

EAST HERTS COUNCIL

LICENSING SUB-COMMITTEE – 23 JULY 2018

REPORT BY HEAD OF HOUSING AND HEALTH

APPLICATION FOR NEW PREMISE LICENCE FOR CAMPO SANCHO, THE
FIELDS ADJACENT TO WALKERN HALL CLAY END ROAD WALKERN
STEVENAGE HERTS SG2 7HZ

WARD(S) AFFECTED: WALKERN

Purpose/Summary of Report

- An application for a new time limited premises licence under the Licensing Act 2003 has been received. An objection to the application has been received so the decision falls to a Sub-Committee of the Licensing Committee. The report is to inform that decision.

<u>RECOMMENDATION FOR LICENSING SUB-COMMITTEE: That:</u>	
(A)	THE APPLICATION FOR A NEW TIME LIMITED PREMISES LICENCE BE DETERMINED

1.0 Background

1.1 Under the Licensing Act 2003 an application for a new or variation to a licence or certificate is granted by officers under delegated authority if no valid representations are received.

1.2 Where valid representations are received the Licensing Authority's discretion is engaged. A Licensing Sub-Committee has the delegated authority to determine applications for new and varied Licences and Certificates. This decision must be made whilst having regard to the Licensing Objectives, the Licensing Authority's own Statement of Licensing Policy and to

statutory guidance issued by the Secretary of State under section 182 of the Licensing Act.

1.3 The Licensing Objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the Protection of children from harm.

1.4 In determining this application, the Sub-Committee must have regard to the representations and take such steps as it considers appropriate for the promotion of licensing objectives. The steps available to the Sub-Committee are:

- grant the application;
- if considered appropriate for the promotion of the four licensing objectives, impose conditions;
- amend the application; or
- reject the whole or part of the application.

2.0 Report

2.1 The valid application submitted by Campo Sancho Ltd, Mr Ali Conbolat, was received by the licensing authority on 29th May 2018. The application was correctly advertised and consulted upon as required.

2.2 The application has been made to allow a festival called "Campo Sancho" to take place for a third year at the venue in fields adjacent to Walkern Hall, Clay End Road. The event was held last year between 28th July 2017 and 30th July 2017.

2.3 The application requests that a new premises licence be granted from 27th July 2018 for Friday through to Sunday 29th July 2018 and for Friday through to Sunday on the last weekend of July up until 2022.

2.4 The application seeks approval for a number of licensable activities as set out below:

Requested Activity	Requested Day	Requested Time	Location
Plays	Friday - Sunday	12:00 – 00:00	Indoors & Outdoors
 			
Films	Friday - Sunday	12:00 – 00:00	Indoors & Outdoors
 			
Live Music	Friday - Sunday	12:00 – 00:00	Indoors
Live Music	Friday - Sunday	12:00 – 22:00	Outdoors
 			
Recorded Music	Friday	12:00 – 03:00	Indoors
Recorded Music	Saturday	12:00 – 04:00	Indoors
Recorded Music	Sunday	12:00 – 00:00	Indoors
Recorded Music	Friday	12:00 – 22:00	Outdoors
Recorded Music	Saturday	12:00 – 22:00	Outdoors
Recorded Music	Sunday	12:00 – 22:00	Outdoors
 			
Anything similar to Live Music, Recorded Music or the performance of dance	Friday	12:00 – 00:00	Indoors & Outdoors
Anything similar to Live Music, Recorded	Saturday	12:00 – 03:00	Indoors / Outdoors

Music or the performance of dance			
Anything similar to Live Music, Recorded Music or the performance of dance	Sunday	12:00 – 00:00	Indoors / Outdoors
Late Night Refreshment	Friday	23:00 – 03:00	Outdoors
Late Night Refreshment	Saturday	23:00 – 04:00	Outdoors
Late Night Refreshment	Sunday	23:00 – 00:00	Outdoors
Supply of Alcohol	Friday	12:00 – 02:50	For consumption on the premises
Supply of Alcohol	Saturday	12:00 – 03:50	For consumption on the premises
Supply of Alcohol	Sunday	11:00 – 23:50	For consumption on the premises
Opening times	Friday	12:00 – 03:30	
Opening times	Saturday	12:00 – 04:30	
Opening times	Sunday	12:00 – 00:30	

2.5 Part M of the application form asks the applicant to describe any additional steps they intend to take to promote the four licensing objectives as a result of the application. The applicant has stated a number of controls that will be put in place. This includes that the applicant has created an Event Management Plan (EMP), site risk assessments, a security plan,

the commissioning of a Noise Management Plan and that there will be no glass on site. A redacted copy of the application form and plans provided are attached as **Essential Reference Paper 'B'**.

- 2.6 As part of the application the applicant has provided a number of protocols / plans. This includes the Event Management Plan and Noise Management Plan. These protocols and plans are attached as **Essential Reference Paper 'C'**
- 2.7 During the 28 day statutory public consultation period the application was varied and conditions agreed with Herts Police. These conditions are attached as **Essential Reference Paper 'D'**
- 2.8 During the 28 day statutory public consultation period one valid representation was received. This was received from Environmental Health acting as a Responsible Authority. This representation is attached as **Essential Reference Paper 'E'**.
- 2.9 This representation raises concerns by Environmental Health that the noise from the event will lead to disturbance and as such would undermine "The prevention of public nuisance" licensing objective.
- 2.10 Environmental Health has suggested two options to the applicant which would mitigate their concerns. The applicant has declined to agree to either option so Environmental Health would like the Licensing Sub-Committee to consider imposing either of the options suggested to promote the licensing objectives:
1. The application is reduced so that the finishing times are no later than 02:00 on Saturday and Sunday Mornings and at 23:00 on Sundays; or

2. That the application is granted but time limited to just one year to enable the applicant to demonstrate whether that they can run the event without disturbance.

