

LICENSING SUB COMMITTEE

DATE OF HEARING: MONDAY 16TH JUNE 2025

DETERMINATION OF A PREMISES LICENCE APPLICATION FOR SHOBROOKE PARK, CREDITON, EX17 1DG

Cabinet Member(s): David Wulff, Cabinet Member for Quality of Living, Equalities and Public Health

Responsible Officer: Simon Newcombe, Head of Housing and Health

Reason for Report: An application has been received for a new premises licence for Shobrooke Park, Crediton, EX17 1DG

Relevant representations have been received and the Licensing Authority (Mid Devon District Council) must hold a hearing to determine the application.

RECOMMENDATION: That this application be decided in accordance with the licensing objectives.

Financial Implications: The potential cost of defending an appeal in the courts.

Legal Implications: If there is an appeal against the decision Mid Devon District Council (the Council) could find itself bearing the costs.

Risk Assessment: If the decision is not reasonably and lawfully made it could be overturned on appeal to the Magistrates' Court.

Equality Impact Assessment: No equality issues identified for this report.

Relationship to Corporate Plan: Not applicable

Impact on climate change: Not applicable

Additional information relevant to this application: The process of applying for these licences is prescribed by regulations made under the Licensing Act 2003 (the "Act"). The applicant must copy their applications to the "Responsible Authorities" consisting of the Police, Fire Service, Weights and Measures (Trading Standards), body responsible for Health and Safety (Environmental Health), Environmental Health for nuisance, the Planning Authority, the Licensing Authority, the local Director of Public Health, the body responsible for Child Protection and the Home Office. If the application is submitted online the Licensing Authority must forward it to all Responsible Authorities.

Although not a requirement under the Act, this Council also notifies the relevant town or parish council for where the premises are located.

Applicants are also obliged to advertise their applications in two ways – on the premises and in a local newspaper.

1.0 THE PREMISES AND RELEVANT HISTORY

1.1 An application has been submitted for a new premises licence for Shobrooke Park, Crediton, EX17 1DG.

1.2 The applicant has given the following description of the premises in the application form:

'The Premises is historic parkland attached to what was an old manor house, which was destroyed during WW2. The landowner lives on the old site of the original house in a bungalow built in the mid century.

The landowner has a current event licence for the site, which is not a premises licence and therefore does not allow sale of alcohol.

We have been holding an annual event on the site for the last 14 years. Improvements made to the estate by the landowner, have made it much easier to access and the potential of the site to hold more events has been realised.

The annual event which has traditionally been held on the site, on the weekend that follows the late May bank holiday, is an event for Exeter University students. The event has gradually grown to 7000 students, all of whom are brought to site in buses and taxis therefore the impact on the local residents is minimal. There has historically been no problems or issues with any aspect of the event, and it is a well-respected and popular event which sells out in minutes.

Due to the capacity and landscaping of the site, It would be really nice to hold other events such as family fete's, plays in the amphitheatre, or other music events. Therefore, we are applying for a licence for a larger physical area, which will encompass the majority of Shobrooke Park. Not all of which for licensable activities, and not necessarily to be used all at once, but to allow scope for different events in different locations.

This licence would allow events to happen on any day of the year. We propose to limit this licence to 10 events per year where licensable activities take place, in no way contravening the current licence held by the landowner for their own events. Of these 10 events, no more than 2 would be 3 days and 8 would be 1 day. (a 1 day event can span midnight. i.e. 10am – 2am counts as 1 day for the purposes of this application). No event would last longer than 3 days.

We do not propose to operate events all-day every day, however, for example, we may wish to run a family event on a Saturday running from 10am to 8pm, but further into the year, on a different Saturday we may wish to run a music event which starts later but finishes at 4am.

We have no plans to run any events later than 2:30am, however, we are applying for a longer licenced period to allow us to keep the site open later than planned without breaching licence conditions in the rare occurrence we should need to – in 2023 we were at risk of having a H&S compliance issue due to having to close the site because of licence conditions, this meant a massive egress of guests that would not be easy to safely manage. To mitigate a similar situation we are applying for slightly longer licencing hours to allow us the flexibility to keep a venue open longer in this scenario. In addition, we are applying for the maximum capacity for the largest event that we wish to hold. A theatre event would likely be held with a 400 cap. Whereas the current

Enchanted Garden Ball event would like to gradually grow from the current 7500 capacity up to 9999.

We will cap the attendance to; 8000 in 2025, 9000 in 2026 and 9999 in 2027. This number also includes all staff, artists, security and management, not only ticket holders.

