

## REPORT OF THE HEAD OF ENVIRONMENTAL SERVICES

## REVIEW OF PREMISES LICENCE OF DUVALE PRIORY, BAMPTON

**REASON FOR REPORT**

1. An application has been received to review the premises licence of Duvale Priory, Bampton. The Council is obliged to hold a hearing to determine such applications.

**RECOMMENDATIONS**

1. That the Licensing Sub Committee determines this application in accordance with the licensing objectives

**RELATIONSHIP TO CORPORATE PLAN**

1. None

**FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS**

Any financial, legal and/or risk assessment implications are set out below:

<b>Financial</b>	A decision that does not stand up to potential challenge in the Magistrates' Court could leave the Council open to a costs order.
<b>Legal</b>	Decisions must be lawful
<b>Risk Assessment</b>	If the decision is not properly and reasonably made it could be subject to appeal

**CONSULTATION CARRIED OUT WITH:**

1. The process of applying for a review of a licence under the Licensing Act 2003 is prescribed by regulation and requires the applicant to copy the application to all of the responsible authorities. These are the police, fire service, Weights and Measures, body responsible for health and safety (Environmental Health in this case), Environmental Health for nuisance, the planning authority, the body responsible for child protection, the health authority and the licensing authority itself.
2. On receipt of the application the licensing authority is obliged to advertise it by displaying a notice prominently on the Council offices and at the premises so passers by may read it. A notice must also go on the Council's website. These were on display from 25 October 2013 until 21 November 2013.

## **1.0 INTRODUCTION**

- 1.1 The Licensing Act 2003 introduced a new concept into licensing legislation – that of a review and it is a key part of the licensing process. At any stage following the grant of a premises licence, a responsible authority such as the Police or Environmental Health, or any other person, such as a resident living in the vicinity of the premises, may ask a licensing authority to review a licence where there are problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm occurring and other steps have failed to resolve the problems. Since April 2012 the licensing authority has been added to the list of responsible authorities.
- 1.2 The review must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. Representations must be in writing and may be amplified at the hearing or may stand in their own right. Additional representations, which do not amount to an amplification of the original representation, may not be made at the hearing.
- 1.3 Following a request for a review the licensing authority must hold a hearing to determine that application. If, however, that request is from an ‘other person’ (ie not a responsible authority) then the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious.
- 1.4 The applicant for the review must copy that application to the licence holder and also to all the responsible authorities. The licensing authority is obliged to advertise the review by way of a notice on the Council offices, on the website and at the premises in question. Any of the responsible authorities and any other persons then have 28 days to make representations.

## **2.0 PREMISES**

- 2.1 Duval Priory is a function hall set within a number of holiday letting properties and was described by the applicant for the licence, Mr Underhill, in 2010 as “a large hall set out with an oak dance floor, a separate small kitchen, 2 toilets and a disabled toilet and a tiled area at one end for a bar. It is in a secluded location.” The licence application was to provide live and recorded music, late night refreshment and the sale of alcohol for “private parties, weddings and wedding receptions”. Prior to the licence application the premises had been run using Temporary Event Notices for the various functions it was booked for but wanted to simplify the business arrangements by having a premises licence.
- 2.2 The hours applied for were 11am until 1am from Monday to Thursday, 11am until 2am on Friday and Saturday and 11am until 11pm on Sunday.
- 2.3 The only response to the application was from the police who met with Mr Underhill and agreed some additional conditions for the licence which related to risk assessments for door staff, use of a hire agreement and that all events on the premises would be privately booked in advance.
- 2.4 No other responses were received so the licensing authority were obliged to grant the licence as applied for subject to the agreed amendments as set out above and that was done on 7 June 2010. A copy of the licence is attached at Annexe 1.