3.0 Policy and Guidance

3.1 Section 4 of the East Herts Statement of Licensing Policy details definitions of premises and location and operation of premises (differentiating between Town Centre locations and other areas). Under this section of the policy the operation of Campo Sancho does not tightly fit into any of the premise definitions as this is ultimately a festival and is requesting a number of different licensable activities.

3.2 The premises falls within a field and as such classed as 'other area'. The table at 4.3 of the policy details this authorities approach to licensing premises when it has received relevant representations to an application. Notwithstanding that each application is considered on its own merits the following hours would normally be granted to this style of premises in this location when valid and relevant representations have been received:

As other entertainment venues not listed, the policy states "Will generally be allowed licensable activities to midnight only (other than for special occasions)"

3.3 Section 9 of the East Herts Statement of Licensing policy relates to the prevention of public nuisance. Specifically section 9.3 of the policy states "The Licensing Authority will expect applicants to demonstrate they have considered:

- (1) the proximity of residential accommodation;
- (2) the type of use proposed, and the likely numbers of customers;
- (3) proposed hours of operation and the frequency of activity;
- (4) the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the

premises, including music, noise from ventilation equipment, and human voices. This may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;

- (5) the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will usually be of greater importance between 10 p.m. and 7 a.m. than at other times of the day;
- (6) the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- (7) the steps taken or proposed to be taken by the applicant to help ensure patrons and staff leave the premises quietly;
- (8) the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;
- (9) the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- (10) the level of likely disturbance from associated vehicle movements;
- (11) the use of smoking shelters, gardens and other open-air areas;
- (12) the location of delivery and collection areas and delivery/collection times;
- (13) the appropriate placing of external lighting, including security lighting;
- (14) refuse storage and litter (including fly posters and illegal placards);
- (15) the history of nuisance complaints against the premises, particularly where statutory notices have been served on the present licensees;
- (16) the applicant's past success in controlling anti-social behaviour and preventing nuisance;
- (17) odour nuisance, e.g. cooking smells;
- (18) any other relevant activity likely to give rise to nuisance;

- (19) any representations made by the Police, or other relevant agency or representative;
- (20) This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits."

3.4 Paragraph 9.37 and 9.38 of the revised Guidance issued under section 182 of the Licensing Act 2003 states:

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

3.5 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- the Revised Guidance issued under section 182 of the Licensing Act 2003 ; and
- its own statement of licensing policy.

3.6 Paragraphs 9.42-9.44 deal with how to determine actions that are appropriate for the promotion of the licensing objectives.

3.7 If Members are minded to impose conditions to mitigate concerns regarding the undermining of the licensing objectives

then Chapter 10 of the guidance deals with conditions attached to premises licences. Paragraphs 10.8-10.10, 10.13-10.15 would be particularly relevant.

4.0 Officer observations

- 4.1 The causes for concern are identified by a responsible authority and the concerns relate to the likelihood of noise nuisance appear to be valid. Environmental Health state that there have been complaints about this event from previous years.
- 4.2 The applicant has provided both an Event Management Plan (EMP) and a Noise Management Plan.
- 4.3 If Members believe that the event would not undermine the licensing objective of the prevention of public nuisance then the application should be granted as requested.
- 4.4 As stated in the Guidance the authority's decision should be evidence based, justified as being appropriate for the promotion of the licensing objective's and proportionate to what it is intended to achieve.
- 4.5 Members should consider if they believe the applicant has provided evidence that the proposed variation would promote and not undermine the licensing objectives. This evidence should be balanced against the evidence given by those making representations that the licensing objective would be undermined.
- 4.6 If Members believe that there is evidence that the granting of the licence would not promote the licensing objectives then it is within their remit to take the action they believe is appropriate and proportionate to address their concerns. Members can attach conditions or take any steps they believe appropriate to promote the licensing objectives including:

limiting the days of the event, limiting the hours for licensable activities or even refusing the application in its entirety.

- 4.7 Put in its simplest terms what are the minimum measures that can be put in place to address the concerns? Refusal of the application should be the last option considered.
- 4.8 In considering additional conditions Members should decide whether these steps would in fact address their concerns if the decision was made to grant hours beyond those within policy? Members are free to depart from the policy but should clearly explain why this has been done when giving detailed reasons for their decision.
- 4.9 However if simply limiting the hours to those within the policy does not mitigate Members' concerns regarding the promotion of the licensing objectives then the option to impose appropriate and proportionate conditions is available.
- 4.10 When the Licensing Sub-Committee gives its decision to those in attendance it should be made clear to all parties how much weight has been attached to each submission and why and what evidence Members have relied upon when reaching their decision.
- 4.11 Officers would suggest that if a licence is granted a condition is attached stipulating that the event can take place on the Friday, Saturday and Sunday (or whichever days are granted) of the last weekend of July each year. This reflects the applicant's intention and makes it clear when the event will be taking place.

5.0 Implications/Consultations

- 5.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

East Herts Statement of Licensing Policy 2016 -

<https://www.eastherts.gov.uk/article/35119/Licensing-Policy>

Revised Guidance issued under section 182 of the Licensing Act 2003
(April 2018) -

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705327/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

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