For events of 8000+ then full plumbing will be installed around the site for free drinking water. However, we will endeavour to provide water stations for attendees to fill their own receptacles or those purchased via the bars.

For all events a site plan and an EMP will be produced and kept on site for the duration of the event, along with it's build and break phases. The SAG will be notified for all events over 500 capacity via email. Organisers will attend SAG meetings if requested to do so.

For any amplified events, a licence condition would be that all sound systems are directed away from local residences. We would request that the sound engineers have a sound monitor at the control position to ensure that sound levels are kept to a reasonable volume. Theatre and unamplified events will generally not require a noise management plan. However, with larger, louder events, such as anything with a "professional level PA" (more than simply a couple of speakers), or runs beyond 22:00, then a noise management plan will be created and submitted to the SAG. The sound operators will be required to operate within the bounds of the NMP. For events of 5000+ capacity an external noise monitoring company is to be employed who will visit the most noise sensitive locations throughout the event to ensure sound levels are kept within the legal bounds.'

Premises history

- 1.3 The amphitheatre area of the site has held a premises licence (no alcohol) since 2006. This is licence number MDV PL0069.
- 1.4 There is another, permanent, premises licence for the site which has been used to cover the annual event known as 'Enchanted Garden Ball'. This is licence number MDV PR0405 and was initially granted in 2018. This particular licence permits licensable activities at one event per year.
- 1.5 Prior to 2018, records show that the site benefited from separate time-limited premises licenses between 2013 – 2017. The Licensing Officer believes these temporary licences were to cover the 'Enchanted Garden Ball' event.
- 1.6 So all parties are aware, the Act permits more than one licence to have effect for a premises (or part of a premises) at any one time.
- 1.7 The Licensing Officer has asked the Environmental Health Team for details of any complaints made against the annual event held at the premises over the last 3 years. No relevant records were found.
- 1.8 If any party to the hearing believes this is incorrect and that relevant complaints have been made previously to the Local Authority, they can highlight this prior to the hearing by emailing details to licensing@middevon.gov.uk. In doing so

they should confirm their name, the approximate date of the complaint, reference numbers provided by the Council and details about the issue(s).

- 1.9 So the Sub-Committee are aware, the organisers of the event known as 'Enchanted Garden Ball' have, for a number of years, engaged with the Safety Advisory Group (SAG).
- 1.10 The SAG is an impartial advisory group that provides a single point of contact for coordinated and consistent advice to be given to event organisers. Members include Licensing, Environmental Health, Police, Fire Service, Ambulance Service and the Highways Authority.

2.0 THE APPLICATION

- 2.1 The application for a new premises licence was submitted by Showbitz Limited.
- 2.2 The application was initially submitted in March 2025. However, there was an error with the application and as a result, the application had to be resubmitted.
- 2.3 In summary, the following activities / times has been applied for:

Activity	Indoors / Outdoors (or both)	Days	Times
Plays and Films,	Both	Mon - Thu	10:00 – 02:00
		Fri - Sat	10:00 – 04:00
		Sunday	10:00 – 02:00
Live music	Both	Mon - Sat	10:00 – 04:00
		Sunday	10:00 – 02:00
Recorded music, Performance of dance and 'anything of a similar description'	Both	Mon – Sun	10:00 – 04:00
Late night refreshment	Both	Mon – Sun	10:00 – 04:00
Supply of alcohol	For consumption ON and OFF the premises	Mon – Sun	10:00 – 04:00
Hours premises open to the public	N/A	Mon – Sun	09:00 – 04:30

Table 1: Activities / times requested on application

Late night refreshment

- 2.4 It should be noted that late night refreshment relates to the supply of hot food or hot drink between the hours of 23.00 and 05.00. This is highlighted because

the applicant has asked for it to be licensed from 10:00 and at this time, the requirement for a licence would not apply.

Adult entertainment

- 2.5 Box K of the application asks the applicant to highlight any adult entertainment that may give rise to concerns in respect of children. The applicant has stated:

'At present and within all current expectation. Any adult entertainment will be ONLY at OVER 18 events.'

All alcohol sales that are not at solely over 18 events will be subject to challenge 25.

Any events that allow under 18's on to site will have additional safeguarding policies in place'.

- 2.6 The Guidance notes on the application form give further information about what applicants should detail in this section and it states:

'Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines'.

- 2.7 It is therefore requested that the applicant provide specific details of any adult entertainment they intend to provide prior to the hearing and with their response to the Notice of Hearing.

- 2.8 The application form is attached as **Annex 1** and the plan submitted with the application is attached as **Annex 2**.

