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2 August 2006

To: Chairman – Councillor RE Barrett  
Vice-Chairman – Councillor R Hall  
Members of the Licensing Committee – Councillors Mrs PM Bear, EW Bullman,  
Mrs SM Ellington, Mrs A Elsby, Mrs SA Hatton, Mrs HF Kember, RB Martlew,  
RM Matthews, DC McCraith, Mrs CAED Murfitt, A Riley, Mrs HM Smith and  
Mrs DSK Spink MBE

Dear Councillor

You are invited to attend a joint meeting of the **ENVIRONMENTAL HEALTH PORTFOLIO HOLDER** and **LICENSING COMMITTEE**, which will be held in the **SWANSLEY ROOM, GROUND FLOOR** at South Cambridgeshire Hall on **THURSDAY, 10 AUGUST 2006 at 10.00 a.m.**

Yours faithfully  
**GJ HARLOCK**  
Chief Executive

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## AGENDA

	<b>PAGES</b>
<b>1. APOLOGIES FOR ABSENCE</b> Apologies for absence have been received from Councillors Mrs A Elsby and Mrs CAED Murfitt.	
<b>2. MINUTES OF LAST MEETING</b> To confirm that the minutes of the meeting held on 26 June 2006 are a correct record as presented to Council on 27 July 2006.	<b>1 - 4</b>
<b>3. DECLARATIONS OF INTEREST</b>	
<b>4. BALSAM - DESIGNATION OF CONSENT STREETS</b>	<b>5 - 6</b>
<b>5. SEX ESTABLISHMENT ADOPTION</b>	<b>7 - 16</b>

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

At a meeting of the Licensing Committee held on  
Monday, 26 June 2006

PRESENT:	RE Barrett	Mrs PM Bear
	EW Bullman	Mrs SM Ellington
	Mrs A Elsby	R Hall
	Mrs SA Hatton	Mrs HF Kember
	RB Martlew	RM Matthews
	DC McCraith	Mrs CAED Murfitt
	A Riley	Mrs DSK Spink MBE

Also in attendance was Councillor RMA Manning, Environmental Health Portfolio Holder.

**1. ELECTION OF CHAIRMAN**

On the proposal of Councillor Mrs CAED Murfitt, seconded by Councillor Mrs HF Kember, and there being no other nominations, it was unanimously

**AGREED** that Councillor RE Barrett be elected Chairman of the Committee for the coming year.

**2. APPOINTMENT OF VICE-CHAIRMAN**

On the proposal of Councillor Mrs A Elsby, seconded by Councillor Mrs HF Kember, and there being no other nominations, it was unanimously

**AGREED** that Councillor R Hall be elected Vice-Chairman of the Committee for the coming year.

**3. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor Mrs HM Smith.

**4. DECLARATIONS OF INTEREST**

None.

**5. MINUTES OF LAST MEETING**

The Minutes of the meeting held on 23 February 2006 were agreed as a correct record.

Councillor Mrs CAED Murfitt referred to advice given at the meeting held on the 23 February regarding resources in respect of hearings relating to the 2003 Licensing Act. It was confirmed that resources would be allocated from the Revenue Support Grant; notification of the actual amount to be allocated was awaited.

**6. GAMBLING ACT POLICY - DRAFT**

Members considered the draft Gambling Act 2005 policy and the following queries were raised:

- The definition of the different gambling machines
- Would village halls require a licence to hold bingo sessions
- Would community rooms in Sheltered Housing accommodation be affected if holding bingo sessions
- Negative elements in the policy, eg does not indicate that the Council will help or support an applicant
- Nothing in the policy to say the Council will help applicants
- Would each operator of point-to-point races require a licence
- Re Travelling Fairs, do category D machines only apply in this instance
- Why is there no regard to the licensing objectives when deciding on an application
- Guests at gaming clubs are not presently allowed to play the machines, will this change
- Is there an appeal process if a licence is refused

The responses given were as follows:

- The prize money available is banded with prizes ranging from £10 to an unlimited amount
- Not unless the prize money exceeded £2,000
- No and raffles are subject to different legislation
- The policy was based on a draft issued by LACORS
- Applicants have to first apply to apply to the Gambling Commission to say how they will promote certain areas before applying to the Council; the Council will assume that criteria has been met
- An occasional use per event which covers 96 hours would be required
- The remainder of categories are for temporary use. That paragraph may alter when the regulations come in. An annex will be attached to the policy when it is known what the regulations are
- Is included in the Act
- Not yet known. **MB to ascertain**
- Yes, to the Magistrates Court

