

East Herts Council Report

Licensing Sub-Committee

Date of Meeting: 6 June 2023

Report by: Jonathan Geall, Head of Housing and Health

Report title: Application for a new premises licence for Campo Sancho, Walkern Hall, Clay End Road, Walkern, Hertfordshire, SG2 7HZ (23/0511/PL)

Ward(s) affected: Aston, Datchworth and Walkern

Summary

- An application for a new premises licence has been received from Campo Sancho Limited. Representations against the application have been made by three interested parties and one responsible authority. In addition, twenty-four representations being received in support of the application. Where representations are received against an application, and are not withdrawn, there must be a Licensing Sub-Committee meeting to decide that application. This report is to inform that decision.

RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE

(A) The application for a new premises licence be decided.

1.0 Proposal(s)

1.1 Members of the Licensing Sub-Committee should determine the application to grant a premises licence to Campo Sancho Limited through consideration of the information contained in

this report and appendices combined with submissions made at the Licensing Sub-Committee hearing.

2.0 Background

2.1 Under the Licensing Act 2003 and the council's Statement of Licensing Policy (herein 'the Policy') 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.

2.2 Where valid representations are received the council'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 council's own Statement of Licensing Policy and to statutory guidance issued by the Secretary of State under section 182 of the Licensing Act.

2.3 The Licensing Objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of public nuisance; and
- Protection of children from harm.

3.0 Reason(s)

3.1 The application was submitted by Campo Sancho Limited on 13th April 2023. The application requests plays, films, live music, recorded music, performances of dance, Anything of a similar description to that falling within (e), (f) or (g), provision of late-night refreshment and the supply of alcohol for consumption ON and OFF the premises during the following times:

Licensable Activity	Day	Hours originally applied for
Plays, Films, Live music, Performance of Dance (Indoors and Outdoors) *Live music times are weather dependent, If the weather and forecast are good Live music will be performed outside if poor then this will be performed inside. If outside live music will stop at 21:00. If we are indoors live music will stop at 00:00	Friday	12:00 – 00:00*
	Saturday	12:00 – 00:00*
	Sunday	12:00 – 00:00*
Recorded music (Indoors and Outdoors) *Recorded music described as 'background' from 21:00 recorded music is proposed to be performed inside only	Thursday	18:00 – 23:00*
	Friday	12:00 – 03:00*
	Saturday	12:00 – 04:00*
	Sunday	12:00 – 00:00*
Late night refreshment (Outdoors)	Friday	23:00 – 03:00
	Saturday	23:00 – 04:00
	Sunday	23:00 – 00:00
Supply of alcohol (for consumption on the premises)	Thursday	18:00 – 23:00
	Friday	10:00 – 03:00
	Saturday	10:00 – 04:00
	Sunday	11:00 – 23:50

Premises open to the public	Thursday	18:00 – 23:00
	Friday	10:00 – 03:00
	Saturday	10:00 – 04:00
	Sunday	10:00 – 00:00

3.2 With regards to Recorded music, the applicant has stated on the application that:

We propose to have a background music offering only.

Background music is not a licensable activity so if all the Recorded music during the event is background only a licence covering this is not required.

3.3 On the application form the applicant has completed section H, *Anything of a similar description to that falling within (e), (f) or (g)*. E, F and G are Live music, Recorded Music and Performance of dance. However, the activities listed in section H: *The festival program will include ad hoc performances of dance, some slapstick comedy, circus, dancing competitions and story telling and performance dance*; are either covered under a different part of the application (G) or are not licensable activities. As such this part of the application has not been included in the table at 3.1.

3.4 A redacted copy of the application form for a new premises licence is attached as **Appendix 'A'**.

3.5 Section M of the application form asks the applicant to describe the steps they intend to take to promote the four Licensing Objectives.

3.6 During the 28-day statutory public consultation period four representations were received against the application: two from local residents, one from Walkern Parish Council and one from Environmental Health in their role as a responsible

authority. All the representations are attached as **Appendix 'B'**.

