General – all four licensing objectives

The store is a franchise of the worldwide Dominos home delivery pizza chain. Dominos has been in business for more than 40 years and during that time has developed a system of business which primarily involves a home delivery services. Whilst it is possible to collect our products from the store the vast majority of our business is delivering pizzas and other products we sell, to peoples homes. We are governed by the rigorous standards set out in the Dominos Franchise Agreement and these relate to all aspects of operating the business from the preparation of ingredients right through to the manner in which the product is delivered to our customers. We are mindful of our obligations to our staff, our customers. We are mindful of our obligations to our staff, our customers and others e.g. local residents who may be affected by the operation of our business. Our store is adequately staffed so as to allow the proper management of the premises and supervision of those who visit them. The Dominos system does not allow the sale of alcohol. Where customers visit the store, our pizzas are supplied to them in closed cardboard boxes and the nature and size of the product is conducive to being taken home for consumption, rather than being eaten whilst walking along.

Prevention of crime and disorder

We will actively co-operate with the local police to ensure that we are made aware of particular problems which affect the area and which may potentially affect our store. We will not countenance the use or supply of illegal drugs and our staff will inform the police immediately any such suspected activity on or in the vicinity of the store. Our employment policies are designed to ensure we recruit professional and reputable staff.

We do not use or supply glassware.

Public safety

The premises comply with all requisite health and safety legislation. We carry out regular health and safety risk assessments and are required to do so under the terms of our Franchise Agreement. In the most unlikely event that a greater number of people congregate in the premises than is conducive to public safety we will not hesitate to ask people to leave the store and we will always encourage them to take advantage of our home delivery service, which is the primary way in which we serve our customers.

Prevention of public nuisance

Our doors and windows will be kept closed at night to prevent transmission of noise. Our stores have very few customers who visit to buy our product to take away but those who do visit will be asked to leave the premises quietly and with due consideration for our neighbours. Music will not be played in the premises.

Our delivery drivers are instructed to enter and leave their vehicles quietly and considerately, not to leave engines running, to park considerately and at all times to have in mind our neighbour particularly residential occupiers.

We would have no hesitation in banning people who visit the store and regularly leave the premises in a noise fashion.

Our equipment is properly sound insulated and operated strictly in accordance with manufacturers requirements, guide lines and tolerances.

All our air extraction system complies with Building Regulations requirements and is designed to ensure that there is no escape of cooking smells to neighbouring premises.

We neither use or supply glassware.

The provision of any late night refreshment for delivery will only be made to a persons place of residence business or their holiday accommodation.

The protection of children from harm

Our store is not licensed for the sale of alcohol.

Because of the nature of the licence for which we are applying and the nature of our business generally, it is most unlikely that a child unaccompanied by an adult would visit our store during the hours for which we are licensed.

Adult Entertainment

1. In accordance with information provided on the application for this premises licence, there must be no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Appendix 2

"Application for premises licence under Licensing Act 2003

Members considered the application in relation to Domino's Pizza, 135 Ock street, Abingdon. The Committee objected to the application on the grounds that the proposed extended opening hours would potentially constitute a public nuisance due to noise from the establishment which is close to residential properties. It was reported that this was already a problem and would increase if the extended opening hours were approved. Members also recollected that the current opening hours had been a planning condition and therefore queried whether the application for extended hours would be permitted under the terms of the property's planning permission."