Other points raised were noted as follows:

- The Licensing Officer was awaiting a comprehensive list of Faith Groups for consultation purposes
- Members felt there should be representation by the Police at hearings; their attendance would be requested
- Concern was expressed that the Children's Services would be unable to cope with consultation requests. Once a designated person from Children's Services had been appointed, he/she would be invited to attend the Council's training session
- Major bookmakers were preparing their own in-house rules regarding the Act; there was concern that there may be variations across the country
- Account should be taken at hearings concerning how near the gambling premises were to schools
- Endeavours would be made by the officers to reach an agreement with applicants to try to avoid a hearing

In answer to a query whether there would be a large number of applications received as a result of the Act, Members were informed that the main area for applications would be for temporary use notices, eg race nights at village halls. An estimated 50 applications might be received by this authority, compared with the 460 applications received under the 2003 Act.

Having considered the draft policy, the following amendments were made:

- Delete *will especially* at 15.1 on page 16
- Substitute the word *gambling* for *gaming* at 3.4, 4<sup>th</sup> bullet point on page 21
- Where *South Cambridgeshire District Council* is stated throughout the Policy, substitute for *This Licensing Authority*

Councillor Mrs CAED Murfitt had proof-read the draft policy prior to the meeting and once all typos had been corrected and the above amendments incorporated, it was **AGREED** that the policy be sent to all members of the Licensing Committee.

Subject to the above amendments, Licensing Committee

**RECOMMEND** to the Environmental Health Portfolio Holder that the draft Gambling Act Licensing Policy document be approved for consultation purposes.

#### 7. **SUB-COMMITTEE STRUCTURE FOR DETERMINING LICENSING HEARINGS UNDER THE LICENSING ACT 2003**

The Licensing Committee **AGREED** to appoint the following Members to Chair hearings under the Licensing Act 2003:

Councillors Mrs A Elsby  
R Hall  
Mrs SA Hatton  
Mrs HF Kember  
Mrs CAED Murfitt  
A Riley

Four substitutes were also appointed, these were:

Councillors EW Bullman  
RB Martlew  
RM Matthews  
Mrs DSK Spink

It was noted that in-house training would be arranged for the appointed Chairmen.

#### 8. **ADVICE ON MEMBER TRAINING**

##### **Licensing Act 2003**

Training in respect of hearings under the Licensing Act 2003 was required for those members new to the Licensing Committee. Councillors Mrs PM Bear, RB Martlew and Mrs DSK Spink were able to attend a training course due to be held on 28 July in Bury St Edmunds; the Licensing Committee **AGREED** that those Councillors should attend.

##### **Gambling Act 2005**

It was noted that the Licensing Officer would arrange training for all members of the Licensing Committee during the latter part of the year.

**9. DECISION BY THE ENVIRONMENTAL HEALTH PORTFOLIO HOLDER**

Following a recommendation from the Licensing Committee, the Environmental Health Portfolio Holder

**APPROVED** the draft Gambling Act Licensing Policy for consultation purposes.

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**The Meeting ended at 11.20 a.m.**

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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<b>REPORT TO:</b>	Licensing Committee	10 August 2006
<b>AUTHOR/S:</b>	Executive Director/Assistant Licensing Officer	

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**STREET TRADING CONSENT  
REQUEST FOR RESOLUTION - BALSHAM****Purpose**

1. To seek approval for the designation of all the streets in the Parish of Balsham to be Consent Streets under the Local Government (Miscellaneous Provisions) Act 1982.

**Effect on Corporate Objectives**

2. Quality of Village life – to afford a degree of control on trading within the Village.

**Background**

3. Balsham Parish Council requested that all streets in the Parish be designated as Consent Streets so that trading could be controlled. The Licensing Committee held on the 7 November 2005 agreed to this request.
4. A Notice of Intention to designate all streets in Balsham was published in the local press on 18 January 2006, with a deadline of 14 February 2006. No objections were received.

**Considerations**

5. If the Village of Caldecote were granted Consent Street status, consultations would be made by the Council on any application made to trade with in the village. The advantage to having Consent Street status would be that the Parish Council has an input into the consultation process and final decision. Also the trader would hold a licence and then be bound by conditions set by the Licensing Officer. If a village does not have Consent Street status, any trader could lawfully trade without requiring permission or being licensed.
6. The introduction of the Licensing Act 2003 on 24th November 2005 has an effect on mobile food traders that wish to serve hot food after 11.00pm at night, as they are classed as late night refreshment premises and now require licensing under the above Act.