- 3.7 Between them, the representations suggest that the following Licensing Objectives would be undermined if the application is granted as applied for; Prevention of public nuisance and Prevention of Crime and Disorder.
- 3.8 Contact was received from 24 individuals and companies in support of the application for the festival. A copy of the supporting comments received are attached as **Appendix 'C'**.
- 3.9 During the consultation period the applicant agreed to additional conditions with the Police which are attached at **Appendix 'D'**.
- 3.10 During the consultation period the applicant agreed to additional conditions with regards to age verification following consultation with Hertfordshire County Council's Public Health and Trading Standards teams. These conditions and agreement are attached as **Appendix 'E'**
- 3.11 A plan of the area in which the premises are located is attached at **Appendix 'F'**. This can be used to understand the location of the premises in relation to residents and other businesses.

Policy and Guidance

- 3.12 Section 5 of the **East Herts 'Statement of Licensing Policy'** (herein 'the Policy') relates to Pre-application advice and engagement. Paragraph 5.7 and 5.8 state:

5.7 Engagement is an important element of the licensing process. Applicants are expected to have considered the location and community it is proposing to operate in. An

understanding of the concerns to be addressed can be obtained by early engagement with a variety of bodies and individuals including:

- Responsible authorities
- Ward councillors
- Town councils
- Parish councils
- Residents Associations
- Businesses and residents in the vicinity of the proposed premises.

5.8 Experience shows that early engagement allows concerns to be addressed in the most timely and cost effective way for all parties. Where concerns cannot be addressed before an application is made resulting in representations the expectation is that the dialogue between the parties continues to try and find common ground.

3.13 Section 6 of the 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 would be classed as an *'festival'*.

3.14 The proposed premises are not within a Town Centre as defined in section 7.0 of the Policy so are designated as *'Other area'*.

3.15 The table at 6.9 of the Policy details the council's approach to hours for licensed premises when it has received relevant representations to an application. This section states that *'Will generally be allowed licensable activity until 01:00 on Friday and Saturday. On Sunday to Thursday 23:00, unless the following day is a Bank Holiday or recognised National Holiday.'*

3.16 Section 8 of the Policy states that:

8.1 The Licensing Authority must carry out its functions with a view to promoting the four Licensing Objectives, each of which has equal importance:

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

8.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in partnership with all stakeholders and partners towards the promotion of the Licensing Objectives.

3.17 Paragraphs 8.6 to 8.39 of the Policy contain information on how the council considers applications in respect of each of the Licensing Objectives.

3.18 Paragraphs 20.1 to 20.8 apply to festivals and outdoor events.

3.19 Of particular relevance are:

20.1 The Licensing Authority recognises the contribution that well-run outdoor events bring to local communities, and is pleased to support events which are run in a manner that will promote the licensing objectives

20.5 The Authority will expect the organisers of any large events (taking place under the authority of a premises licence) or events which include special risk factors to

consult the East Herts Safety Advisory Group (SAG) while planning their event, and to implement any reasonable recommendations made by the group. The SAG is a multi-agency body, which includes representatives of the Licensing Authority, responsible authorities and other statutory bodies who have involvement in the organisation and safe running of events.

20.7 One of the major concerns arising from outdoor events is disturbance to local residents from noise associated with music entertainment at the event, or other noisy equipment such as generators, public announcement systems, fireworks, and so on. The Licensing Authority will expect to receive a comprehensive operating schedule from applicants, containing appropriate proposals to control such issues and promote the prevention of public nuisance licensing objective. Depending on the size and nature of the event it is likely this will need to include a comprehensive Event Management Plan (EMP) integrating a specific Noise Management Plan.