3.0 CIRCUMSTANCES IN WHICH ENTERTAINMENT ACTIVITIES ARE NOT LICENSABLE AND IMPACT ON CURRENT APPLICATION

- 3.1 Many activities that previously required a licence are no longer themselves licensable under the Act (assuming specific requirements are met). Further details about this can be found here:

<https://www.gov.uk/guidance/entertainment-licensing-changes-under-the-live-music-act>

- 3.2 So parties are aware, with regards to live and recorded music, a licence is not required for these activities if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and

- the audience is no more than 500 people

3.3 A licence is also not required to:

- put on unamplified live music at any place between the same hours; or
- put on amplified live music between 08.00 and 23.00, in a workplace that does not have a licence, provided that the audience does not exceed 500.

3.4 This is highlighted because the applicant has applied for live and recorded music and depending on the specific circumstances, it may not always be considered licensable.

Impact of licence conditions on non-licensable entertainment

3.5 Any conditions added on a determination of an application for a premises licence which relate to live music or recorded music remain in place, but are suspended between the hours of 08.00 and 23.00 where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

3.6 Essentially, if the live or recorded music is not considered licensable, any conditions on a licence which apply will be 'suspended'.

Dealing with issues as a result of non-licensable entertainment

3.7 Issues or problems relating to activities which are not considered licensable can still be addressed. For example, if music is causing a nuisance, Environmental Health can still take action under the Environmental Protection Act 1990.

3.8 From a licensing perspective, any potential licence can be reviewed and at this stage, conditions could be made to have effect or be placed on the licence. It is important to note that this power follows on from an application to review a premises licence and this is not a relevant consideration for the current application.

4.0 LICENSING OBJECTIVES

4.1 All applicants are required to set out in their application the steps they intend to take to promote the four licensing objectives. These are:

- **The prevention of crime and disorder**

- **Public safety**
- **The prevention of public nuisance; and**
- **The protection of children from harm.**

4.2 The applicant has provided information and proposals on this, and these can be seen in Section M of the application (attached as **Annex 1**).

4.3 Paragraph 1.2 of this report replicates what the applicant has said in the description of the premises section of the application. Because some of this information appears to include restrictions / conditions, the Licensing Officer feels it may be helpful to highlight the following:

- The Licence would permit up to TEN 'events' per year. Of these TEN events, up to TWO could last for a maximum of 3 days. The other EIGHT would last no longer than 24 hours.
- The maximum attendance will be restricted for any one event to 8,000 in 2025; 9,000 in 2026; and 9,999 in 2027.
- A site plan and Event Management Plan (EMP) will be produced for all events and kept on site.
- The SAG will be notified of all events with a potential capacity of 501 and above.
- 'Larger' and 'louder' events, such as anything with a professional level PA and events that run beyond 22:00 will have a noise management plan and this will be submitted to the SAG.
- Where an event has a potential capacity of 5,000 or more, an external noise monitoring company will be employed to conduct noise monitoring at the most noise sensitive locations.

4.4 Section M of the application contains further conditions which includes, but is not limited to:

- The EMP (and all associated documents) will be made available to the SAG no later than 2 months prior to an event.
- So far as is reasonable practicable, events will run in accordance with the EMP.
- A Full EMP will be submitted to the SAG for all events with a potential capacity of 2,500 or more.
- Smaller events (defined as those with a capacity of 500 – 2,500) will have a 'scaled back' EMP that may be supplied to the SAG on request.

- The SAG will be made aware of all events with a potential capacity of 500 or more, via email, at least three months prior to the event wherever possible*, and 'certainly' for events with a potential capacity of 2500 or more.

* NOTE: Wording such as '*wherever possible*' is not recommended within licensing conditions in relation to notification requirements.

Additional information / confirmation requested from the applicant

4.5 The Licensing Officer has looked at the application and would like the applicant to clarify / confirm the following issues:

- a) Confirm how small and large events are defined. 'Smaller' events appear to be defined as those with a potential capacity of 500 – 2,500 and large events as 2,501 and above. However, the wording in one section of the application appears to indicate that an event of 2,500 would be considered a large event. This is important to clarify because it effects whether or not an EMP will be proactively supplied to the SAG or alternatively, made available on request.
- b) Confirm if any events with a proposed capacity of less than 500 would take place. If so, would an EMP be produced for them?
- c) Confirm how far in advance the SAG will be advised of small / large events.
- d) Confirm how far in advance an EMP will be made available to the SAG, prior to the event starting.
- e) Confirm that the EMP for small events will need to be requested by the SAG whereas the EMP for large events will be proactively circulated to them.
- f) Confirm when an external noise monitoring company will be used to a) monitor sound levels and b) produce a noise monitoring plan?

