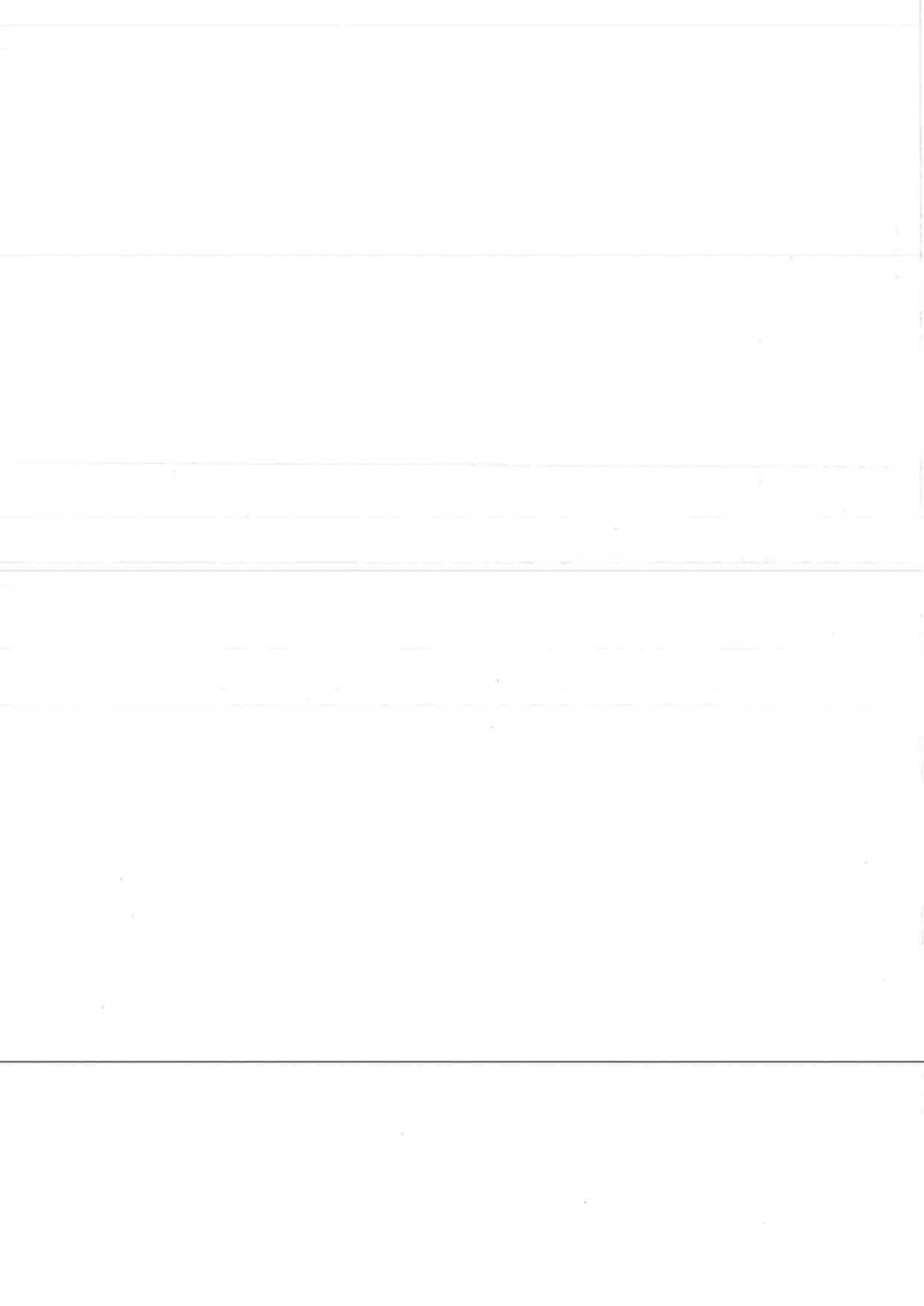

Appendix B



[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 **Tony Shore**

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the
premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Cross Heath News 121 Liverpool Road Cross Heath	
Post town Newcastle-under-Lyme	Post code (if known) ST5 9ER

Name of premises licence holder or club holding club premises certificate (if known) Mr Kunaratnam Kanesan
--

Number of premises licence or club premises certificate (if known) 003251

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

First names

I am 18 years old or over

Please tick ✓ yes

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(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 Tony Shore Community Protection Manager Public Protection Staffordshire County Council 2 Staffordshire Place, Tipping Street Stafford ST16 2DH
Telephone number (if any) 01785 277870
E-mail address (optional) antony.shore@staffordshire.gov.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

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

This application to review relates to the failure of the premise to meet the licensing objectives for the protection of children from harm and prevention of crime and disorder.

Responsible Authority:

Section 13(4) of the Licensing Act 2003 and Regulation 7 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 makes a Local Weights and Measures Authority a responsible authority for the purposes of the legislation. Staffordshire County Council is a Weights and Measures Authority and that function is carried out by the Public Protection Trading Standards Team.