20.8 To mitigate these concerns as far as possible early engagement with those likely to be affected by an event is expected. Simply fulfilling the statutory obligation to advertise is likely to trigger representations and raise concerns more than if there has been early engagement. Please refer to the section of this Policy that deals with "Pre-application advice and engagement" for further details

3.20 The Home Office-issued '**Guidance issued under section 182 of the Licensing Act 2003**' (herein 'the Guidance') states at paragraph 9.37 and 9.38 that:

9.37 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.

9.38 In determining the application with a view to promoting the Licensing Objectives in the overall interests of the local community, the Licensing Sub-Committee 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;*
- this Guidance;*
- its own statement of licensing policy.*

3.21 Paragraphs 9.42-9.44 of the Guidance deal with how to determine actions that are appropriate for the promotion of the Licensing Objectives.

3.22 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 along with the East Herts '**Pool of Model Conditions**'¹.

¹

Officer observations

- 3.23 Representation 1 – An interested party being Walkern Parish Council.
- 3.24 The representation references concern about public nuisance and the possibility of crime and disorder. The Parish Council state that the area is already suffering from antisocial behaviour. They have also requested that a suitable sound limiting device be used and stated that they have heard music on previous occasions and have concerns regarding music inconveniencing people sleeping or having to close their windows.
- 3.25 The Guidance, at para 2.1, states in relation to the Prevention of Crime and Disorder that:
- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).*
- 3.26 The Police have not made representation on this point so that indicates that they believe the provision is adequate given the current facts.
- 3.27 With regards to the public nuisance, as previously stated recorded music is described as background, which is not licensable and should not cause disturbance. With regards to live music and the use of a noise limiting device the Sub-Committee may wish to ask Environmental Health to comment
- 3.28 Representation 2 – An interested party being a local resident.
- 3.29 The representation references concern about public nuisance. The interested party states that they have previously been disturbed by Campo Sancho events. They feel that midnight is

late enough.

- 3.30 The interested party then references the advertising of the application; they feel the application has not been broadly advertised and as a result this has not given many people the opportunity to be aware of the application. It should be noted that the applicant has complied with the requirements of the Licensing Act 2003 and so little weight should be put on this comment.
- 3.31 Representation 3 – An interested party being a local resident.
- 3.32 This representation references concerns about public nuisance. The interested party states that they live 1km from the festival site and have previously been disturbed by Campo Sancho events and are concerned about significant nuisance causing sleep disruption. They are asking that licensable activities finish at 1am Friday and 2am on Saturday.
- 3.33 Representation 4 – A responsible authority being Environmental Health.
- 3.34 This representation references concerns about public nuisance, primarily music noise and the proximity to residents. They state that conditions need to be added in order to minimise nuisance being caused. Environmental Health's representation states that they are in open discussion with the applicant, however, at the time of writing this report, no update has been received from Environmental Health and proposed conditions have not been provided.
- 3.35 The Guidance, at para 2.15, states in relation to Public nuisance:

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what

constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 3.36 Environmental Health, whose area of expertise includes nuisance has made a representation, against the application. It is therefore reasonable to conclude that Environmental Health believe that granting the licence, as applied for, would cause 'disproportionate and unreasonable' effects to local residents or businesses.
- 3.37 The Sub-Committee should therefore ask Environmental Health what conditions they wish to impose as this is not clear in their representation.
- 3.38 Many of the supporting comments are from people that attend the festival, involved businesses or nearby businesses. These have all be included with this report for completeness.
- 3.39 The supporting comments reference Campo Sancho being a safe and well-run family event but none of the submissions address the issue of the impact of nuisance on residents, apart from one from a resident 2 miles away who states they are *"attuned to noise levels which have not been intrusive"*. The Sub-Committee should decide how much weight should be attributed to the comments. However, where the comments do not relate to the Licensing Objectives of Prevention of

public nuisance or Prevention of Crime and Disorder, no weight should be attributed.

3.40 The Sub-Committee should consider whether the operation of the licensed premises would be likely to cause a public nuisance having considered the evidence presented and the location of the premises.