Conditions relating to an EMP

- 4.6 In order to allow some degree of flexibility, the applicant has not necessarily listed specific event conditions per say, but has instead referred to an EMP and the requirement to have this on site.
- 4.7 This practice is not uncommon for such events / licences and there are strong pragmatic reasons for this. Overly specific conditions on a Premises Licence may be suitable for one event held at the site but could be counter-productive to another. The ability to amend / create an EMP for each event ensures a proper risk assessment can take place and suitable safeguards adopted in light of the specific issues identified.
- 4.8 A condition requiring an EMP can be specific in the sense that it can include details of what issues it should cover, as a minimum. For example, the applicant has stated that it will include things like a noise monitoring plan; risk

assessments; site plan; crowd management plan; fire safety risk assessments; medical plan; and alcohol management plan.

- 4.9 Other specific plans / documents that an EMP may include can relate to access / egress; transport, communication; and waste management.
- 4.10 The Council's Licensing Policy is covered in more detail in section 8 of this report. However, given its relevance to large scale events and EMP's, it is felt appropriate to highlight the following at this stage:

The Council encourages the promotion of well-run events within the district and recognises the benefits that such events can bring to the local economy and community. (Paragraph 4.38)

Large scale events, such as outdoor musical festivals and other events, have significant potential to undermine the promotion of the licensing objectives, due to their size, complexity and the potential implications for planning such events. (Paragraph 4.39)

The Council strongly recommends that organisers of large scale public events consult the Safety Advisory Group (SAG) at the earliest opportunity to discuss arrangements for the licensing of those activities. This will help to ensure that they can obtain expert advice on how best to minimise the risk of injury and public nuisance. (Paragraph 4.40)

The application may involve the preparation of a substantial Event Management Plan which may take some time to complete. We recommend applicants engage with the SAG process a minimum of 6 months prior to the proposed event starting date. This is important to ensure that there is adequate time to apply for and obtain the relevant licences for the event to take place. (Paragraph 4.41)

5.0 RESPONSIBLE AUTHORITIES

- 5.1 Responsible Authorities under the Act are notified of all new premises licence applications. The onus is on each Responsible Authority to determine when they have appropriate grounds to make a representation.

- 5.2 The Responsible Authorities are:

- Police
- Fire Service
- Environmental Health (nuisance and health and safety)
- Planning Authority
- Licensing Authority
- Health and Safety Executive
- Weights and Measures (Trading Standards)
- the body responsible for Child Protection
- the local Director of Public Health

- Home Office

5.3 No Responsible Authorities made a representation against this application.

6.0 OTHER PERSONS

6.1 The Act allows 'other persons' to make representations provided they are relevant and not considered frivolous or vexatious. To be relevant, a representation must relate to the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives. The Section 182 Guidance states that '*... representations should relate to the impact of licensable activities carried on from premises on the objectives*' (Paragraph 9.4).

6.2 In this case, the Licensing Authority received 10 'negative' representations against the application that contain, to varying degrees, relevant information.

6.3 All of the representations are attached in full as **Annex 3 – 12**.

6.4 One of these representations was submitted in the form of a petition. This has been treated as one representation from the 'lead' signatory, supported by the other signatories, in accordance with Paragraph 5.21 of the Licensing Authorities Statement of Licensing Policy.

6.5 It should be noted that the hearing gives those that have made representations an opportunity to amplify and clarify the relevant issues they have raised. Additionally, it would be helpful if any party that has a suggested condition or recommendation make this clear to the Sub-Committee on the day.

6.6 A map showing the location of the premises in relation to those that have submitted representations will be available for Members of the Sub-Committee.

7.0 LICENSING OFFICER COMMENTS ON REPRESENTATIONS

Issues not likely / less likely to be relevant under the Act

7.1 As stated in Paragraph 6.1 of this report, representations must relate to the impact of licensable activities carried on from premises on the licensing objectives. It is the Licensing Officers view that elements of the representations are not relevant and what follows is a brief overview of these issues.

7.2 It is important to note that just because something is not considered as relevant under the Act, this does not mean the issue itself does not merit attention. It just means that the Act is not seen to be the relevant process / legislation to deal with the issue.

7.3 Please be aware that what follows is not intended to cover all of the issues raised in representations. The Licensing Officer has tried to pick out what is believed to be some of the broad themes / areas of representations and give some information about these in particular.

