

**NORTH DEVON DISTRICT COUNCIL
REPORT TO LICENSING AND COMMUNITY SAFETY SUB-COMMITTEE
HEARING:**

3 September 2024

Application by: Michael Symonds

**Application for the Grant of a Premises Licence; Freshwell Campsite,
Moor Lane, Croyde, Braunton, North Devon, EX33 1PA**

Reference Number: 058623

REPORT BY LICENSING OFFICER

1. INTRODUCTION

- 1.1** The purpose of this report is to present an application for the grant of a premises licence in respect of Freshwell Campsite, Moor Lane, Croyde, Braunton, Devon EX33 1PA.
- 1.2** The application (Appendix A) is made by Michael Symonds and requests the following licensing activity:
 - 1.2.1** Permit the supply of alcohol on and off the premises.
- 1.3** The Licensing Authority has received one relevant representation in regard to the application which gives rise to the hearing.
 - 1.3.1** An email with an attachment from Brian Whitty (Appendix H).
- 1.4** The Licensing Authority has received 12 emails below in support of the application
 - 1.4.1** An email from Simon Adams (Appendix I).
 - 1.4.2** An email from Ian Blake (Appendix J).
 - 1.4.3** An email from Mr J Bowden (Appendix K).
 - 1.4.4** An email from Mrs Susan Bowden (Appendix L).
 - 1.4.5** An email from Anne Marie Collins (Appendix M).
 - 1.4.6** An email from Jacqueline Cresswell (Appendix N)
 - 1.4.7** An email from Matthew Fleetham (Appendix O)
 - 1.4.8** An email from Stuart Gair (Appendix P)
 - 1.4.9** An email from Jennie Lewis (Appendix Q)

- 1.4.10 An email from Jay Robinson (Appendix R)
- 1.4.11 An email from Rob Whitney (Appendix S)
- 1.4.12 A conditional support email from Ben Seybold supporting the application subject to two conditions (Appendix T)

The relevant representation meets the Licensing Objectives as follows:

Licensing Objectives

The Prevention of Crime and Disorder	X
Public Safety	X
The Prevention of Public Nuisance	X
The Protection of Children from Harm	X

2. RECOMMENDATIONS

2.1 That the Sub Committee:

Considers the request for determination of the application for the grant of a premises licence and representations included in (appendices H to T) of this report, together with any oral submissions at the hearing.

2.2 In determining this application, the Sub-Committee must take one of the following steps, as it considers necessary for the promotion of the licensing objectives. The Sub-Committee should be mindful that in making their decision, if it involves the modification or imposition of conditions or the rejection in whole or in part of the application, such a decision could only be justified if it is made to promote the licensing objectives:

2.2.1 The steps are:

- (a) to grant the licence subject to:
 - (i) the terms sought by the applicant, including such conditions as are consistent with the operating schedule.
 - (ii) such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the licensing objectives.
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates.
- (c) to refuse to specify a person in the licence as the Designated Premises Supervisor.
- (d) to reject the application.

2.3 Should the Sub-Committee decide to grant the application, it is recommended that this be subject to conditions which seek to mitigate the potential for contraventions of the Licensing Objectives.

2.4 The following conditions are recommended:

2.4.1 The following conditions submitted by the applicant (Appendix D) of the report.

2.5 It will be best practice, as well as a matter of elemental fairness, that at a hearing, the licensing authority ensures that parties are aware of any condition the licensing authority is proposing to add of its own volition to a licence, in advance of the decision being made.

2.6 When Members are considering adding a condition that has not been addressed during the hearing, for example because it is raised after the Members have retired to consider their decision, the parties should be given an opportunity to address the Members on the new condition being considered. This can be done informally, for example, by the legal advisor passing a message to the waiting parties.

2.7 If the proposed condition proves controversial, the parties should be afforded the opportunity of addressing the Members further on both the principle of the condition or its specific working. This is likely to serve the interests of all parties, including the Members who will be better informed about the impact and practicability of their proposal. Moreover, a failure to follow this approach risks attracting criticism from the appeal courts.

2.8 REASONS FOR RECOMMENDATIONS

2.8.1 The recommendations are made so that the Sub-Committee fulfils its duty under section 18 of the Licensing Act 2003 to determine the application for a premises licence where relevant representations have been made.

2.8.2 The recommendations in relation to the imposition of conditions on the premises licence are made with a view to promoting the licensing objectives.

3. BACKGROUND

3.1 An application for the grant a premises licence for Freshwell Campsite, Moor Lane, Croyde, Braunton, North Devon, EX33 1PA was previously determined by the Licensing & Community Safety Sub-Committee on the 24th January 2022 a copy of the current licence is attached as (appendix U)

3.2 The licence holder has advised the licencing authority that the current licence conditions attached to the current licence determined by committee on the 24th January 2022 have restricted the operation of the business hence his new application for a premises licence (see appendix A)

3.3 An application to grant a premises licence for Freshwell Campsite, Moor Lane, Croyde, Braunton, North Devon, EX33 1PA, was submitted by Michael Symonds on the 8th July, 2024.

3.4 For members information there has been dialogue between the applicant Michael Symonds and the party who has made the representation to try and resolve the situation and provide a set of agreeable conditions that could be attached to the licence and negate a licensing hearing, unfortunately no agreement has been made, hence the need for this to appear before a Licensing and Community Safety Sub Committee for determination of the application. Discussions are continuing and if any agreement is made this will be updated prior to the hearing.