Staffordshire County Council seeks a review of the premise licence on the grounds that the Premise Licence Holder (PLH) Mr Kumaratnam Kanesan and Designated Premise Supervisor (DPS) Mangaleswary Kanesan have failed to take adequate steps at the premises to protect children from harm and prevent crime and disorder, which raises questions as to whether the business is operated in accordance with the promotion of the licensing objectives.

Protection of Children from Harm

By virtue of section 4 of the Licensing Act 2003, offences under s.146(1) of the Act, involving the sale of alcohol to an individual aged under 18 are relevant offences when considering a personal licence. Such offences can lead to the suspension or forfeiture of a personal licence.

Revised guidance issued by the Home Office in April 2017 states that the Government believes that it is completely unacceptable to sell alcohol to children (para 2.23) and that Licensing authorities should give considerable weight to representations about child protection matters (para 2.29).

Para 11.27 further states that - there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.

Staffordshire County Council seeks a suspension of the premise licence and attachment of new conditions to the operating schedule on the grounds that the PLH and DPS have failed to take adequate steps at the premises to protect children from harm and crime and disorder.

The actions of this premise and that of the PLH and DPS indicates an unequivocal disregard of the law which raises questions as to whether the business is managed in accordance with the promotion of the licensing objectives. The licensing authority has a duty to ensure that steps are taken to promote the licence objectives in the interests of the wider community and not those of the individual PLH.

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

Supporting documentation is provided in appendices to this application as follows;

Appendix 1 – Copy of Premise Licence

Appendix 2 – Follow up letter sent to the business following advice visit carried out by Officer Trading Standards 17/04/14

Appendix 3 – Advice letter sent to the business following a visit carried out by Officer; Trading Standards and Officer from Newcastle Borough Council 04/08/16

Appendix 4 – Copy of Underage Sale Notification left at the premise on the 21/08/2017

Appendix 5 – photograph of alcohol sold to underage volunteer

Appendix 6- Witness statement from Officer who witnessed the underage sale.

Appendix 7 – Interview record of the person who sold the alcohol to the underage volunteer.

Appendix 8 – Letters sent to PLH requesting documentation following the underage sale.

Appendix 9 – Determination notice from 2012

Appendix 10 – Result of appeal from 2013

Appendix 11 – Staff training quiz produced at interview by PLH for the seller.

Here is a summary of events supporting this application.

Premise history:

17/04/2014 Age restricted sales advice visit carried out by Trading Standards Enforcement Officer at the premise. Follow up letter sent, see Appendix 2.

06/05/2014 Premise re-visited by Trading Standards – compliant on re-visit.

25/07/2014 Premise passed an underage test purchase for alcohol.

19/08/2014 Complaint received alleging counterfeit tobacco was purchased from shop by a Newcastle resident. Cigarettes proved to be genuine.

27/10/2014 Test purchase carried out at the premise for illicit tobacco, premise passed but the officer carrying out the operation believed the person working in the shop at the time were familiar with the brand of tobacco.

20/02/2015 Premise passed an underage test purchase for tobacco.

20/05/2015 Test purchase carried out for illicit tobacco, to which they passed.

18/02/2016 – Premise passed an underage test purchase for alcohol.

04/08/2016 – Premise visited by Officers Trading Standards and Newcastle Borough Council. Follow up letter sent, see Appendix 3.

21/08/2017 – Premise failed a test purchase and sold a 500ml bottle of Cider to a 16 year old volunteer. Offence under s.146 Licensing Act 2003. Person who made the sale claimed under

caution that he had not received any written staff training (see Appendix 7); contrary to the conditions on the premise licence.

20/09/2017 – letter sent to PLH requesting documentation including staff training. No response received. See Appendix 8

21/12/2017 – second letter sent further requesting service documentation and DPS authorisation. No response received, see Appendix 8.

During the PLH's interview on the 14.9.17, Mr Kanesan produced a training record in relation to the seller of the alcohol on 21.8.17 which contradicts what the member of staff had previously stated regarding provision and receipt of formal training. The authenticity of the training record for the seller (Appendix 11) is however questionable as there are notable differences in the handwriting style and pen colour used. (The original will be presented at any future licensing committee hearing).

Based on the suspicions of authenticity, the two requests for further documentation, including all staff training records were made. A response has not been received in relation to either request letter.

Upon further examination of appendix 11, it is suggested that the staff test record for the seller has not been completed correctly, in that 6 questions remain unanswered, and 2 questions have been answered incorrectly. Trading Standards therefore assert that the staff member has not attained the necessary number of correct answers required to demonstrate his full understanding of the prevention of age restricted sales. As a result, this calls into question whether the business was able to demonstrate the standard of knowledge and competency required for selling alcohol and other age restricted products; therefore, the seller should not have been authorised to sell alcohol during his employment with the business.

A request for a copy of the DPS authorisation has also not been supplied by the PLH/DPS by 15.1.18 and thus it is further suggested that the documentation does not exist, which questions whether the proper authorisation exists.