Impact on wildlife / livestock

7.4 It is not felt that the impact of licensable activities on local wildlife / livestock is relevant. Representations must relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. This issue appears to have been linked to the public nuisance objective.

7.5 The Section 182 Guidance states that:

'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'. (Paragraph 2.21)

7.6 A public nuisance is an act that interferes with the rights of the public generally - wildlife / livestock cannot be considered to be the public and the impact of licensable activities on them is therefore not thought to be relevant.

7.7 It should also be noted that general legislative provisions exist to deal with certain wildlife protection issues (i.e. The Wildlife & Countryside Act 1981).

Resources of the Police and Local Authority

7.8 The issue of authority resources has been raised and the Section 182 Guidance is clear that conditions and requirements placed on licences must be focused on the issues that are within their control.

7.9 The applicant cannot control the resources of other bodies and it is not felt relevant.

7.10 It should also be noted that Responsible Authorities, including the Police, did not make a representation. The Section 182 Guidance confirms that *'Licensing authorities should look to the police as the main source of advice on crime and disorder'. (Paragraph 2.1)*

Safety of those not using the premises

7.11 The public safety licensing objective relates to the safety of those using the premises. This is confirmed in the Section 182 Guidance which states that: *'Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation'. (Paragraph 2.8)*

- 7.12 It is the view of the Licensing Officer that this objective does not extend to the safety of people not using the site (i.e. people that may simply be walking on nearby roads and not attending the relevant site / event).

Perceived 'need' for such a premises and times of other licensed premises

- 7.13 The Section 182 Guidance confirms the perceived need for the premises is not relevant from a licensing perspective. It states:

"Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. (Paragraph 14.19)

- 7.14 Examples have also been given of other licensed premises finishing earlier than what the applicant has applied for. The Licensing Officer is of the view that the times permitted by other licences, be they shorter or longer, will vary based on a whole host of reasons and this fact alone is not relevant. What is important is the potential impact of the proposed licensable activities on the licensing objectives, in this particular case.

Anti-social behaviour once individuals are beyond the direct control of the applicant

- 7.15 The S182 Guidance confirms that:

'Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night'. (Paragraph 2.27)

- 7.16 This is highlighted because a number of representations have raised the issue of anti-social behaviour and it is important to remember that an applicant cannot be held responsible for the actions of people once they have left the immediate vicinity of the premises.

Planning

- 7.17 One of the representations states that prior to any decision being made on the application, the Licensing Authority should satisfy itself that the licensable activities are permitted from a planning perspective.
- 7.18 The Licensing Officer is of the view that this should not be the case. With regards to the Act, planning permission is not a 'prerequisite'. The Section 182 Guidance states that:

‘The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs’. (Paragraph 14.65)

- 7.19 So the Sub-Committee are aware, the Licensing Team notified the local planning authority of the application (in accordance with the requirements of the Act) and no representation was made.
- 7.20 They did however provide some additional information highlighting that planning permission would be required for a change of use of the land should the site be utilised for events on more than 28 days in any calendar year.

Marketing and sales of properties

- 7.21 The Licensing Officer does not believe the licensing objectives extend to the marketability of properties yet to be built or sold. The Licensing Authority is not making a decision based on individual financial interests but is considering the impact of licensable activities on the licensing objectives.
- 7.22 However, the Licensing Officer believes that the potential impact of licensable activities on those living at the site may be relevant, but clearly this is a theoretical impact and the Sub-Committee would need to consider this accordingly.

Access to land

- 7.23 The granting of a licence does not permit, in itself, someone to use / restrict access to a site. The Act does not require proof of ownership or confirmation of right of use. Clearly, if the landowner did not want or intend to allow their land to be used in such a way they could make a representation on the application themselves, in addition to taking action should the site be used illegally (i.e. trespass).
- 7.24 If a landowner decides that someone can use their site, thereby potentially preventing access to the site by others, the Licensing Officer does not believe the Licensing Authority has any jurisdiction in this matter.

General road, traffic and parking concerns

- 7.25 The Licensing Officers usual view is that the general use of the road is not a relevant licensing consideration. For example, many premises are situated next to public roads and licence holders cannot dictate / control how people choose to drive or travel to and from the premises.

7.26 This is not to say a licence holder has no responsibilities with regards to ensuring patrons / customers can, for example, leave the premises safely. The Section 182 Guidance states:

'Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- *Providing information on the premises of local taxi companies who can provide safe transportation home; and*
- *Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks'. (Paragraph 2.16)*

7.27 These examples are indicative of the type of things that the applicant can directly control and this is the general principle applied by the Licensing Officer.