## **3.0 REVIEW APPLICATION**

- 3.1 On 13 September a petition was received at Mid Devon District Council complaining about the times allowed by the licence and noise from events held on the site. Copies of

the petition were sent to Cllr Mrs Polly Colthorpe, chair of Planning; Jonathan Guscott, Head of Planning; Lucy Hodgson, Area Planning Officer; Cllr Glanmor Hughes, chair of Licensing; Cllr Ray Stanley; and Paul Williams, Head of Environmental Services but not anyone in Licensing where it was passed for response. It did not have any lead signatory but was signed by people from 20 households. Each of those households were written to with advice on how to seek a review of a licence, Home Office guidance on reviews and a copy of the review application form. One of the signatories had already been sent all this information in April this year.

- 3.2 An application to review the licence at Duval Priory was received from Mr Winter of Steart, Stoodleigh (who was one of the signatories) on 24 October 2013. The grounds for review were prevention of crime and disorder, public safety and the prevention of public nuisance and the full copy is attached at Annexe 2.
- 3.3 In 1.3 above is set out the duty of the licensing authority to “first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious” if it is not received from a responsible authority. Some of the grounds for review stated by Mr Winter would not appear to be relevant in terms of the licensing objectives. In citing the prevention of crime and disorder objective the applicant mentions noise and trespass – neither of these is considered relevant to this objective and members are asked to disregard that part.
- 3.4 In giving reasons under the public safety licensing objective mention is made of four fatalities on that road in the last five years – there is no evidential link between these fatalities and Duval Priory and members are asked to disregard this. The evidence of guests walking in the road is anecdotal and does not appear to be linked to the licence. Additionally, the fact that guests at Duval were swimming in the river is not relevant to any of the licensing objectives and would be considered frivolous.
- 3.5 The main thrust of this review application that could be considered relevant is in relation to the prevention of public nuisance and members are referred to paragraph 3 of the grounds for review in the review application. Parts of this, however, are not relevant and these are as follows: mention is made that the licensee has allowed music to be played outside. The Live Music Act 2012 took live music out of the licensable fold between 8am and 11pm in licensed premises and workplaces for audiences of no more than 200 people. Music outside as demonstrated in the photograph in the review application would not necessarily need a licence.
- 3.6 Reference is also made to objections to a planning application – that is dealt with separately and does not play any part in consideration of a licence review.
- 3.7 Mr Winter also refers to wedding guests swimming in the river and trespassing – that is not relevant to consideration of the licence review.
- 3.8 A Yoga Weekend took place in October at Duval Priory which did not involve any use of the licence. Complaints were made about their drumming and music but those activities are not licensable whether it is yoga as recreation or as part of a religious service. Environmental Health did talk to the owner of the Priory about the noise complaints and was told if the Yoga Group does come back they will be asked not to start quite so early on Sunday morning. This is not, however, something for which a licence is required and members are asked to disregard that part of the review application.
- 3.9 This leaves noise as the main issue for members to consider. Mr Winter will be able to amplify the effect the music noise has had on him at the hearing and members will be able to ask Environmental Health about the action taken over the complaints that were received.

#### **4.0 OTHER PERSONS**

- 4.1 As well as responsible authorities any other person may take part in a number of licensing processes under the Licensing Act 2003. In effect this means that any individual, body or business may make representations in relation to applications for grant, variation or review of premises licences and club premises certificates regardless of their geographic proximity to the premises in question, provided the representations are relevant in respect of the licensing objectives.
- 4.2 Nine letters of support for the review application have been received and are attached at Annexes 3, 4, 5, 6, 7, 8, 9, 10 and 11. As above the licensing authority is obliged to consider the relevance of what is raised in those letters and the same points are made as in 3 above. Members are asked just to consider the issues relating to noise from the licensed function hall. Those representations in Annexe 5, 6, 7, 9, 10 and 11 have been written to and asked for any information / evidence in support of what they have said. A map indicating the premises (coloured blue) and the properties where residents in support of the application live (coloured red) is attached at Annexe 12.
- 4.3 The letter from Mrs Hookins (Annexe 4) says that she objected to the premises licence application in April 2010. There are no records of such an objection here but Mrs Hookins has been asked for details and if she has a copy.
- 4.4 Two additional emails were received stating 'support' for the review application. There was no further information provided and no link to the licensing objectives. These people were written to with details on how to make a representation but failed to respond. They are therefore not to be considered.