Trading Standards does not feel confident that Mr Kunaratnam Kanesan has taken all reasonable steps to prevent his staff selling alcohol to a person under the age of 18. On both unannounced visits (2014 and 2016), there were breaches of the licensing conditions which are in place to help prevent underage sales occurring; namely a refusals log could not be produced on either occasion, in addition to staff training records were not available for inspection.

Trading Standards are further concerned that the PLH has more recently failed to engage and failed to respond to reasonable requests and produce information and documentation which may have assisted in his mitigation concerning whether the seller had or had not received any written training during his employment, and more importantly whether the seller was or was not properly authorised to make the sale of alcohol. Without proper authorisation, trading standards allege that further offences under s.136 of the Licensing Act 2003 may have been committed.

This provides additional reasoning as to why Trading Standards have felt the need to seek a review of the premise licence as it is felt that previous advice and guidance given to the business, has not been acted upon.

Recommendations:

Trading Standards question whether the PLH Mr Kunaratnam Kanesan is able to uphold the licensing objectives. It is also questioned whether the DPS Mangaleswary Kanesan is able to carry out her DPS role effectively. We therefore ask that the sub-committee consider a suspension of the premise licence, and a removal of the current DPS.

Trading Standards ask that the sub-committee consider their powers of suspension, up to a maximum period of 3 months and a warning be issued to Mr Kunaratnam Kanesan regarding his future conduct.

A suspension would firstly act as a deterrent whilst also affording the business an opportunity to remedy the non-compliances and retrain staff, thus not exposing the business to risk of further unauthorised sale of alcohol and potential risk to children from harm, from the supply of alcohol.

Trading Standards also believe a removal of DPS will ensure that moving forward the licensing objectives are fully upheld.

Trading Standards also request that the licensing sub-committee remove the current 6 conditions under Protection Of Children From Harm and endorse the premise licence with the following new conditions:

(old conditions) Protecting Children from Harm

- 1) The proof of age scheme will be adopted together with Challenge 25.
- 2) A refusals book will be maintained and made available to police or other responsible authorities for inspection.
- 3) A training programme will be adopted for all staff serving alcohol.
- 4) Alcohol shall not be sold in an open container or be consumed in the licensed premises.
- 5) The protection of children from harm restrictions set out in the Licensing Act 2003 will apply.
- 6) Proof of age and Challenge 25 will be adopted.

(new conditions) Protecting Children from Harm

A Challenge 25 policy must be adopted and enforced at the premise where all persons who appear to be under the age of 25 must be challenged for acceptable identification to prove they are over the age of 18 prior to the purchase of alcohol.

The only acceptable forms of identification must be a valid photo driving licence, valid passport or a valid PASS approved proof of age card.

Challenge 25 posters must be displayed at all entrances to the premise, all areas where alcohol is displayed and at the cash till payment area.

Posters must be displayed prominently and in sight of customers & staffs.

At each till there must be placed a date of birth check card which must be kept updated at all times with the current date at which a person must be born to be aged 18 or over.

A refusals register with details of all refusals must be maintained at the premise. The register must contain details of the staff member refusing the sale and must be checked on a 2 weekly basis by the Designated Premises Supervisor and signed and dated by the Designated Premises Supervisor.

The refusals register or when on the till a print out of refusals must be produced and made available for inspection at the time of the visit by any Responsible Authority.

Prior to selling alcohol, all persons involved in the sale of alcohol & age restricted products who are not the holder of a Personal Licence must receive initial and regular 6 monthly refresher training by the Designated Premises Supervisor or external training provider with regards to the law in relation to the sale of alcohol & age restricted products and responsible retailing. Such

training must be recorded and up to date training records of all such persons must be maintained at the premise and produced and made available for inspection at the time of the visit by any Responsible Authority. Records for each person must be retained for a minimum of 12 months.

Both initial and subsequent refresher training in relation to the sale of alcohol & age restricted products must contain a test to be undertaken by the staff member and this test or online certificate must be made available at the time of the visit to any Responsible Authority.

Trading Standards consider that the above requests are proportionate and appropriate, whilst affording the Licensing Sub-Committee the opportunity to consider any further action.

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

Please tick ✓ yes



If yes please state the date of that application

Day	Month	Year
2	1	05
2	0	13

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

Previous 2012 premise licence review was requested under two licensing objectives; prevention of crime and disorder, and protection of children from harm with regards to the sale and exposure for sale of illicit alcohol (vodka).

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

A. Wilson

Date 18th January 2018

Capacity **Community Protection Manager**

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

Mark Wilson
Principal Trading Standards Officer – Crime & Licensing
Staffordshire County Council
20 Sidmouth Avenue
Newcastle under Lyme
Staffordshire

Post town

Newcastle under Lyme

Post Code

ST5 0QN

Telephone number (if any) 01782 297004

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) mark.wilson@staffordshire.gov.uk

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.