7.28 Additionally, it should also be remembered that planning is a separate regime to licensing and issues regarding traffic and highway safety may be planning considerations.

7.29 However, the Licensing Officer feels, on the individual merits of this application, that the applicant's ability and duty to control issues relating to traffic management goes beyond what would usually be expected of a licensed premises (i.e. a pub or a shop). This is in light of the location of the site, the number of people that may attend events (up to 9,999) and the applicants previous practices.

7.30 When considering this issue and possible resolutions, the Licensing Officer believes it is important to note the following information.

7.31 The Highways Authority is not a Responsible Authority under the Act. However, as noted above, they sit on the SAG and are responsible for considering highway related issues for events.

7.32 In relation to the annual event held at this site, the Highways Authority has informed us that it has previously operated under a Temporary Traffic Regulation Order (TTRO). The Highways Officer has confirmed that to the best of their knowledge, they are not aware of any issues being reported with this arrangement.

7.33 The Highways Authority have also confirmed that if future events are to be held at this location by the same event organiser, they would request a suitable traffic management plan for each event.

7.34 It is clear that any potential future event would need to be reviewed by the relevant authorities on its own individual merits. This is important to highlight because the way in which issues such as traffic are managed can vary significantly from event to event and even over time for the same event. In light of the role of the Highways Authority, it is suggested that it would not be appropriate to have conditions on a non-time limited premises licence to do with

specific highway / traffic related plans (should the Sub-Committee be minded to grant any such licence).

- 7.35 To be clear, this is not to say that conditions about access / egress issues could not be placed on a licence. It is instead to say that the Licensing Officer feels, based on the individual merits of this case, that specific requirements relating to traffic management issues would be best left to the EMP. This will enable input from relevant bodies, such as the Highways Authority.
- 7.36 With regards to potential parking issues, it appears that other relevant legislation could also apply. For example, it is an offence to park on a dropped kerb; cause an obstruction and park dangerously or in a way that would prevent emergency vehicles from accessing the street. Additionally, parking on someone else's land could constitute trespass.
- 7.37 This is highlighted because the licensing process should not seek to duplicate other regulatory regimes. Additionally, such issues could potentially occur if the site was used for non-licensable events - there would then be a reliance on other legislation / resolutions as a result.

The Purple Guide

- 7.38 The Licensing Officer believes it is important to briefly highlight the information and guidance that event organisers are provided via the Purple Guide to Health, Safety and Welfare at Music and Other Events ('Purple Guide').
- 7.39 Originally published by the Health & Safety Executive (HSE) and now drawn up by the Events Industry Forum, this guide highlights the event organiser's legal responsibilities when holding an event. Importantly, the requirement to ensure, so far as is reasonable practicable, the health, safety and welfare of their employees and others, such as the attending public, does not depend on the provision of licensable activities. The health and safety requirements therefore apply to a wide range of events, including those not licensed under the Act.
- 7.40 For example, if Shobrooke Park was to be used for an event that did not include licensable activities, a premises licence would not be required. However, thousands of people may still attend and as highlighted in the Purple Guide, there would still be a legal requirement for the event organiser to consider a broad range of issues, including traffic management.
- 7.41 The Purple Guide has a specific section on traffic management plans and highlights that if there is potential for disruption, the event organiser should consult with the Highways Authority about the event. It also confirms that plans should be agreed with the Local Highways Authority and/or Highways Agency through the SAG. The Licensing Officer believes this further supports the idea that any potential conditions on a licence should allow specific traffic related plans to be tailored to the specific event being held.

Issues considered relevant under the Act

7.42 There are various issues raised in representations that are, in the view of the Licensing Officer, considered to be relevant. Because copies of representations are attached to this report, and because those that made these representations will be invited to expand on them at the hearing, the Licensing Officer does not feel it is necessary to provide significant details about each of them here.

7.43 Relevant issues include, but may not be limited to:

- Incidents of anti-social behaviour at the premises and its immediate vicinity
- Concerns around illegal drug taking at the site
- Noise pollution
- Light pollution
- Litter pollution
- Safety of those using the site, including access / egress¹
- Access to site for emergency vehicles¹
- Drink driving²
- The above being compounded by the number of proposed attendees and the times licensable activities have been applied for

¹ These issues link to the point(s) made above in Paragraph 7.25 onwards of this report. Although relevant, the Licensing Officer believes that it may not be appropriate for specific details of traffic plans to be placed on a premises licence as a condition, especially when the intention is to potentially utilise the site for different events. A more appropriate condition would highlight the requirement for a traffic management plan (as part of an EMP) and facilitate and enable the involvement of other relevant bodies, such as the Highways Authority.

