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18 March 2009

To: Chairman – Councillor A Riley
A Riley
Members of the Licensing (2003 Act) Sub-Committee – Councillors Mrs VM
Barrett and RM Matthews

Applicant: Ms D Dulson, 35 Lone Tree Avenue, Impington, CB24 9PG

Representee(s): Mrs AJ Young, Clerk to Histon Parish Council, Parish Office, New Road,
Impington, Cambridge, CB24 9LU
Mrs LA Salek, 55 Station Road, Histon, CB24 9LQ
Mrs M Brooks, 59 Station Road, Histon, CB24 9LQ

Dear Sir/Madam

Please find below the agenda, and attached the relevant papers, for the hearing by the **LICENSING (2003 ACT) SUB-COMMITTEE** of the application for a premises licence at 44 Station Road, Histon. The hearing will be held in the **JEAVONS ROOM, FIRST FLOOR** meeting room at South Cambridgeshire Hall on **THURSDAY, 26 MARCH 2009 at 2.00 p.m.**

Yours faithfully
GJ HARLOCK
Chief Executive

Requests for a large print agenda must be received at least 48 hours before the meeting.

AGENDA

| | PAGES |
|--|--------------|
| 1. INTRODUCTION As per the attached Licensing (2003 Act) Committee procedure. | 1 - 2 |
| 2. DECLARATIONS OF INTEREST | |
| 3. APPLICATION FOR PREMISES LICENCE, 44 STATION ROAD, HISTON The appendices are not available electronically. Location maps will be on display at the hearing. | 3 - 4 |

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If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL
LICENSING (2003 ACT) COMMITTEE**

HEARING PROCEDURE

1. Introduction

- The Chairman of the sub-committee will welcome and introduce everyone present, giving explanations of roles where necessary, and outline the procedure to be followed.
- The hearing will take the form of a discussion to be led by the sub-committee.
- Members of the sub-committee will be able to ask questions of any party, or the Licensing Officer, at the hearing. They will try, so far as possible, to ask their questions at the conclusion of each party's submission.
- The sub-committee will consider any requests for permission to ask questions of other parties. It will decide if questions are required in order for it to consider the case properly. If permission is given to one party, it will usually be given to all other parties.
- The Chairman may ask any person behaving in a disruptive manner to leave and may refuse to permit that person(s) to return or may permit them to return with specified conditions. Such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.
- Members of the sub-committee will be asked to make any Declaration of Interests.

2. Witnesses

The sub-committee will consider any requests from any of the parties to call witnesses.

3. New evidence/information

The sub-committee will consider any requests for permission to present new evidence or information not previously disclosed to all the parties and the sub-committee prior to the hearing. The general rule is that such information or evidence must not be considered unless all parties at the hearing agree to it being considered on the day of the hearing. A request may be made for a short adjournment to allow time for everyone to receive copies of the extra information and time to read it.

4. Allocation of time

Each party will be asked for a time estimate for the presentation of their case. The sub-committee will hear all estimates and then allocate each party an equal amount of time to speak.

5. Licensing Officer's report

The Council's Licensing Officer will outline details of the application and representations received by the council. No recommendation to members will be made.

6. Applicant's case

The applicant will present their case first. They have a right to:

- address the sub-committee on any points of clarification the council has sought;
- address the committee generally; and
- call any witnesses that they have been given permission to call. Witnesses may be cross-examined if permission is granted. If this happens, the time taken for questions will count towards the allocated time of the party asking the questions, not the party answering them.

Members of the sub-committee may ask questions of the applicant.

7. Police representations

The Police will make any representations about the application, with the same rights as listed at s.6. Members of the sub-committee may ask questions of the police representative.

8. "Responsible authorities" representations

Other "responsible authorities" (Police/Fire/Environmental Health Officer/Social Services/Trading Standards/Planning Directorate) will then make representations, with the same rights as listed at s.6.

Members of the sub-committee may ask questions of those authorities represented.

9. Any other representations

Anybody else making representations will go last, with the same rights listed at s.6.

Members of the sub-committee may ask questions of any person who has made a representation.

