



## LICENSING AUTHORITY

Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath RH16 1SS

### 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 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 Peter Aston, Trading Standards, Team Manager, West Sussex County Council Trading Standards Service 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

Postal address of premises or club premises, or if none, ordnance survey map reference or description

K & A AKS LTD t/a K & A Enterprise  
118 South Road

Post town Haywards Heath

Post code (if known) RH16 4LT

Name of Premises Licence holder or Club holding Club Premises Certificate (if known)

Mr Kandeepan Kandhasamy

Number of Premises Licence or Club Premises Certificate (if known)

PA0648

#### 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)**

Mr  Mrs  Miss  Ms  Other title (For example, Rev)

Surname

First names

Please tick  yes

I am over 18 years old or over

Current postal address if different from premises address

Post town

Postcode

Daytime contact telephone number

Email 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  FOR & ON BEHALF OF THE RESPONSIBLE AUTHORITY APPLICANT: Mr Peter Aston Trading Standards Team Manager West Sussex County Council Trading Standards Service Parkside Chart Way Horsham RH12 1XH
Telephone number (if any): [REDACTED]
E-mail (optional): [REDACTED]

**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 type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

West Sussex County Council Trading Standards Service (the 'responsible authority') contends the following licensing objectives have been undermined by the carrying on of licensable activities at these premises:

- the prevention of crime and disorder and
- the protection of children from harm
- public safety

Full particulars in support of the application are to be found in the next section, but in summary:

**Prevention of crime and disorder**

On 8<sup>th</sup> February 2023, during a controlled Trading Standards Test Purchasing exercise, a staff member at K & A AKS LTD t/a K&A Enterprise Convenience Store sold alcohol to a Trading Standards volunteer who was under the age of 18.

The sale of alcohol to a person under the age of 18 is a criminal offence under the Licensing Act 2003.

### **Protection of children from harm**

Despite K & A Enterprise operating a Challenge 25 Policy, the seller did not follow the guidance of such policy, contrary to the Licence Condition:

5. 1) *The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.*
- 2) *The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.*
- 3) *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 either: -*
  - a) *A holographic mark or*
  - b) *An ultraviolet feature*

### **Public Safety**

Selling food past its use by date and selling foreign labelled food are an example of risks to public safety. Allergen information is a key part of food labelling which poses a real health risk to consumers if they cannot read or properly understand the labelling on foreign labelled food.

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

K & A AKS LTD which trades as K & A Enterprise at 118 South Road, Haywards Heath, RH16 4LT was incorporated as a Limited Company in September 2017 and Mr Kandeepan KANDHASAMY has been listed as the Company Director since the incorporation date of 22<sup>nd</sup> September 2017.

On the 21<sup>st</sup> October 2022, the Responsible Authority received a complaint via the Citizen Advice Consumer Service where the complainant advised that K & A Enterprise Convenience store of 118 South Road, Haywards Heath, RH16 4LT was selling Elf Bar vape devices to underage children in school uniform. The complainant further advised that their son was caught with one of these vape devices in his possession and that their son advised them that he purchased these himself from K & A Enterprise. On the 20<sup>th</sup> January 2023 the Responsible Authority received further intelligence indirectly from a parent alleging that their son had been found in possession of a vape which they had purchased from K&A Enterprise. The parent went on to advise that their son had been caught on two more occasions and the son had said that he was still getting the devices from the same shop. The son was able to buy these items after school whilst in school uniform.

As a result of this intelligence, on the 26<sup>th</sup> January 2023, a Trainee Trading Standards Officer from the Responsible Authority visited K & A Enterprise Convenience store at 118 South Road, Haywards Heath, RH16 4LT and carried out a comprehensive advice visit in relation to Underage Sales.

The Officer met and spoke to Mr Kandeepan KANDHASHAMY, the shop owner and Director and they explained there had been an allegation against K & A Enterprise

Convenience Store selling age restricted products to young children. Mr KANDHASHAMY informed the Officer there was a 'Think 25 Policy' in place and that the staff do receive training with regards to Underage Sales. During the visit the Officer handed Mr KANDHASHAMY guidance leaflets on Underage Sales.