#### **5.0 RESPONSIBLE AUTHORITIES**

- 5.1 The review application is copied to all the responsible authorities and they may make additional representations.
- 5.2 Environmental Health has made a response to the review application which is attached in full at Annexe 13. It summarises the complaint history and what steps were taken and concludes that "this venue is not causing a statutory nuisance to the neighbours". An officer from Environmental Health will be at the hearing to amplify the history and actions taken if members require further information and to take any questions members might have.
- 5.3 The Police have made a response to the review application and this is attached at Annexe 14. It states they have "no concerns" regarding the premises and that when either at the premises or in close proximity to it they have not found there to be an issue with noise. Police will not be in attendance at the hearing but wanted the response noted.
- 5.4 Planning have also made a response to the review application and this is attached at Annexe 15. It states that the building was recently refused planning permission to be used as a function hall. The Planning Committee's reasons for refusal are given and it is noted that the decision was against the Planning Officers' recommendation which was that the application be approved, subject to restrictive conditions. These restrictive conditions included hours of operation and they are also listed in the response. The decision of the Planning Authority is not a consideration for this review application. The Planning Officer will not be in attendance at the hearing.

## **6.0 LICENCE-HOLDER RESPONSE**

- 6.1 The licence holder's solicitor has responded on his behalf and this response is attached at Annexe 16. Part of this response makes reference to a 'Music Noise Impact Assessment' carried out by Soundguard Acoustics Ltd. This assessment was carried out in relation to the planning application for the premises and is attached in full at Annexe 17.

## **7.0 LICENSING POLICY**

- 7.1 Licensing Authorities must produce a Statement of Licensing Policy that sets out how it will carry out its duties under the Licensing Act 2003. This Council had its second revision of this policy approved by full Council in December 2010 and it came into effect on 7 January 2011. Members are asked to bring their copy of the policy to the hearing but a copy will be available.
- 7.2 15.1 of the policy states "To promote the licensing objectives, applicants for licences for licensable activities will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of interested parties".

## **8.0 GOVERNMENT GUIDANCE**

- 8.1 Licensing authorities must also have regard to the Government Guidance issued under Section 182 of the Licensing Act and the current version is that which was issued by the Home Office in June 2013. A copy will be available at the hearing for members of the Sub Committee.
- 8.2 11.20 of the Guidance sets out that licensing authorities should "so far as it possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response."

## **9.0 DETERMINATION**

- 9.1 The licensing authority must consider the application and any relevant representations in making its decision and also bear in mind the overriding principle that each application must be considered on its individual merits. Members may only take relevant matters into consideration.
- 9.2 Members might be persuaded that there is no need to take any formal action. The formal steps that the licensing authority could decide appropriate to take are to:
- a) Modify the conditions of the licence (for example, add new conditions, modify existing conditions, reduce hours of operation)
  - b) Exclude a licensable activity from the scope of the licence
  - c) Remove the Designated Premises Supervisor
  - d) Suspend the licence for a period not exceeding three months
  - e) Revoke the licence.

9.3 9.39 of the Guidance issued under Section 182 of the Licensing Act states that 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”.

9.4 The procedure that will be followed at the hearing is attached at Annexe 18.

#### 10.0 **TIMESCALE**

10.1 If Members are unable to make a decision at the conclusion of the hearing they have a further five days to come to a decision. Once that decision has been formally notified to all parties to the hearing they have 21 days in which to appeal to the Magistrates’ Court

10.2 The determination will not take effect until the end of the period given for appealing against the decision, or, if the decision is appealed against, until the appeal is disposed of.

<b>Contact for any more information</b>	Mrs Marjory Parish (01884) 244619 Licensing and Community Safety Manager Tom Keating (01884) 244618 Licensing Officer
<b>Background Papers</b>	MDDC Licensing Policy & S.182 Guidance
<b>File Reference</b>	Licensing/reviews/Duvale Priory
<b>Circulation of the Report</b>	Premises licence holder Review Applicant Other Persons who made representations

Licensing Act 2003  
**Premises Licence**

**MDV PR0278**

LOCAL AUTHORITY



Licensing Section  
 Mid Devon District Council  
 Phoenix House  
 Phoenix Lane  
 TIVERTON  
 DEVON  
 EX16 6PP

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

**Uvale Priory Hall**

Bampton, Tiverton, Devon, EX16 9EG.