3.5 The proposed licensing activities and hours applied for are as follows:

Activity	Day	Start	Finish
Supply of alcohol on and off the premises	Mon. – Sun.	11.00	20.00
Hours open to the public	Mon. – Sun.	08.00	20.30

3.6 Any grant of a premises licence may be subject to conditions applied by the Licensing Authority as a result of this hearing.

3.7 The requested licensed area and detailed service area is attached at (Appendix B).

3.8 A location plan of the business is attached at (Appendix C).

4. RELEVANT REPRESENTATIONS

4.1 The relevant licensing objectives are:

Licensing Objectives

The Prevention of Crime & Disorder	X
Public Safety	X
The Prevention of Public Nuisance	X
The Protection of Children from Harm	X

4.2 Responsible Authorities:

4.2.1 Devon and Cornwall Police – Please see comments with respect to the application received by email following a Police meeting with applicant. (Appendix E).

4.2.2 Devon and Somerset Fire and Rescue Service – Please see comments with respect to the application received by letter. (Appendix F).

4.2.3 NDC Environmental Protection – No representation received.

4.2.4 NDC – Health Food and Safety – No representation received

4.2.5 NDC Planning – Observation received that planning permission is granted for a period between 31st March to 30th September annually (Appendix G).

- 4.2.6 NDC Licensing – No representation received.
- 4.2.7 Devon County Council, Business Strategy and Support Services (Child Protection) - No representation received.
- 4.2.8 Devon County Council, Trading Standards – No representation received.
- 4.2.9 Public Health Devon – No representation received.
- 4.2.10 Home Office Immigration Enforcement - No representation received.

4.3 The Licensing Authority has received one relevant representation:

4.3.1 Brian Whitty (Appendix H).

The email of representation expresses concern with regard to the four licensing objectives crime and disorder, the prevention of public nuisance, the protection of children from harm and public safety.

In summary concerns relate to:

- An open air bar with off sales will cause public nuisance (noise) from customers at the venue to a nearby family campsite and to nearby residents living in domestic dwellings
- Possibility of crime and disorder in area
- Possibility of fear of public safety in the area

5. RELEVANT LICENSING POLICY CONSIDERATIONS

5.1 The Sub-Committee is entitled to draw upon any of the considerations outlined in its Licensing Policy document January 2024. However, the most significant policy consideration appear to be the following:

- Paragraphs 3.2 to 3.2.2 (Prevention of Crime and Disorder).
- Paragraphs 3.3 to 3.3.2 (Public Safety).
- Paragraphs 3.4 to 3.4.3 (Prevention of Public Nuisance).
- Paragraphs 3.5 to 3.5.2 (Protection of Children from Harm).

6. RELEVANT STATUTORY GUIDANCE CONSIDERATIONS

6.1 The Sub-Committee is entitled to draw upon any of the considerations outlined in the Statutory Guidance issued under Sec. 182 of the Licensing Act 2003 and published by the Home Office. However, the most significant statutory guidance appears to be in the following:

- Paragraphs 2.1 to 2.7 (Prevention of Crime and Disorder).
- Paragraphs 2.8 to 2.20 (Public Safety).
- Paragraphs 2.21 to 2.27 (Prevention of Public Nuisance).
- Paragraphs 2.28 to 2.38 (Protection of Children from Harm).
- Paragraphs 14.65 to 14.67 (Planning & Building Control).

7. OPTIONS

7.1 The Act at section 18(3a) states that, before determining the application, the Licensing Authority must hold a hearing to consider it and any relevant representations. It must, having regard to the application and any relevant representations, take such steps mentioned in section 18 (4) (if any) as it considers necessary for the promotion of the licensing objectives.

7.2 In determining this application, the Sub Committee must take one of the following steps as outlined in section 2.2.1 of this report. Any conditions considered need to be clear, concise and enforceable.

7.3 If a licence is granted, any relevant mandatory conditions must be imposed in addition to any conditions the subcommittee decides to impose at the hearing. Mandatory conditions are standard conditions imposed by way of legislation and in respect of which there is no power to vary.

7.4 Any party to the hearing has the right of appeal to North and East Devon Magistrates' Court following the determination of the application under section 181 of the Act.

8. BACKGROUND PAPERS

- Licensing Act 2003.
- Amended guidance issued under section 182 of the Licensing Act 2003 (Home Office December 2023).
- Licensing Act 2003 (Hearings) Regulations 2005.
- North Devon Council Licensing Policy January 2024.
- Current Premises Licence

9. APPENDICES

Appendix A	Application for the grant of a Premises Licence
Appendix B	Plan of Proposed licence area and service area
Appendix C	Location Plan
Appendix D	Additional description and reasoning to support application and Proposed Licensing Conditions agreed by the applicant
Appendix E	Devon & Cornwall Police Comments
Appendix F	Devon & Somerset Fire & Rescue Service Comments
Appendix G	NDC Planning Comments
Appendix H	Representation and attachment for Brian Whitty
Appendix I	Support email Simon Adams
Appendix J	Support email Ian Blake
Appendix K	Support email Joe Bowden
Appendix L	Support email Susan Bowden
Appendix M	Support email Anne Marie Collins
Appendix N	Support email Jacqueline Cresswell
Appendix O	Support email Matthew Fleetham
Appendix P	Support email Stuart Gair
Appendix Q	Support email Jennie Lewis
Appendix R	Support email Jay Robinson
Appendix S	Support email Rob Whitney
Appendix T	Conditional Support email Ben Seybold
Appendix U	Copy of current licence

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Reference: 058623