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**Hastings District.**

17<sup>th</sup> August 2016.

Licensing Manager  
Environment and Safety Directorate  
Aquila House  
Breeds Place  
Hastings  
TN34 3UY

Dear Mr Brown,

**RE: APPLICATION FOR THE GRANT OF A PREMISES LICENCE FOR  
SEED (formally Pomegranate) 50 George Street Hasting EAST SUSSEX. TN34 3EA.**

I write on behalf of the Chief Officer of Police for Sussex to raise a representation against the grant of the above application. The basis for the opposition is that the grant of the premises licence for these premises will not promote the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance but instead, will give rise to potential negative cumulative impact via an increase in public nuisance and crime and disorder.

The application has been submitted by Mrs. Joanna Stephens and Mr. Jamie Stephens.

SEED was formally known as the licensed premises Pomegranate, a restaurant / bar which had evolved since 2005 and was operated by Mrs. Joanna Stephens and her husband Mr. Jamie Stephens. Joanna Stephens was both the Premises Licence Holder and Designated Premises Supervisor for the premises. They previously held a Justices Licence which was converted into a Premises Licence at the commencement of the Licensing Act 2003 in November 2005. In February 2015 Mrs. Stephens submitted an application for the minor variation of the premises licence. The minor variation to allow two small rooms on the first floor of the building to be used as a waiting lounge for diners making a prior reservation. There is no request for this area to be used in the new application. During the second half of 2015 they developed the identity of the business to minimize food preparation time spent in the kitchen by Mr. Stephens. The business changed from formal three course dining to more informal small plates and tapas. The business has also more recently been operating as a bar, supplying alcohol without food. As part of the redevelopment of the business the premises name was changed from Pomegranate to Seed. All relevant documentation (banking, invoicing etc.) was changed into the new operating name. In April 2016 the decision was then taken to dissolve Pomegranate Food and Drink House Company and create Seed Hastings Limited. As a result of the company being dissolved, due to an administration oversight the premises licence was allowed to lapse, hence this application for the grant of a premises licence.

As shown on the plan within the application, the bar is situated on the right hand side of the premises. The left side is predominantly used for seating. Along almost the entire length of the wall on this side is a 'breakfast bar'. Drop down tables are fixed at various points along this bar table extending towards the centre of the premises. Bar stools are used to seat customers at this 'breakfast bar' and tables. The tables when in the 'down' position provide additional floor space for dancing.

**Hastings Police Station**  
Bohemia Road, Hastings, East Sussex, TN34 1JJ

Telephone: 101 |

The proposed hours the premises will be open to the public are:

Monday to Sunday. 10:00hrs - 02:00hrs

New Year's Eve

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

The application is for the grant of a premises licence, made under Section 17 of the Licensing Act 2003, for the licensable activities, films, plays, live music, recorded music, performance of dance, anything of a similar description, provision of late night refreshment and the supply of alcohol. Times requested for the licensable activities are:

**Plays. (indoors)**

Monday to Sunday. 12:00hrs - 00:00hrs (midnight).

No seasonal / special event variations.

**Films. (indoors)**

Monday to Sunday. 12:00hrs - 00:00hrs (midnight).

No seasonal / special event variations.

**Live Music. (indoors)**

Monday to Sunday. 12:00hrs - 00:00hrs (midnight).

Small bands or solo performers, musicians and singers offering both acoustic and amplified music.

No seasonal / special event variations.

**Recorded Music. (indoors)**

Monday to Sunday. 10:00hrs - 02:00hrs (midnight).

Ambient music for customers to enjoy whilst dining and drinking, creating a backdrop atmosphere.....Music is appropriate and conducive to relaxing dining including jazz, soul, funk and world.

No seasonal / special event variations.

**Performance of dance. (indoors)**

Monday to Sunday. 12:00hrs - 00:00hrs (midnight).

No seasonal / special event variations.

**Anything of a similar description.**

Monday to Sunday. 12:00hrs - 00:00hrs (midnight).