**Financial Implications**

7. Fees would be required by Street Trading applications that will cover the cost of administering this service.

**Legal Implications**

8. Any refusal of a licence could be subject to an Appeal.

**Staffing Implications**

9. There are none.

**Conclusions/Summary**

10. Once agreed by Committee, any person wishing to trade on any of the streets in the Parish of Balsham, would be required to make an application for Street Trading Consent.

**Recommendations**

11. It is recommended that the Committee resolve to designate all the streets in Balsham as Consent Streets under the terms of the Local Government (Miscellaneous Provisions) Act 1982 and proceed to advertise the Resolution.

**Background Papers:** None

**Contact Officer:** Juli Stallabrass – Assistant Licensing Officer  
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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

**REPORT TO:** Licensing Committee & Environmental Health Portfolio Holder 10 August 2006  
**AUTHOR/S:** Executive Director/Chief Environmental Health Officer

**ADOPTION OF SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – SEX ESTABLISHMENTS**

**Purpose**

- To seek approval for the adoption of the Local Government (Miscellaneous Provisions) Act 1982, Part 2, Schedule 3; the policy relating to setting of fees, and agreement to a set of standard conditions in relation to the licensing of Sex establishments within the district of South Cambridgeshire.

**Effect on Corporate Objectives**

2.

Sustainability	The main objectives are to have sustainability at their heart, see comments on village life and quality, accessible services
Quality, Accessible services	Premises may be permitted to hold a licence subject to a very strict criteria in how they operate,
Village Life	The objectives of the adoption of this Act are all aimed at ensuring any Sex Establishment is conducted in a proper manner and promotes the protection of children and other vulnerable adults from being harmed or exploited by such activities.
Partnerships	South Cambridgeshire District Council promotes the closer working in partnership with organisations including Police and Fire Authorities.

**Background**

- Over recent weeks and months the Environmental Health department has received a number of informal enquiries regarding the setting up of Sex Establishments within the area. The Licensing of Sex Establishments is dealt with by Part 2, Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (1982 Act). The legislation is adoptive and if formally adopted by an authority the operation of a Sex Establishment within the authorities area will be illegal without the benefit of a licence or waiver in that behalf in respect of the premises.
- Activities adopted by this Authority under the 1982 Act include the registration of ear piercing, tattooing, electrolosis and issuing of street trading licences. Unfortunately, Officers can find no evidence that the Council has previously adopted the relevant schedule to cover the licensing of Sex Establishments.

**Considerations**

- The definition given in the 1982 Act to Sex Establishments includes a sex cinema or sex shop as: -

## Sex Shop:

*"Any premises, vehicle, vessel or store used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging - sexual activity or acts of force or restraint which are associated with sexual activity".*

## Sex Cinema:

*"Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures which are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage sexual activity or are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions."*

6. A licence would be granted for a period of one year or such shorter periods as considered necessary. Licences can be granted subject to terms, conditions or restrictions. A fee is payable for an application for the grant of an application and thereafter a renewal fee is also payable.
7. Anybody who operates a sex establishment without a licence or fails to comply with licence conditions or admits persons under the age of 18 years commits an offence. Penalties upon conviction can range from £1,000 to £20,000.
8. If the Council adopts Schedule 3 of the 1982 Act then it will be empowered to set conditions upon the licence as it sees appropriate. Attached at **Appendix A** are a proposed set of standard conditions that may be applied to any application made within the South Cambridgeshire District for the operation of a Sex Establishment.
9. These standard set of conditions are by no means exhaustive but illustrate the powers available to the Council when applying conditions to any licence. On consideration of an application it is open to the Licensing Committee to vary, add or apply the conditions as detailed in Appendix A, subject to the merits of the application presented.
10. When considering the suitability of an application for a sex establishment licence the Council may only use the following criteria:
  - (a) The suitability of the Applicant
  - (b) Whether the person applying is a "front" person for someone else
  - (c) The location and situation of the premises in relation to other premises in the area
  - (d) Whether the number of sex establishments in that locality is equal to, or exceeds the number which the Council considers appropriate for the area.
11. The Council can stay silent on the number of establishments it considers relevant for its area or specify the number it considers appropriate. Any restriction on numbers is however subject to the normal appeal routes.
12. Should the Council wish to adopt Schedule 3 of the 1982 Act, legal formalities must be observed. An advertisement must be placed in a local newspaper advising that this Council has passed a resolution to adopt Part 2 (Schedule 3) Control of Sex Establishments in two consecutive weeks, twenty eight days before the adoption date.