Telephone 01398 351371 or 07814324925

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment facilities for dancing
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
Performance of live music (Indoors)	Monday to Thursday	11:00am	1:00am
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	11:00pm
F. Playing of recorded music (Indoors)	Monday to Thursday	11:00am	1:00am
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	11:00pm
G. Performance of dance (Indoors)	Monday to Thursday	11:00am	1:00am
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	11:00pm
J. Provision of facilities for dancing (Indoors)	Monday to Thursday	11:00am	1:00am
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	11:00pm
L. Late night refreshment (Indoors)	Monday to Thursday	11:00pm	1:30am
	Friday and Saturday	11:00pm	2:30am
M. The sale by retail of alcohol for consumption ON the premises only	Monday to Thursday	11:00am	1:00am
	Friday and Saturday	11:00am	2:00am



Licensing Act 2003  
**Premises Licence**

**MDV PR0278**

**THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...**

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON the premises only continued ...	Sunday	11:00am	11:00pm

**THE OPENING HOURS OF THE PREMISES**

Description	Time From	Time To
Monday	11:00am	1:30am
Tuesday	11:00am	1:30am
Wednesday	11:00am	1:30am
Thursday	11:00am	1:30am
Friday	11:00am	2:30am
Saturday	11:00am	2:30am
Sunday	11:00am	11:00pm

**WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES**

- M. The sale by retail of alcohol for consumption ON the premises only
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**Part 2**

**NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Mark Underhill mt123under@aol.com	The Mill, Oakfordbridge, Nr Bampton, Tiverton, Devon, EX16 9JA. Telephone 07814 324925
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**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**

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**NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Mark UNDERHILL	The Mill, Oakfordbridge, Nr Bampton, Tiverton, Devon, EX16 9JA. Telephone 07814 324925
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**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL**

Licence No. MDV PE0698	Issued by Mid Devon
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## ANNEXES

**ANNEX 1 - MANDATORY CONDITIONS**

The supply of alcohol is prohibited: -

- a) At a time when there is no designated premises supervisor, or,
- b) At a time when the designated premises supervisor does not hold a personal licence.
- c) Every supply of alcohol shall be made or authorised by the holder of a personal licence.

**From 6 April 2010**

**1** (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children-

(a) games or activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

**2** The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

**3** The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

**From 1 October 2010**

**4** (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.



ANNEXES continued ...

- 5 The responsible person shall ensure that-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.

**ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

All events held on the premises will be privately booked in advance.

A hire agreement will be adopted.

When events include alcohol and entertainment then a minimum of 2 x SIA Registered Doorsupervisors will be employed throughout the duration of the event until the premises has closed. If the events are weddings or other private functions then a risk assesment will be carried out to see if doorstaff are required.

All Doorsupervisors must be in radio contact with each other at all times.

All incidents will be recorded in an Incident Book.

A "No ID/No Sale Proof of Age" policy will be adopted and in place.

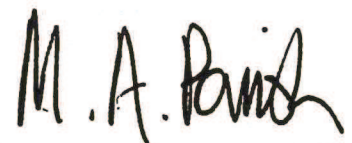
All staff will receive suitable and appropriate training.

**ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

N/A

**ANNEX 4 - PLAN OF PREMISES**

See attached plan.



Signature of Authorised Officer



## LOCAL AUTHORITY



Licensing Section  
 Mid Devon District Council  
 Phoenix House  
 Phoenix Lane  
 TIVERTON  
 DEVON  
 EX16 6PP

## Premises Details

## POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

**Uxale Priory Hall**

Bampton, Tiverton, Devon, EX16 9EG.