No seasonal / special event variations.

**Late Night Refreshment. (indoors)**

Monday to Sunday. 23:00hrs - 02:00hrs.

Option to stay open after 23:00hrs, serving alcohol to customers who are respectful and responsible. Door to premises will be self-closing and remain closed after 23:00hrs. Customers who exit to street after 23:00hrs will be advised by staff and signage to keep noise levels low so as not to disturb neighbourhood.

No seasonal / special event variations.

**Supply of Alcohol. (Consumption both on / off premises)**

Monday to Sunday. 10:00hrs - 01:30hrs.

New Years' Eve

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

The area surrounding the premises is densely populated with licensed premises and suffers from significant crime and disorder and public nuisance. It is situated within the Hastings Borough Council Special Saturation (Cumulative Impact) Policy (HBC SSP), and the Chief Officer of Police contends that this type of licensable activity in the CIA is likely to increase the negative cumulative effect caused by a saturation of licensed

*why the application should be considered (even when the planning status of the premises has not been finalised).*

Sussex Police have no doubt that the premises are being used as a bar and not as a restaurant.

On Sunday 13<sup>th</sup> September 2015 Sussex Police received a call concerning the loudness of the music coming from the premises. The amplified music consisting of a male vocalist with a guitar and went past 01:00hrs. Caller had previously spoken with the manager who basically told the complainant that he could do what he wanted. Complainant stated they would bring their complaint to the attention the Environmental Health Department.

At 21:15hrs on Sunday the 26<sup>th</sup> June 2106 PC CT572 Trevena conducted observations on the premises. He observed three males consuming a number of shots. He also witnessed the female behind the bar consume a number of shots. In his opinion he believed the males to be intoxicated. In his opinion the premises were being conducted as a bar and not a restaurant as required. On entering the premises he saw DJ equipment on a table being used by a male DJ. PC Trevena asked the female if she was in charge. She stated that Jamie (Mr. Stephens) was in charge and that he was in the flat above the premises. PC Trevena spoke with Mr. Stephens outside of the premises. Due to Mr. Stephen's demeanor and appearance PC Trevena informed him that he was not fit to be in charge to which he stated the female member of staff was in charge. Mr. Stephens stated that he was the Premises Licence Holder and Designated Premises Supervisor which was incorrect. His wife Joanna Stephens occupying both these positions.

Since the premises licence has lapsed the premises have, over a number of weekends, continued to operate under the authority of Temporary Event Notices. At 23:25hrs on Friday 5<sup>th</sup> August 2016 Special Constable S2021 Perez made an inspection of the premises. He observed the following points:-

- No food was seen being served or consumed.
- No food preparation and kitchen was clean
- No menu seen on the tables or bar.
- Customers outside drinking and uncollected glassware

On 'face book' the premises advertise 'Organised Love DJ Club' every Friday night. This again tends to support that the premises are becoming more 'bar' orientated.

On Tuesday 9<sup>th</sup> August 2016 Anthony Masters, Sussex Police Licensing Officer met with Mrs. Joanna Stephens and her husband in order to discuss the application. The most important issue related to the application and how it was effected by the planning permission. Accepting that the premises were required to be operated as a café / restaurant the times requested for the licensable activities were in excess of those times being specified within the HBC Licensing Policy concerning premises within the Special Saturation (Cumulative Impact) Policy area. Mr. Masters suggested a number of amendments to the application which were verbally agreed by Mrs. Stephens.

On Friday 12<sup>th</sup> August 2016 Mr Masters sent an email to Mrs. Stephens via her preferred email address as per the application. The email made reference to those items of discussion within the meeting and requested by return email formal acceptance of the amended times and proposed conditions. Since the date of the meeting Mr. Masters has had no communication with Mrs. Stephens. He has attempted to make contact with her several times, the latest being Thursday 18<sup>th</sup> August 2016, using mobile numbers provided with no response.