4.0 Options

4.1 The actions open to the Licensing Sub-Committee are:

- grant the application as requested if they feel the application would promote and not undermine the Licensing Objectives; or
- grant the application but at the same time impose additional conditions or amend the activities or times requested; or
- if members believe that there is evidence that shows that there are no steps that can be taken to ensure that the application sought would promote the Licensing Objectives then the application should be refused.

4.2 As stated in the Guidance, the council's decision should be evidence based, justified as being appropriate for the promotion of the Licensing Objectives and proportionate to what it is intended to achieve.

4.3 If the Sub-Committee believe that granting the application as requested would not promote the Licensing Objectives, then the starting point should be to consider if there are conditions that could be added to mitigate concerns.

4.4 In considering additional conditions, members should decide

whether these steps would in fact address their concerns if the decision was made to grant the hours and activities as requested.

- 4.5 For conditions to be enforceable they need to be clear, unambiguous and free from subjective terms. If a condition cannot be enforced, then it should not be placed on any granted licence.
- 4.6 However, if adding conditions and/or limiting the hours beyond those requested and/or limiting licensable activities does not mitigate members' concerns regarding the promotion of the Licensing Objectives then the application should be refused.
- 4.7 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.

5.0 Risks

- 5.1 A decision on the application must be made and any decision made can be appealed at the Magistrate's Court. Therefore, the Licensing Sub-Committee should ensure that when giving their decision on the application they give clear reasons on how and why they have made their decision. In doing so, the council's ability to defend its decision is strengthened and the risk of its decision being over-turned on appeal is lessened, although, of course, this risk can never be entirely removed.

6.0 Implications/Consultations

- 6.1 As with any application for a new premise licence / variation of premise licence or review of a premise licence there has been

a 28-day public consultation.

Community Safety

The report details the four Licensing Objectives therefore Community Safety will be considered when determining the application.

Data Protection

Where the appendices have shown personal data, this has been redacted.

Equalities

Consideration has made to the Equality Act 2010 and the Public Sector Equality Duty in this report and will be considered during the Licensing Sub-Committee hearing.

Environmental Sustainability

No

Financial

There will be a cost to the authority in holding the Licensing Sub-Committee hearing; this will be covered by the existing budget.

There would be a cost if the decision of the Licensing Sub-Committee is appealed to the Magistrates Court and the authority chooses to defend that appeal.

Health and Safety

No

Human Resources

No

Human Rights

As with all applications and Council functions, the Human Rights Act 1998 has been considered in this report and will be considered during the Licensing Sub-Committee hearing.

Legal

All statutory requirements have been considered in preparing this report.

Specific Wards

Yes – Aston, Datchworth and Walkern.

7.0 Background papers, appendices and other relevant material

- 7.1 Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2022 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1149896/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_December_2022_002_.pdf)
- 7.2 East Herts Statement of Licensing Policy 2021-2026 <https://cdn-eastherts.onwebcurl.com/s3fs-public/2022-03/Statement%20of%20Licensing%20Policy%202021-26%20Mar%202022.pdf>
- 7.3 East Herts Pool of Model Conditions 2021 <https://eastherts.fra1.digitaloceanspaces.com/s3fs-public/2021-08/Pool%20of%20Model%20Conditions%202021%20%28accessible%29.pdf>
- 7.4 **Appendix 'A'** – Application for a New Premise Licence (redacted).
- 7.5 **Appendix 'B'** – Representations objecting to the application.
- 7.6 **Appendix 'C'** – Representations / comments supporting the application.

- 7.7 **Appendix 'D'** – Conditions agreed with Herts Police.
- 7.8 **Appendix 'E'** – Additional conditions agreed with Public Health and Trading Standards
- 7.9 **Appendix 'F'** - Location Plan

Contact Officer

Jonathan Geall – Head of Housing and Health, Tel: 01992 531594.

jonathan.geall@eastherts.gov.uk

Report Author

Brad Wheeler – Senior Licensing and Enforcement Officer, Tel: 01992

531520. brad.wheeler@eastherts.gov.uk