Later the same day the Officer emailed Mr KANDHASHAMY a letter confirming what was discussed at the advice visit.

On the 8<sup>th</sup> of February 2023, as part of an underage sales operation the Responsible Authority were carrying out that day, a 17-year-old volunteer working under the instruction and supervision of the Responsible Authority entered K & A Enterprise Convenience store of 118 South Road, Haywards Heath, RH16 4LT. The child volunteer selected a VK Passion fruit Bottle and took it to the till. A male working behind the till area, Mr Yokarasa RAMANAN, sold the VK bottle to the child volunteer, without asking the volunteer any questions or asking for ID.

Two Trading Standards Officers from the Responsible Authority returned to the shop immediately after the sale to inform the seller about the test purchase and take the relevant information to instigate an investigation. Under caution, Mr RAMANAN advised that he believed the volunteer to be 19 years old, but confirmed they do operate a 'Think 25' policy at the store. Mr RAMANAN further advised that he did not challenge the volunteer's age as he was busy at the time. Mr RAMANAN also advised the Officers that he received monthly training on Underage Sales. However, when he did find a training document titled 'Age V Policy' to show the officers, the document had last been signed by him on 3<sup>rd</sup> June 2022.

When the Officers asked the seller if they had a refusals log, Mr RAMANAN said that he could not find it and informed the Officers that he had never completed one. Mr RAMANAN however then found the refusals log and the Officers checked it and saw that only half of it had been completed and the other half had been printed tickets from the till. There appeared to be no record of any refusals in 2023 and that the last date a sale appeared to have been refused, which was on the printed copy, was 5<sup>th</sup> August 2022.

Further questions were subsequently put by the Responsible Authority to a representative for the Company, K & A AKS LTD t/a K & A Enterprise. Mr Kandeepan KANDHASHAMY, as the Company Director and the DPS responded to the questions and stated in his interview response that the sale of alcohol to someone that was underage was down to the member of staff not checking for ID. Mr KANDHASHAMY further stated that all the store staff had been trained on Underage Sales but that the staff have since been retrained after the incident occurred.

Mr KANDHASHAMY provided copies of refusals log taken from the till and also a scanned copy of a handwritten refusals log which showed regular refusal of sales throughout January and February 2023. On this copy it appears Mr RAMANAN also completed several entries which obviously contradicts what he advised the two Officers when they questioned him under caution immediately after the incident on the 8<sup>th</sup> February 2023.

This was not the first time Mr KANDHASHAMY had received advice from the Responsible Authority, nor the first incident where they had failed an Underage Sale test purchase.

In August 2019, an Officer from the Responsible Authority visited K & A Enterprise with an Officer from the Environmental Health Team at Mid Sussex District Council.

The Environmental Health Officer had visited the store the day before and had found several items of food past the Use-by Date which prompted the Officer to contact the

Responsible Authority to request a joint visit. During the joint visit a further 3 items were found to be past the use by date and over 100 items of food were found to be non-compliant with English Labelling requirements. Many of the products found had no English labelling at all, whereas others had English labelling, but the allergen information was not emphasised.

The Food Information Regulations 2014 (and associated EU legislation) requires food to be labelled in a language understood by the consumers of the Member State where the food is marketed. In the UK that language is English. If such information causes a safety issue, for example if the allergen information cannot be understood, then this is a potential offence under Regulation 19(1) Food Safety & Hygiene (England) Regulations 2013.

During this joint visit, the Officer from the Responsible Authority also discussed Age Restricted sales with Mr KANDHASMY and noted the store had a till prompt in place and a Refusals Log, but that the last entry in the Refusals Log was from June 2019.