Having received no response from the Applicant Mr. Masters made contact with Mr. Stephens, her business associate, on Monday 15<sup>th</sup> August 2016. He informed Mr. Masters that they had received the email of the 12<sup>th</sup> August 2016 and were currently seeking legal advice.

On Thursday 18<sup>th</sup> August 2016 Mr. Masters received an email response from Mr. Stephens. Within the email Mr. Stephens makes mention of the cumulative impact policy with his comments about seeking to replicate a lapsed licence and mention of maintaining a status-quo. Mr. Stephen's stated his acceptance of the amended times and some of the proposed condition but stated his objection to the three following police proposed

premises in the area.

Hastings Borough Councils own licensing policy includes a matrix defining specific areas within the Borough of Hastings with differing types of licensed premises. The matrix is designed to help inform licensing decisions. In the case of a restaurant in an area covered by the Special Saturation (Cumulative Impact) Policy the terminal hour to be considered is 00:00hrs (midnight). If the premises were to operate as a pub, then again the terminal hour would be midnight.

Paragraph 13.30 of the Secretary of State's Revised Guidance issued under Section 182 of the Licensing Act 2003, amended in March 2015 provides, *"The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licenses or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application"*.

This principle is reflected in the Hastings Borough Council Special Saturation (Cumulative Impact) Policy contained within the Hastings Borough Council Licensing Policy. These premises are situated within Area 2a of the Special Saturation (Cumulative Impact) Policy in which there is a presumption that any new premises licence or variation will be refused. The policy states within Section 1.11 *"This policy relates to applications for the grant and/or variation of premise licences, club premises certificates or the issue of provisional statements. Each application will be considered on its own merit. Where no representations are received any application will be granted in terms consistent with the operating schedule. Where relevant representations are received in relation to applications for the grant of a new premises licence, club premises certificate or provisional statement; there will be a presumption against the grant of such licence or certificate unless the applicant, in the operating schedule, can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives."*

Paragraph 8.33 of the Secretary of State's Guidance to the Licensing Act 2003, amended in March 2015 provides, *'In completing an operating schedule, applicants are expected to have had regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.....'*

Paragraph 8.35 of the guidance states *'Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy'*.

Contrary to the Secretary of State's Guidance, the applicant has failed to demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. The application makes no reference to Special Saturation (Cumulative Impact) Policy and nothing in the application or the operating schedule either rebuts the presumption of refusal contained within Sect 1.11 of the Hastings Borough Council's Licensing Policy, or provides any reason for the Licensing Authority to depart from its special policy.

The current planning use for the premises is A3 (restaurant / café). Licencing Policy 7 of the Hastings Borough Council Licensing Policy, re adopted in January 2016 states the following *'Generally the Authority will not consider an application unless the applicant can demonstrate that the premises have either an appropriate planning consent (in terms of activity and hours sought), or an appropriate certificate of lawful use or development. The Authority will only make exceptions where the applicant can offer compelling reasons as to*

conditions:-

- *No over the bar sales of alcohol. Alcohol shall not be served on the premises otherwise than to persons taking substantial table meals there, by waiter / waitress service and for consumption by such persons as ancillary to a table meal.*
- *In addition alcohol may also be served by waiter /waitress service to those persons waiting to be shown to a table for the purpose of taking a substantial meal.*
- *To ensure the restaurant kitchen will be open, for the preparation of meals, as per the hours stated on the operating schedule for the supply of alcohol.*

*The purpose of the above proposed conditions was to ensure that the Licensing Act 2003 premises licence, mirrored the planning use for the premises.*

*Mr. Stephens proposed the following counter condition:-*

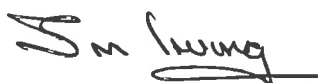
- *Non-intoxication beverages and substantial food shall be available at all times when alcohol is being sold.*

This proposed condition, if granted, will permit the sale of alcohol without food which will have the effect of turning the premises into a bar.