Telephone 01398 351371 or 07814324925

## WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

## LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment facilities for dancing
- provision of late night refreshment
- the sale by retail of alcohol

## THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
Performance of live music (Indoors)	Monday to Thursday	11:00am	1:00am
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	Sunday	11:00am	11:00pm
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L. Late night refreshment (Indoors)	Monday to Thursday	11:00pm	1:30am
	Friday and Saturday	11:00pm	2:30am
M. The sale by retail of alcohol for consumption ON the premises only	Monday to Thursday	11:00am	1:00am



## THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON the premises only continued ...	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	11:00pm

## THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday	11:00am	1:30am
Tuesday	11:00am	1:30am
Wednesday	11:00am	1:30am
Thursday	11:00am	1:30am
Friday	11:00am	2:30am
Saturday	11:00am	2:30am
Sunday	11:00am	11:00pm

## WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON the premises only

## NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Mark Underhill

The Mill, Oakfordbridge, Nr Bampton, Tiverton, Devon, EX16 9JA.

## REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

## NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Mark UNDERHILL

## STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Not applicable

Signature of Authorised Officer





**Licensing Authority**  
**Mid Devon District Council**

**Phoenix House, Phoenix Lane**  
**Tiverton, Devon EX16 6PP**  
**Tel: 01884 244617/8/9**

**Licensing Act 2003**

**Application for the review of a premises licence or club  
premises certificate under the Licensing Act 2003**

<b>CHECKLIST</b>	<b>Please tick ✓ yes</b>
I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate	✓
I understand that if I do not comply with the above requirements my application will be rejected	✓

**Application for the review of a premises licence or club premises certificate under the  
Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I** Mr Chris Winter

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Duval Priory Hall Bampton	
<b>Post town</b> Tiverton	<b>Post code (if known)</b> EX16 9EG

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Mark Underhill
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<b>Number of premises licence or club premises certificate (if known)</b>
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**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

☒

2) a responsible authority (please complete (C) below)

☐

3) a member of the club to which this application relates (please complete (A) below)

☐

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title  
(for example, Rev)

**Surname**

Winter

**First names**

Chris

**I am 18 years old or over**

Please tick ✓ yes



**Current postal  
address if  
different from  
premises  
address**

Steart  
Stoodleigh

**Post town**

Tiverton

**Post Code**

EX16 9QA

**Daytime contact telephone number**

01398 351 561

**E-mail address  
(optional)**

chriswin@aol.com

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

### (C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

#### This application to review relates to the following licensing objective(s)

- |   |                                     |
|---|-------------------------------------|
|   | Please tick one or more boxes ✓     |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

#### Please state the ground(s) for review (please read guidance note 2)

The grounds for review are:

1. Crime and Disorder. The attendees (resident or not) at a number of events held at Duvale Priory have resulted in the creation of a great deal of noise that has disturbed their neighbours in this previously tranquil part of the Exe Valley.  
Furthermore on a number of occasions the attendees have trespassed on neighbouring land. I am aware that this is a civil offence and that the landowner (not me) will have to take the trespassers to a civil court. Duvale Priory is the root cause of the problem and it is an unfair imposition on their neighbour.
2. Public Safety. On a number of occasions guests from Duvale have been found walking along the A396 in the dark and probably. This is a safety concern for users of this road and for the safety of the guests themselves. There have been FOUR fatalities on the A396 within a mile of Duvale Priory in the past five years. See this letter from an eye witness, Miss Louise Ruscoe:  
<http://docs.middevon.gov.uk/pap/index.asp?caseref=13/00701/FULL>  
Furthermore, guests from Duvale have been found, after a night of drinking and partying, swimming in the River Exe. This is a risk to their own safety and potentially any good samaritan who took it upon themselves to attempt to save anyone in difficulty.
3. Public Nuisance. The sheer volume of noise that emanates from Duvale on occasions, see below for dates and times.  
The licensee has allowed music to be played outside of the licensed premise thereby contravening the conditions of the licence.  
Furthermore, the extended hours are more in keeping with a nightclub and they are definitely not in keeping within the peace and tranquility of the Exe Valley.

**Please provide as much information as possible to support the application** (please read guidance note 3)

- Christmas holiday period 2012, from Christmas Eve through to early in the New Year 2013.

