

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Monday 28 October 2013

- Premises Licence Holder:
Premises:
Reasons for Hearing:
Parties in attendance:
Decision made:
- Luzia Francisca Baiao Silva / Fernando Da Fonseca Da Costa
Lusitano Café, 128 Seaside Road
Relevant representations received from interested parties under the prevention of crime and disorder and the prevention of public nuisance licensing objectives, arising from the Council's Cumulative Impact Policy.
Applicant:
Mr Bernard Hall (Licensing Consultant), Ms Luzia Francisca Baiao Silva, Mr Fernando Da Fonseca Da Costa and Ms Philippa Silva.
Licensing Authority:
Mr Jay Virgo (Senior Specialist Advisor)
Legal Advisor:
Mr Andy Couper (Lawyer)
Interested Parties:
Mr Derek Walters and Mr William Wathen.
That the application be granted on the following grounds:
- Open to the Public:**
Monday – Sunday 07.30 hours – 00.00 hours
- Supply of Alcohol (on the premises)**
Monday – Sunday 08.00 hours – 23.30 hours
- Late night refreshment (indoors only)**
Monday – Sunday 23.00 hours – 00.00 hours
- Subject to the following conditions:
- Provide availability of hot and cold food on the premises throughout licensed hours.
 - Waiter service of food, patrons seated at table/counter.

- Sharper surveillance of area immediately outside the premises.
- Installation of CCTV. Recording saved for 28 days and fitted in accordance with recommendations from Sussex Police.
- During the extended hours between 22:00 and 23:30 all licensable activities including the consumption of food and drink, will take place inside the premises. The seating outside will be removed during this period and will not be used.
- Persons using the outside of the premises for smoking should be made aware it is a residential area and noise be kept to a minimum and will only be used for smoking not congregating.
- All alcohol and food will be served to customers seated at tables by waiter/waitress service only.
- Substantial food shall be available at all times when the premises are open.
- Non-alcoholic beverages including drinking water shall be available at all times when the premises is open.

Reasons for Decision:

The Sub-Committee has granted the application for a Premises Licence subject to the conditions specified having given due weight to the evidence placed before it, as well as the regulations and guidance under the Licensing Act 2003, the licensing objectives, the Council's Cumulative Impact Policy, Statement of Licensing Policy and Section 182 Guidance issued by the Department of Culture Media and Sport.

The Sub-Committee has weighed up the applicant's submissions alongside the representations made by the interested parties. On balance it was considered that the applicant has provided sufficient evidence to rebut the presumption against granting the application arising from the Council's Cumulative Impact Policy.

The additional conditions added to the licence, proposed by Sussex Police and Eastbourne Borough Council's Health and Environment Team, that was agreed with the applicant prior to the meeting was necessary to promote the licensing objectives.

The Sub-Committee were pleased that the applicant had already taken steps to promote the licensing objectives such as implementing a working CCTV system and ensuring all alcohol would be served via a table service only.

In reaching their decision, the Sub-Committee took into account all the representations that were made. Particular regard was given to the mediation period that had led to conditions being agreed with the applicant and the Council's Health and Environment Team and Sussex Police.

The Sub-Committee also took into account those concerns raised by the interested parties relating to the potential for noise, nuisance and alcohol fuelled disturbance in the area. As a result, the Group requested that the Council's Health and Environment team regularly monitor the premises to ensure the licensing conditions were being adhered to.

Date of Decision: 28 October 2013

Date decision notice issued: 6 November 2013

A written or electronic copy of this Notice will be publicly available to all Parties and published on the Council's website.

RIGHT OF APPEAL

Under the provisions of S.181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal against the decision of the Licensing Sub-Committee, should you be aggrieved at the outcome.

This right of appeal extends to the applicant in the case of refusal or restrictions on the licence, or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations where the licence has been granted, or that relevant conditions have not been imposed on the licence.

Full details of all the rights of appeal can be found within Schedule 5 of the Act. If parties wish to appeal against the Sub-Committee's decision, this must be made to the Magistrates Court, Old Orchard Road, Eastbourne, BN21 1DB within 21 days of receipt of this decision notice.