The Officer further found during this visit, a pack of JPS Silver Cigarettes that was not in the required Plain Packaging and therefore a Criminal offence under the Standardised Packaging of Tobacco Products Regulations 2015. As a result of this visit a Warning Letter was issued by the Responsible Authority outlining the various potential offences under relevant Food Legislation and Tobacco Legislation.

Following the receipt of an anonymous report advising that the store is selling age restricted products to children underage; in June 2021, an Officer from the Responsible Authority visited K & A Enterprise and carried out an Underage Sales Advice Visit. During this visit the Officer met and spoke with a Mr Selvar KULMAR, who was Acting Manager at the time.

On the 2<sup>nd</sup> September 2021, as part of an underage sales operation the Responsible Authority were carrying out that day, a underage volunteer working under the instruction and supervision of the Responsible Authority entered K & A Enterprise Convenience store of 118 South Road, Haywards Heath, RH16 4LT. The Volunteer was sold a 4 Pack of Carlsberg Beer by the Sales Assistant working at the store, Mr Selvakumar KARAIMUTHU.

In October 2021, the Responsible Authority issued a Warning Letter to K & A Enterprise with regards to this underage sale. In this Warning Letter it was recommended to Mr KANDHASAMY that he introduced a written company procedure regarding the sale of all age restricted products and that he kept written training records for the staff, ensuring that he recorded the details of what training was given, the date at which any training was provided, and the details of the staff who received the training.

The Responsible Authority did attempt a further Underage Sales Test Purchase in February 2022 and staff at the premises refused the attempted purchase by the volunteer to buy alcohol. The shop was sent a letter advising them they did pass the attempted test purchase and the letter also provided comprehensive advice and guidance in relation to age restricted sales.

In June 2022, the Responsible Authority received further information which came via the local Licencing Team in the District Council but had originated from Sussex Police advising that a 16-year-old was sold alcohol.

The Police Officer advised that her friend had approached her advising that their 16-year-old son had purchased a 4 pack of Stella Lager and although they had dealt with the son

from a parental aspect, the friend wanted to let her know and to pass on the information for intel development or action if required.

On the 5<sup>th</sup> August 2022, a Trainee Trading Standards Officer from the Responsible Authority visited the premises and met with an employee, Mr Saranrej SEKAR, where the Officer discussed Age Restricted Sales. Mr SEKAR confirmed the store had a 'Think 25' Policy in place and that the refusals log was on the till. The Officer checked the till and that the last date for refusal of sale was the 4<sup>th</sup> August 2022. The Officer sent a follow up letter confirming the advice provided. This follow up letter was sent to the Director of K & A AKS LTD and owner of the business, Mr Kandeepan KANDHASAMY.

Under Section 146 of the Licensing Act 2003, it is a criminal offence to sell alcohol to a child under the age of 18 years old. Section 146 (4) contains a defence 'that he believed the individual was 18 or over, and he had either taken all reasonable steps to find out the individual's age or that no one could reasonably suspect from their appearance that they were under 18.'

It's contended the sale of alcohol to an underage person in the circumstances outlined is a breach of the licensing objective 'the protection of children from harm' and that the licensee has failed in their responsibilities to promote said licensing objective. Furthermore, it is also contended there were breaches of the 'Public Safety' objective in relation to the sale of food being found passed its use by date and the selling of foreign labelled food.

In considering a review of this premises licence the committee are also reminded of a third licensing objective 'prevention of crime and disorder' which has been failed by commission of the criminal offences outlined above.

In view of this the Responsible Authority do not believe the licensing objectives are being continually upheld at these premises and deem it both proportionate and necessary to invite the committee to consider a review of the premises licence, to limit further criminal activity by this licence holder and to act as a deterrent to other operators considering such illegal conduct.

As underage prevention advice had been provided just before the sale of alcohol was made to a Trading Standards volunteer, the premises had been given advice on several occasions prior and they had failed a similar test purchase previously, the Responsible Authority suggests an appropriate outcome of the review would be a revocation of the alcohol licence.

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			

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



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 

Date 13/06/2023

Capacity Trading Standards Team Manager

**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 by e-mail 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.