**Financial Implications**

13. The Council has the power, if the 1982 Act is adopted, to set reasonable fees for the grant, renewal or transfer of a licence. Neighbouring authorities charge between £130 and £4,500. It is suggested that the Council's policy in the setting of fees is to be consistent with levels set in neighbouring authorities and to ensure all costs are covered including advertising, application processing, appeal costs etc.

**Legal Implications**

14. As stated in the body of the report. Any applications for a licence would have a right of appeal to the Magistrates Courts if turned down or conditions were attached that the applicant considered unreasonable.

**Staffing Implications**

15. There are no staffing implications related to this report

**Consultations**

16. There are no consultation requirements in adopting the Act, however consideration has been given to the conditions and fees applied by other authorities.
17. Legal services have been asked for a view of the suggested standard conditions, which will be reported verbally to Committee and Portfolio Holder.

**Recommendations**

18. It is recommended that the Committee recommends to the Environmental Health Portfolio Holder, Cabinet and Council:
- (a) The adoption of Part 2, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of the licensing of Sex Establishments;
  - (b) To approve the standard conditions of licensing laid out in Appendix A, and
  - (c) To agree the policy for the setting of fees as per paragraph 13 and the fee for the application, renewal or transfer of a licence is set at £3500.

**Background Papers:** Local Government (Miscellaneous Provisions) Act 1982

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

**REGULATIONS MADE PURSUANT TO PARAGRAPH 13 OF SCHEDULE 3 OF  
THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982  
PRESCRIBING STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX  
ESTABLISHMENTS**

In this licence the following words and/or expressions shall have the meaning hereby respectively assigned to them. In these conditions the following expressions shall have the following meanings:

- i. "The Council" – South Cambridgeshire District Council.  
Licensing section, Cambourne Business Park, Cambourne,  
CB3 6EA
- ii. "Sex Establishment", "sex cinema", "sex shop", and "sex article" shall have the meanings given to them in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
- iii. "Premises" - any vehicle, vessel, stall or premises (which shall include any building, any part thereof, forecourt, yard or storage place in connection with any building), which is the subject of a licence, granted under Schedule 3 aforesaid.

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**Standard Conditions for Sex Establishment Licence**

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*South Cambridgeshire District Council reserve the power to alter, modify or dispense with these conditions as it sees fit at any time.*

**Management of the Premises**

1. The Licensee or some responsible person nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.

3. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council or the local trading standards authority.
4. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
5. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be notified within 24 hours in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
6. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licenced.
7. No person under the age of 18 shall be admitted to the Premises and a notice to this effect, in accordance with condition 19, shall be displayed on the outside of the Premises.
8. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
9. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.
10. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee's absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

**Opening of the Premises**

11. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday – Wednesday 9 am – 6 pm

Thursday – Friday 9 am – 7 pm

Saturday 9 am – 6 pm

12. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Sundays or any Bank Holiday or any public holidays.

### **Conduct of the Premises**

13. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.
14. No sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
15. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.
16. No film or video recording (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.
17. No moving picture shall be provided on display at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview, being no longer than 3 minutes in length of films upon request.

### **External Appearance**

18. The holder of a sex establishment licence may exhibit on the outside of the Premises the name of the business and a notice, capable of being enclosed by a rectangle one square metre in area or such other size as agreed with the Council, consisting of the words 'Licensed Adult Establishment'.
19. The holder of a sex establishment licence shall exhibit on the outside of the Premises a notice, capable of being enclosed by a rectangle one square metre in area, of the times of opening and of the words 'No person under the age of 18 allowed. People under the age of 21 will be required to show proof of their age.'

20. (a) No other words, advertisement, letter, model, sign, placard, board, notice sign, device, representation, drawing, writing, display or any other matter, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 18 and 19 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.
21. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

**State, Condition and Layout of the Premises**

22. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
23. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
24. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.
25. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
26. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
27. Alternations or additions, either internal or external, shall be not be made to the Premises without prior written consent from the Council.
28. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
29. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.



**Safety and Security**

30. The Licensee shall submit details of the steps to be taken, for the approval of the authority, to check the age of customers entering the shop who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18. He/she shall ensure the approved steps are implemented.
31. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council.

**Goods Available in Sex Establishments**

32. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
33. All printed matter, films and video films offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
34. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the FPA (formerly the Family Planning Association) and by such other similar organisations from time to time and in particular any such material related to AIDS. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

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