Sussex Police officers have witnessed the premises operating in contravention of the planning use for the premises being A3 (café/restaurant). Sussex Police contend that the applicant has failed to demonstrate any exceptional circumstances to justify departure from the HBC SSP policy and further state that the steps proposed within the operating schedule fail address the issue of cumulative impact. Sussex Police contend that the carrying on of licensable activities at these premises will add to the existing negative cumulative effect in an area already saturated with licensed premises.

Therefore, Sussex Police invite the Licensing Authority to refuse this application as submitted, or to grant a premises licence with the amended times and all conditions as proposed by Sussex Police, which would be commensurate with the Licensing Authority's own statement of licensing policy .

Yours sincerely.



Jean Irving.  
Head of Licensing and Public Safety.

**Hastings Police Station**  
Bohemia Road, Hastings, East Sussex, TN34 1JJ

Telephone: 101 |

# MEMORANDUM



Date: 22<sup>nd</sup> August 2016  
From: Trevor Scrase, Senior Licensing Officer  
To: Bob Brown, Licensing Manager  
My Ref: Wk201606736  
Your Ref:

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## **Licensing representation against the new premises licence application for:- Seed, 50 George Street, Hastings.**

A new premises licence application was received by this licensing authority on the 27<sup>th</sup> July 2016. The consultation period ends at midnight on the 24<sup>th</sup> August 2016.

The application has been submitted by Joanna Stephens, trading as Seed Hastings Limited, registered company number 09777191, registered address, 23 St Leonards Road, Bexhill on Sea.

SEED Hastings Limited was incorporated on the 15<sup>th</sup> September 2015. Joanna Stephens and Jamie Stephens are the current officers listed on Company House records. See copy attached.

### **Background.**

Joanna and Jamie Stephens have been running a premises at 50 George Street, Hastings before the Licensing Act 2003 replaced the previous Licensing Act 1964. On the transition from the Licensing Act 1964 into the Licensing Act 2003, in 2005, they converted the justices restaurant licence into a premises licence and simultaneously varied it to extend their authorised hours. This was not subject of a licensing sub committee decision on grant.

This restaurant business was called Pomegranate, which was changed to Seed, with the premises licence held by their registered company Pomegranate Food & Drink House, limited company registered number 05317815.

As a result of licensing enforcement visit on Saturday the 2<sup>nd</sup> July 2016, enquiries were made on the companies house records website on Monday 4<sup>th</sup> July, where it was found that Pomegranate Food and Drink House Limited had been dissolved on the 26<sup>th</sup> April 2016.

No contact had been received by either Joanna or Jamie Stephens regarding the dissolution of their limited company and in respect of section 47(1) (a) of the Licensing Act 2003, the premises licence had lapsed and ceased to be authorisation for the sale by retail of alcohol for consumption on the premises.

As a result of this information and consultation with legal advisers, formal letters were sent to the premises and the home addresses of Joanna and Jamie Stephens, to advise them that they no longer had the authorisation of a premises licence for the sale by retail of alcohol or regulated entertainment on the premises.



Subsequently telephone calls were received from both persons regarding our letters of notification of the lapse of their premises licence.

The options available to them, were the submission of temporary event notices, followed by an application for a new premises licence.

### **Temporary Event Notice applications.**

As a result of there being no authorisation to sell alcohol, following discussion, a series of temporary event notices were submitted. Police and environmental health pollution made no representations and these were subsequently authorised, which allowed a limited operation and continuation of their restaurant business. However with limited TENs available, it became necessary for a new premises licence application to be submitted, if they wished to continue trading.

### **New premises licence application.**

Having been involved in discussion regarding the notification of the lapse of their premises licence, I made them aware of the additional implications for any new premises licence application being submitted.

Although the application is lawful under the requirements of Licensing Act 2003, the premises is located within the Old Town cumulative impact / saturation policy area 2. (First implemented in January 2008 and reviewed several times since).

The licensing policy, amended in January 2016, in line with Home Office requirements, has been reviewed. The saturation policy for the Old Town area remains the same, involving the roads of, George Street, Hastings and High Street, Hastings in their entire lengths.