² Although drink driving is considered to be potentially relevant, it must be remembered that the licensing process should focus on the matters which are within the control of the applicant / licence holder.

7.44 To be clear, the above list is not intended to be a complete overview of every representation submitted.

7.45 If any 'Other Person' has comments or observations to make about the above, i.e. if they believe that issues are relevant under the Act but have been considered as not being relevant, they are asked to contact the Licensing Team on receipt of this report and provide any information in support of their view. This can be done by emailing licensing@middevon.gov.uk or alternatively writing to Licensing, Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP.

8.0 LICENSING POLICY

8.1 The Act requires the Council, as the Licensing Authority, to formally adopt a policy setting out how it will deal with its duties under the Act. The Policy must be considered in its entirety, but in order to help proceedings, the following information is highlighted in advance of the hearing.

- 8.2 *In carrying out its licensing function the Licensing Authority must promote the following four licensing objectives:*
- *The prevention of crime and disorder*
 - *Public Safety*
 - *The prevention of public nuisance*
 - *The protection of children from harm (Paragraph 2.2)*
- 8.3 *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 “cure all” for solving all problems within the community... (Paragraph 3.2)*
- 8.4 *Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application will be considered by a Licensing Sub Committee at a hearing... (Paragraph 5.13)*
- 8.5 *Any Other Person attending a hearing may expand on their representation but may not introduce new or different representations. (Paragraph 5.14)*
- 8.6 *When determining a licence application, the overriding principle adopted by this Licensing Authority will be that each application will be determined on its merits. The Licensing Authority will have regard to any guidance issued by the Home Office, this Policy and any measures it deems necessary to promote the licensing objectives. The Licensing Authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The Licensing Authority will give reasons for any such departure from the Policy. (Paragraph 6.3)*
- 8.7 *The Licensing Authority will expect applicants to demonstrate in their applications active steps for the promotion of the licensing objectives. When determining an application, a key consideration for the Licensing Authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community... (Paragraph 6.4)*
- 8.8 *The authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, antisocial behaviour, littering and noise, particularly late at night and in the early morning. (Paragraph 6.5)*
- 8.9 *Since the introduction of the Act, the Licensing Authority’s experience is that the vast majority of complaints about licensed premises are caused by public nuisance, in particular excessive noise from live and recorded music and disturbance caused by customers congregating outside licensed premises. The Licensing Authority will expect applicants to have particular regard to these issues and, if considered appropriate, to include in their Operating Schedules adequate and effective steps to control noise and disturbance from their premises. (Paragraph 6.6)*

- 8.10 *When determining an application, the authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the authority will consider their application or representation but may attach less weight to it. (Paragraph 6.7)*
- 8.11 *It should be noted that, when determining an application, the authority is making a judgment about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened but to make an informed assessment of the risk of such things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks. (Paragraph 6.8)*
- 8.12 *Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection, for example Health and safety at work, fire safety legislation etc. (Paragraph 6.9)*
- 8.13 *The Licensing Authority will also take into account when making its decision that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour, especially once individuals have left licensed premises and are therefore beyond the direct control of licensees. However, when making a decision, the authority will focus on the direct impact of the activities taking place on the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. (Paragraph 6.10)*
- 8.14 *The 'need' or demand for a licensed premises of any kind or the commercial damage that competition from a new licensed premises would do to other licensed premises in an area will not be matters that the authority will consider when discharging its decision making function. (Paragraph 6.11)*
- 8.15 *The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Other Persons on the basis of the licensing objectives. (Paragraph 6.15)*
- 8.16 *In general, applications for licensed premises located in residential areas wishing to open beyond 23.00, and those operating a beer garden or outside area beyond 21:00, will be expected to have a higher standard of control included within their operating schedule to address any potential public nuisance issue. (Paragraph 6.16)*

