

LICENSING SUB COMMITTEE
DATE OF HEARING: 13 AUGUST 2025

**DETERMINATION OF A PREMISES LICENCE APPLICATION FOR LAKEMOOR,
CHULMLEIGH, DEVON, EX18 7JY**

Cabinet Member(s): David Wulff, Cabinet Member for Community & Leisure

Responsible Officer: Simon Newcombe, Group Manager for Public Health and Regulatory Services

Reason for Report: An application has been received for a new premises licence for Lakemoor, Chulmleigh, Devon, EX18 7JY.

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 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 (the Council) 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

- 1.1 An application has been submitted for a new premises licence for Lakemoor, Chulmleigh, Devon, EX18 7JY
- 1.2 The applicant has given the following description of the premises in the application form:

'5 acres attached to our home run as a smallholding and campsite. The sale of alcohol will be to our guests and visitors to the campsite & smallholding to consume on and off site.

Alcohol sales will be pre-ordered and collected from the house, where ID will be required.

All alcohol will be stored in the house, which is not accessible to guests staying on site'.

2.0 THE APPLICATION

- 2.1 The application for a new premises licence was submitted by Lakemoor Devon Ltd.
- 2.2 In summary, the following has been applied for:

Activity	Indoors / Outdoors (or both)	Days	Times
Live music	Both	Monday - Sunday	09:00 – 23:00
Recorded music	Both	Monday – Sunday	09:00 – 23:00
Late night refreshment	Both	Monday – Sunday	23:00 – 09:00
Supply of alcohol	For consumption ON & OFF the premises	Monday - Sunday	09:00 – 23:00
Hours premises open to the public	N/A	Monday – Sunday	00:00 – 24:00
Table 1: Activities / times requested on application			

- 2.3 The application form is attached as **Annex 1** and the plan submitted with the application is attached as **Annex 2**.
- 2.4 An addendum to the site plan has been provided by the applicant after submission of the application form itself. This addendum provides a diagram of the ground floor of the house, indicating the location of storage of alcohol and the point of exchange of alcohol. This is attached as **Annex 3**. The applicant has explained that alcohol sales will be made face-to-face at the front door to the property marked as H on the plan, Annex 2, and at the point highlighted on Annex 3.

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 Licensing Act 2003 (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 music up until 23:00 and recorded music up until 24:00 (with an extension on Christmas Eve and New Year's Eve). Depending on the specific circumstances of the case, live music may not be licensable (except for after 23:00 on Christmas Eve and New Year's Eve) and recorded music may be licensable Monday - Sunday from 23:00 to 24:00, assuming it was not considered to be incidental or background.

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 the specific wording can be seen in Section M of the application form (attached as **Annex 1**).

4.0 RESPONSIBLE AUTHORITIES

- 4.1 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.

4.2 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

4.3 No representations were received from any Responsible Authority concerning this application. As a result, they are not party to the hearing.

5.0 OTHER PERSONS

5.1 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).

5.2 In this case, the Licensing Authority received 8 representations concerning the application. These are in opposition to the application (or 'negative') and are attached in full as **Annex 4 – 11**.

5.3 Although 8 representations were received, it is the Licensing Officers view that not all of the issues raised are relevant under the Licensing Act 2003. More information about this is provided in section 6 of this report.

5.4 A map showing the location of the premises in relation to those that have submitted representations will be sent to Members of the Sub-Committee prior to the hearing.

6.0 LICENSING OFFICER ASSESSMENT AND COMMENTS ON THE REPRESENTATIONS RECEIVED

6.1 In order to assist the Licensing Sub-Committee, the general topics that have been raised in the representations received are summarised below and information provided as to why they are considered as either being relevant or not relevant. This section of the report does not seek to reproduce the representations in full.

- 6.2 It must be noted that what follows is the view of the Licensing Officer based on the information available at the time of completing this report. If any Interested Party has comments or observations to make about what follows 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. The Sub-Committee can then consider the issue(s) that have been raised at the hearing.
- 6.3 It must also be noted that just because something has not been considered as relevant in the information that follows, this does not mean that the issue itself is not deserving of attention. It just means that it is not an issue that the Licensing Sub-Committee should consider with regards to their decision on this application.
- 6.4 Additionally, although something may be considered as being relevant the Licensing Sub-Committee must still then make a decision on the likelihood of the issue occurring and the potential for the licensing objective(s) to be undermined. This is a judgement about the level of risk and will dictate what action, if any, is appropriate and necessary. Is there an actual risk of undermining a licensing objective, or is there just a conceivable risk?
- 6.5 In some paragraphs, the Section 182 Guidance is referenced and further information about this document can be found in section 9 of this report.