### **Effects of the Special Saturation (Cumulative Impact) Policy.**

This policy relates to applications for the grant and/or variation of premise licences, club premises certificates or the issue of provisional statements. Each application will be considered on its own merit. Where no representations are received any application will be granted in terms consistent with the operating schedule. Where relevant representations are received in relation to applications for the grant of a new premise licence, club premise certificate or provisional statement; there will be a presumption against the grant of such licence or certificate unless the applicant can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives.

Where relevant representations are received and the variation would undermine the licensing objectives in relation to an application for the variation of a premises licence or club premises certificate resulting in the extension of hours, change of style of operation or increased capacity; there will be a presumption to refuse such applications, unless the applicant can rebut the presumption that the granting of such a variation would undermine the licensing objectives.  
(Licensing Policy page 14).



For the licensing policy reviewed and published in January 2016, a matrix was introduced indicating the terminal times to be considered by any applicants.

<b>Premises Type</b>	<b>Cumulative Impact Area</b>	<b>Queens Road Hastings</b>	<b>Mixed Commercial and Residential Areas.</b>	<b>Residential Area (mainly residences in street)</b>
Restaurant	Yes (midnight)	Yes (midnight)	Yes (11.30pm)	Yes (11pm)
Late night takeaways	No	Yes (midnight)	Yes (midnight)	No
Night Club	Yes (2am)	No	Yes (midnight)	No
Pub	Yes (midnight)	Yes(midnight)	Yes (midnight) 11pm if live music required.	Yes (11pm, midnight Friday and Saturday) 11pm if live music required.
Non-Alcohol lead. (Theatre/film etc)	Yes	Yes	Yes	Yes
Off Licence	No	No	Yes (10pm)	Yes (8pm)
Members club	Yes	Yes	Yes (midnight)	Yes (11pm, midnight Friday and Saturday)

The matrix indicates that a restaurant, situated in a cumulative impact area, would be accepted but authorised only until midnight.

It is in this respect that on behalf of Hastings Borough Council as a licensing authority I make representation regarding the new application which requests the following, which are beyond the midnight time of the matrix:-

F. Recorded music	Monday to Sunday	10.00 until 02.00 hours;
I Late night refreshment	Monday to Sunday	23.00 until 02.00 hours;
J. Supply of alcohol (for consumption on and off the premises)	Monday to Sunday	10.00 until 01.30 hours;
L. Hours premises open to the public	Monday to Sunday	10.00 until 02.00 hours;

In addition, non standard hours for recorded music, supply of alcohol and hours open to the public on New Years Eve, from the end of permitted hours on New Year's Eve to the start of the permitted hours on the following day.

### **Comments on the application.**

1. The hours applied for in the new application mirror the hours authorised on the lapsed premises licence.
2. Pomegranate has been successfully operating since initial grant of a Justices restaurant licence and then since November 2005 under a premises licence.
3. The grant of the premises licence was not subject of a licensing sub committee decision, there being no representations.
4. I did have conversation with Joanna at some stage in the past two years, the exact date(s) of which I cannot confirm, regarding their intention to alter the type of operation from restaurant to more tapas style. It was confirmed that the premises licence would still be held by their limited company Pomegranate Food & Drink House Limited.
5. Although the hours of some licensable activities on this application now go beyond the matrix, if the previous premises licence had not lapsed, the only course of action which would have been required from Joanna and Jamie would have been a minor variation with a new plan to show the relocation of their bar counter.

Trevor Scrase  
Senior Licensing Officer.

# MEMORANDUM



Date: 23<sup>rd</sup> August 2016  
From: Environmental Health  
To: Mr R Brown Licensing Manager  
My Ref: SEB  
Your Ref:

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Application Number: WK/201606706  
Address: SEED 50 George Street, Hastings, East Sussex, TN34 3EA

Proposal: Application for a premises license under section 17 of the Licensing Act 2003  
An application for existing premises, for regulated entertainment as a Tapas Bar and the sale by retail of alcohol for consumption on the premises.