- 8.17 *Where representations are received, stricter conditions relating to noise control may be appropriate and necessary in sensitive locations such as residential areas. (Paragraph 6.17)*
- 8.18 *In considering relevant representations, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case. (Paragraph 6.19)*
- 8.19 *The Authority will pay particular attention to the effect (or potential effect) of licensable activities on those living, working or otherwise engaged in the area concerned and, where relevant representations are received, may attach conditions if it considers it appropriate for the promotion of the licensing objectives. (Paragraph 6.27)*
- 8.20 *Conditions attached by the Authority to Premises Licences and Club premises certificates will relate to matters falling within the control of individual licensees. It is recognised that the licensing function cannot be a mechanism for the control of disorderly behaviour by individuals once they are beyond the direct control of the licence holder. However, the Licensing Authority and Responsible Authorities may take action where it can be established that there is a clear linkage between disorderly behaviour and a specific premises. (Paragraph 6.28)*
- 8.21 *The Authority will not impose inappropriate or over-burdensome conditions on licences. The Authority may, however, if its discretion is engaged, impose conditions where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives. (Paragraph 6.29)*
- 8.22 *When determining the appropriate set of conditions the Licensing Authority will focus primarily on the individual style of the premises and the licensable activities proposed. Consideration should also be given to the following:*
- *The size, nature and style of operation*
 - *Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested*
 - *The cumulative effect of conditions in terms of cost and practical implementation*
 - *The likely cost of the condition(s) for the operator*
 - *Whether a simpler or better way of dealing with a perceived problem could be found*
 - *Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition*

- *Whether the condition will be enforceable, if it is not specific or could be considered subjective it may not be enforceable. (Paragraph 6.30)*

8.23 Members must have regard to the Licensing Authority's Policy when making their decision and it can be viewed in full here: <https://www.middevon.gov.uk/business/licensing/statement-of-licensing-policy-licensing-act-2003/>.

9.0 GOVERNMENT GUIDANCE

9.1 Members are also obliged to have regard to the Guidance produced under Section 182 of the Act. The most recent version of this was published in February 2025 and some relevant sections are highlighted below. The full Guidance can be viewed here:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

9.2 *Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged.*

Licence conditions:

- *must be appropriate for the promotion of the licensing objectives;*
- *must be precise and enforceable;*
- *must be unambiguous and clear in what they intend to achieve;*
- *should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- *must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- *should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- *should not replicate offences set out in the 2003 Act or other legislation;*
- *should be proportionate, justifiable and be capable of being met;*
- *cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- *should be written in a prescriptive format. (Paragraph 1.16)*

9.3 *Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health. (Paragraph 2.22)*

- 9.4 *Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues. (Paragraph 2.23)*
- 9.5 *As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate. (Paragraph 2.24)*
- 9.6 *Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave. (Paragraph 2.25)*
- 9.7 *Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night. (Paragraph 2.27)*

10.0 DETERMINATION AND OPTIONS OF THE SUB-COMMITTEE

- 10.1 *The Section 182 Guidance states that: ‘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. (Paragraph 9.37)

10.2 *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;*
- *this Guidance;*
- *its own statement of licensing policy. (Paragraph 9.38)*

10.3 *Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. (Paragraph 9.42)*

10.4 *The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. (Paragraph 9.43)*

10.5 *Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters... (Paragraph 9.44)*

Options of the Sub-Committee

10.6 The Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. This may include:

- Granting the licence as applied for

- Granting the licence subject to appropriate modifications necessary for the promotion of the licensing objectives
- Excluding from the scope of the licence any of the licensable activities to which the application relates
- Refusing to specify a Designated Premises Supervisor
- Rejecting the application

10.7 Reasons must be given for the decision and they must set out the matters taken into consideration and why such a decision was arrived at.

10.8 Members have five working days from the conclusion of the hearing to make a decision.

11.0 APPEAL

11.1 If any party (i.e. applicant or 'other person') is dissatisfied with the decision made then they have the right of appeal to the Magistrates' Court within 21 days of formal notification of the decision.

12.0 THE PROCESS FOR THIS HEARING

12.1 The Council have an adopted procedure for hearings and this attached to this report as **Annex 13**. In so far as is possible and practicable, the Licensing Authority will work in accordance with this procedure.

13.0 ANNEXES TO THIS REPORT

Annex 1	Copy of application form
Annex 2	Plan of premises
Annex 3 - 12	Representation 1 - 10
Annex 13	Hearing procedure

Contact for more Information: Tom Keating (Specialist Lead, Licensing) / tkeating@middevon.gov.uk OR Harriet Said (Team Lead, Commercial) / hsaid@middevon.gov.uk

Circulation of the Report: Legal Services / Members of Licensing Sub-Committee / Applicant / Other Persons

List of Background Papers:

- Licensing Act 2003 - <https://www.legislation.gov.uk/ukpga/2003/17/contents>
- Section 182 Guidance - <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- Mid Devon District Council Licensing Act Policy - <https://www.middevon.gov.uk/business/licensing/statement-of-licensing-policy-licensing-act-2003/>