10. Legal advice

Once all parties have presented their cases to the sub-committee, and the members of the sub-committee have no more questions for any of the parties, the Council's Legal Officer will be asked to outline any relevant legal guidance.

11. Decision-making

The sub-committee will remain in the room to make its decision. The Council's Legal Officer and Democratic Services Officer will also remain with members to advise where necessary and take notes of the decision. All other persons present will vacate the room.

12. Notification of decision

Depending on the nature of the application, a determination of the case will either be made at the conclusion of the hearing, or within 5 working days. In most cases, all parties will be notified of the decision in writing.

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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| REPORT TO: | Licensing (2003 Act) Sub-Committee | 26 March 2009 |
| AUTHOR/S: | Executive Director / Corporate Manager, Health and Environmental Services | |

**APPLICATION FOR PREMISES LICENCE:
RESTAURANT/TAKEAWAY, 44 STATION ROAD, HISTON**

The Application

1. The application (**APPENDIX A**) to grant a premises licence at 44 Station Road, Histon formally known as Ayesha restaurant & takeaway was received by the Licensing Section in accordance with the Licensing Act 2003.

Background

2. The premises previously operated as a restaurant/takeaway, until the previous premise licence holder terminated the premises licence on 7 July 2008 (**APPENDIX B**). The previous licence has not been included in this report as it is imperative for Members to be mindful of their responsibilities with regards to determining any new licence application on its individual merits.
3. The premise is located within an area of residential properties in close proximity to the restaurant as seen in (**APPENDIX C**).

Relevant Representations

4. Relevant representations have been received from the Parish Council and persons in the vicinity of the premises. Representations reflect concerns under the Prevention of Public Nuisance objective of S.4 of the Licensing Act. (**APPENDIX D**).

Officer's Views

5. Members have the right under the Licensing Act 2003 to determine this application after considering any representations. Members may accept the application as submitted, reject the application or impose conditions that promote the relevant Licensing objectives. This may include granting differing hours from those applied for, the exclusion of certain licensable activities or the imposition of conditions that promote the licensing objectives.
6. The representations made are based on the Public Nuisance objectives and therefore any decisions imposed must relate to this objective only. Guidance in the South Cambridgeshire District Council Licensing Policy in relation to such issues states that conditions maybe considered and common examples are listed under the paragraph 8.
7. The Licensing Act 2003 requires Licensing Authorities to make judgements about what constitutes public nuisance and what is necessary to prevent it. It is important to remember that the prevention of public nuisance could include low-level nuisance perhaps affecting a few people living locally. It may also include in appropriate circumstances the reduction of living and working amenity and environment of interested parties in the vicinity of the premises.

8. Within the representations it is clear to see that the premises have had conditions imposed by South Cambridgeshire Planning Services. Guidance from Government is clear that planning, building control and licensing regimes will be properly separated to avoid duplication.
9. The planning and licensing regimes involve consideration of different (albeit related) matters. For instance licensing considers public nuisance whereas planning considers amenity. As such, licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. The Licensing committee is not bound by decisions made by a planning committee and vice versa.

Policy Considerations

10. Conditions referred to within the South Cambridgeshire Licensing Policy relating to the prevention of Public Nuisance.

Example conditions relating to the prevention of public nuisance

- a) **Consideration may be given to conditions that ensure that:**
 - b) **Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties**
 - c) **Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.**
 - d) **The placing of refuse - such as bottles- into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.**
 - e) **Noxious smells from the licensed premises are not permitted (subject to existing legislation not providing adequate measures) so as to cause a nuisance to nearby properties and the premises are properly vented.**
 - f) **Flashing or particularly bright lights on or outside licensed premises (any such condition must be balanced against the benefits of providing lighting to promote the prevention of crime and disorder).**
- g) **Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or club premises certificate for the prevention of public nuisance:

- h) **Conditions may be placed on premises restricting the hours during which premises are permitted to be open to the public or to members and their guests.**
- j) **Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times**
- k) **Restrictions may be necessary on parts of a premise used for certain licensable activities at certain times.**

Legal Implications

11. Both parties will maintain a right of appeal to a Magistrate's Court after the determination of this committee.

Contact Officer: Myles Bebbington, Licensing Officer, Tel: (01954) 713132