There were three or four occasions during this period when the noise from Duvale Barton was clearly audible inside my house. My house being a substantial barn conversion with double-glazing. The nights that I am complaining about are those during the period between Christmas Day and New Year's Eve. I am not complaining about the noise made on New Year's Eve itself as that is a special night of the year when one expects and tolerates loud noise and revelry.

I did not register a complaint with Licensing or Environmental Health at the time but chose to raise an objection against the then current planning application, that was subsequently withdrawn, and the current planning applications that was resubmitted by the owner, see my letters of objection on the Mid Devon Planning website:

<http://docs.middevon.gov.uk/pap/index.asp?caseref=13/00701/FULL> .

The following incidents have all been reported to the Devon and Cornwall police, Mid Devon Council Environmental Health and / or Licensing Department.

- 8/6/13 14:00 – 00:20. Loud music from an event at Duvale Priory Hall. Complaint made to Mid Devon Environmental Health. Diary of Noise Nuisance commenced. I later discovered that the music was being played outside of the Function Hall, i.e. in contravention to the licence as captured in the following photograph that was downloaded from Facebook.



- 22/6/13 20:00 – 00:30+. Loud music from an event at Duvale Priory Hall. Complaint made to Mid Devon Environmental Health. Diary of Noise Nuisance commenced. Resulted in sleepless night that was not welcome, as I had to get up at 05:00 to catch a plane.
- 6/7/13 12:00 – 20:00. Loud music from an event at Duvale Priory Hall. Not too disturbing as it stopped at a reasonable hour.
- 13/7/13 20:00 – 00:30. Loud music from an event at Duvale Priory Hall. Disturbing to me while sitting my garden some 800 metres distance from Duvale and 190 metres above it

in the next valley.

- 25/8/13 loud music that was audible throughout the evening. The music did not stop until midnight a full one hour after the premise licensing hours for a Sunday.
- 21/9/13 evening – 22/9/13 09:00. Wedding reception at Duvale Priory. Excessive noise in my property during the evening and into the night. The noise was still audible from 06:00 – 09:00 on the morning of 22/9/13. Mr Martyn Baker took photographs of the ‘wedding guests’ swimming in the River Exe at 06:00 on the 22nd. They entered the river from the fields belonging to Mrs Gill Hookins, i.e. they were trespassing.



- 4/10/13 6/10/13. A religious, possibly a Muslim group stayed at Duvale Priory on this extended weekend. They generated a great deal of noise during their stay; the most disturbing was loud drumming on Sunday morning, before 08:00. A neighbour advised me that the guests were outdoors at this time playing drums. When I walked my dog Sunday evening at 23:45 I could still hear drumming that I believe was emanating from Duvale.

This premise holds a music licence from 11:00 – 23:00 on a Sunday. I believe that they breached their licence by playing music (1) before 11:00, (2) after 23:00 and (3) outside of the premises. Mid Devon Council Environmental Services inexplicably rejected my complaint on the licence stating that it was not a breach. No explanation was forthcoming following my subsequent challenge.

Please tick ✓ yes

Have you made an application for review relating to the premises before

☐

If yes please state the date of that application

Day		Month		Year			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**If you have made representations before relating to the premises please state what they were and when you made them**

All of the incidents contained in this document have been reported to the Devon and Cornwall police, Mid Devon Council Environmental Health and / or the Licensing Department. The police state that they are powerless, Environmental Health have offered noise monitoring equipment; However, it is difficult to monitor the noise emanating from this premise, as the events are not held at regular times. Furthermore, Environmental Health has asked Duval Priory for the dates of events, thereby alerting the owners to the fact that the premise will be monitored.

I have received little assistance from the Mid Devon Licensing Department until it was in receipt of a complaint signed by thirty-two people. The Licensing Department then contacted me with what I consider to be their first formal response. Their response provided others and me with the information on to request a formal licence review.

At the time of submitting this request to hold a licence review the licensee has been in denial of any incidents and to the best of my knowledge has offered no apologies to any of the people affected.

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

*C Wink*

Date **23/10/2013**

Capacity **As and individual**

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

**Post town**

**Post Code**

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.