Overview of issues considered relevant

- 6.6 What follows is a very brief overview of the types of issues that have been raised in representations that are considered to be relevant. To be clear, what follows is not meant to repeat verbatim the issues as they can be seen in the attached Annexes. Additionally, those that made these representations can expand on them in their response to the Notice of Hearing and at the hearing.
- Incidents of anti-social behaviour linked to the premises (and in the immediate vicinity of the premises).
 - Safety of those using the premises, including the potential risk posed by an unfenced river
 - Noise generated from the premises
 - Litter at the premises and in the immediate vicinity
 - Light pollution

Overview of issues not considered relevant

- 6.7 As stated in Paragraph 5.1 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.

- 6.8 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.

Non-licensable activities and conditions relating to them

- 6.9 As set out in Section 3 of this report, it should be remembered that even if activities such as live and recorded music are removed from the licence or restricted, they may still be permitted as a non-licensable activity at certain times. In such situations, conditions may be suspended and would not have effect.

General road safety concerns

- 6.10 The Licensing Officer is of the view that the applicant cannot control issues like the general use of the road, the speed at which people drive and the provision of lighting on a public highway. Additionally, it should be remembered that representations should relate to the impact of licensable activities carried on from premises on the licensing objectives.
- 6.11 It is important to note that 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)

Crime and Disorder / ASB beyond the immediate vicinity of the premises

- 6.12 Some of the representations appear to raise concerns about issues that would be beyond the responsibility of the applicant to control. For example, the potential for people to enter a nearby woods and start campfires etc. Such individuals would be responsible in their own right for their actions. The Section 182 Guidance states:

'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 2.25)

- 6.13 If people engage in anti-social behaviour on their way to the premises or after they have left the premises (and are beyond the immediate surrounding area), it is the Licensing Officer's view that this is not within the control of the applicant.

- 6.14 It should also be noted that conditions attached to licences should focus on matters that are within the control of individual licence holders. The Section 182 Guidance confirms that:

‘...licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned’. (Paragraph 14.13)

Planning permission and camping

- 6.15 Although the Planning Department did not make a representation, they did provide some additional information to the Licensing Team about the site. This confirmed that there are a few specific planning requirements related to the operation of the campsite and potentially, the provision of licensable activities.

- 6.16 As required by the Section 182 Guidance, the Council's Licensing Policy states that:

‘The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency’. (Paragraph 3.20)

‘The Licensing Authority recognises that it is legally permissible for applications for licences to be made before any relevant planning permission has been sought or granted by the planning authority. However the grant of a licence under the Act does not remove the need for applicants to obtain all the necessary planning consents. It should also be noted that grant of a licence in no way means that any planning application would also be granted and vice versa’. (Paragraph 3.21)

- 6.17 It must be remembered that this application is not for the operation of the campsite. Separate legislation exists to deal with this process and what is being considered in this case is the provision of licensable activities under the Licensing Act 2003.

7.0 LICENSING POLICY

- 7.1 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 current Policy came into effect in November 2024.

- 7.2 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/new-statement-of-licensing-policy-licensing-act-2003/>

- 7.3 The following information from the Policy is highlighted in advance of the hearing:
- 7.4 *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)*
- 7.5 *Any Other Person attending a hearing may expand on their representation but may not introduce new or different representations. (Paragraph 5.14)*
- 7.6 *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)*
- 7.7 *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)*
- 7.8 *The Licensing 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)*
- 7.9 *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)*
- 7.10 *The Licensing 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)*

- 7.11 *Conditions attached by the Licensing 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)*

8.0 GOVERNMENT GUIDANCE

- 8.1 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 various sections have been highlighted throughout this report. The Guidance can be viewed here:

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

9.0 DETERMINATION AND OPTIONS OF THE SUB-COMMITTEE

- 9.1 *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)*
- 9.2 *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)*

- 9.3 *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)*
- 9.4 *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)*
- 9.5 *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

- 9.6 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
- 9.7 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.
- 9.8 Members have five working days from the conclusion of the hearing to make a decision.

10.0 APPEAL

- 10.1 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.

11.0 THE PROCESS FOR THIS HEARING

- 11.1 The Council have an adopted procedure for hearings and this is attached to this report as **Annex12**. In so far as is possible and practicable, the Licensing Authority will work in accordance with this procedure.

12.0 ANNEXES TO THIS REPORT

Annex 1	Copy of application form
Annex 2	Plan of premises
Annex 3	Addendum plan showing point of sale of alcohol
Annex 4 – 11	Copies of representations
Annex 12	Procedure for hearings

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 Parties (as per the Licensing Act)

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/new-statement-of-licensing-policy-licensing-act-2003/>