

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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.

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