

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Wednesday 1 October 2014

- Premises Licence Holder: Mr Stephane Zemouria.
- Premises: Galleria Ristorante, 117-119 Seaside Road.
- Reasons for Hearing: Relevant representations received from interested parties and responsible authorities under the prevention of crime and disorder and the prevention of public nuisance licensing objectives. The premises is within the area covered by the Council's Cumulative Impact Policy.
- Parties in attendance: For the applicant:
Mr Stephane Zemoura and Mr Cameron Muir (Manager, The Colonnades)
- Licensing Authority:
Mr Jay Virgo (Senior Specialist Advisor)
- Legal Advisor:
Ms Victoria Simpson (Lawyer to the Council/Monitoring Officer)
- Eastbourne Borough Council Officers:
Mr Adrian Albon (Specialist Advisor (Pollution and Licensing))
- Sussex Police:
Mr Edward Elton (Barrister) and Mrs Cathie Wolfe (Licensing Officer).
- East Sussex Fire and Rescue Services:
Mr Frank Maura
- Decision made: That the application be refused on the following grounds:
- Reasons for Decision: The Sub-Committee has refused the application because the applicant has failed to outline mitigating proposals that would rebut the presumption against the granting of the application which arose as a result of the Council's Cumulative Impact Policy.
- In reaching their decision, the Sub-Committee gave due

regard to the applicant's submissions, as well as to the representations received from two members of the public and in the capacity of responsible authorities - Sussex Police, EBC Licensing Team and EBC Health and Environment. It was considered as a preliminary matter whether to take into account a late representation from East Sussex Fire and Rescue Services in the capacity of responsible authority. The Sub-Committee considered that the representation would likely be relevant to the question of the likely effect of granting the licence on the four licensing objectives and took it into account when reaching their decision.

The Sub-Committee also gave due weight to the regulations and guidance made under the Licensing Act 2003, the licensing objectives, the Council's Statement of Licensing Policy, Section 182 Guidance issued by the Department of Culture, Media and Sport and the Council's Cumulative Impact Policy.

The Sub-Committee noted that there was a lack of evidence submitted by the applicant either in writing or offered orally at the hearing which provided positive proposals to manage the risk of an adverse impact on the licensing objectives and the issues around noise, public nuisance, public safety and crime and disorder in the area, that had been raised through the responsible authorities and interested parties.

As a result the applicant had not demonstrated how the application would not add to the cumulative impact and the challenges already being experienced in the area, nor had he shown that it would not undermine the promotion of the licensing objectives. He had therefore clearly not rebutted the presumption against the granting of the application arising from the Council's Cumulative Impact Policy and the application should therefore be refused.

Date of Decision: 1 October 2014

Date decision notice issued: 7 October 2014

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.