Dear Mr Brown.

Under the new licensing regime the role of the Environmental Protection team is to avoid the creation of situations where new or varied licenses, by virtue of their proposed activities, their locations, or times of operation, give rise to nuisance to local residents. In this respect the provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. However, as the DCMS guidance recognises these may not, by themselves, be sufficient to protect local residents.

George Street is a narrow street having a mix of ground floor commercial premises with residential above. There is a considerable concentration of licensed premises in the street, which is subject to the Special Saturation (Cumulative Impact) Policy contained within the Council's overall licensing policy. The noise climate in George Street arising from the concentration of licensed premises is currently considered unsatisfactory, particularly on Friday and Saturday evenings / nights and has given rise to complaints in previous years including several noise complaints relating to the premises in question under its previous guise as 'Pomegranate'.

Taking this application at face value it would appear to be contrary to the special saturation (cumulative impact) policy and the need for an improved noise climate in the street. However, from discussion with the applicants via my Licensing colleagues it is clear that it is not their intention to massively change their current operation from a restaurant to a Tapas type bar, but they need to have a degree of flexibility in what they can offer in order to attract sufficient customers to keep the business viable.

Whilst I do not consider that I can accept the application as submitted without making comment or representation I believe that it may be possible to allow some flexibility without serious risk of exacerbating noise issues in the street or inhibiting efforts to address those. I would recommend, therefore, that if a Premises licence is to be granted it be limited to the following:-



- 1) The extension of hours beyond the current be limited to a maximum of 12 days per year and be conditional on the Licensing Manager being advised in writing not less 7 days before each occasion on which it is intended to utilise the extended hours.
- 2) Noise from Recorded music arising from the premises shall be barely audible outside the closed front doors before 23:00 and inaudible after 23:00 until close. For the avoidance of doubt, noise shall include that arising from all mechanical or electrical equipment used by the premises and that noise arising from customers in the premises.
- 3) Live music with a condition similar to that for recorded music.
- 4) A mature member of staff shall make external checks to ensure that the requirements of condition 3 and 4 are met.
- 5) To ensure the bottle bins are only emptied between 09:30 and 21.30 Monday to Friday, 10:00 and 13:00 Saturday and not on a Sunday or Public/Bank holiday.
- 6) Glass or waste collection by external waste / recycling contractor between the hours of 08.00 and 18.00 hours Monday to Friday, 08.00 to 13.00 Saturday and not on a Sunday or Public / Bank Holiday.
- 7) The use of any external area including any tables and chairs (separately licensed following the transferred powers from the County Council to HBC) is terminated at 23:00 hrs and no drinks to be taken outside after that time.

Yours Sincerely

Mr Stewart Bryant BSc (Hons) Environmental Health GradCIEH FRSPH  
Snr Environmental Health Officer  
Environmental Health  
Hastings Borough Council  
Aquila House, Breeds Place  
Hastings, East Sussex  
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Simon de Lange  
flat one  
twenty five A  
George St  
TON34 3EA.

Your workshops ~~span~~ when my attention was drawn to the fact that Seed-pomegranite was applying for a licence which included until 2am, if it were not for its passed record i may not have voted for the business to carry on.

The problems in the past were due noise and drunken noisy people still outside at way gone 2am, the noise and custom has never been handled, the more they can cram into that small space and outside way beyond handling itself, i once witnessed people Vertuath spill out to the middle of the street:

They do have a perfectly good tapas Bar But never seem to use it properly for a man such as myself, with spandulitis with myalopathy (pain 24/7) i Really do worry how this will turn out, Mr Dean is here and always will be compliant to your standards Seed-pomegranite are just slip shod and want not care, just look at the building work done it was a disgrace no Anitz head and gutters still full of mess leaving the water to drip down inside i hope my letter helps, excuse my handwriting as my right

hand does not work properly. i am only  
one voice i just hope there are others  
i once again thank your workshop with  
respect.

Simon de Lange. 17<sup>th</sup> Aug 2016.