

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**, 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

KK News Ltd TA Sparks News 56 Queens Road

Post town Haywards Heath

Post code (if known) RH16 1EE

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

Lakminy Thambu Kandasamy

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

PWA0551

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)

x

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

Peter Aston
Trading Standards Team Manager
Trading Standards, West Sussex County Council
4th Floor, Parkside, Chart Way, Horsham, West Sussex, RH12 1XH

Telephone number (if any) [REDACTED]

E-mail (optional) [REDACTED]@westsussex.gov.uk

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 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
- the protection of children from harm

Full particulars in support of the application are to be found in the next section.

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

On 30th January 2023 West Sussex County Council Trading Standards (WSCCTS) Service received a report that Sparks News in Queens Road Haywards Heath openly sells vapes and liquids to children in school Oathall Communications College uniform, every day after school. The report also stated that this was causing litter and unsocial behaviour for local residents.

Between 26th and 30th March 2023 WSCCTS received three complaints about the business trading at Sparks News 56 Queens Road selling alcohol and e-cigarettes to 15 and 16-year-old children regularly.

On 30th March 2023 Mid Sussex Licencing authority provided advice on the licensing objectives to Miss Lakminy Thambu Kandasamy. (Miss Kandasamy) Miss Kandasamy has been the Designated Premises Supervisor (DPS) at Sparks News 56 Queens Road Haywards Heath, West Sussex RH16 1EE since 11th March 2017, when the premises licence was issued. The mandatory conditions of the

premises licence include a challenge 25 policy, whereby anyone looking under 25 must be asked for identification to verify that they are over 18 years of age. The premises licence also requires the business to regularly train staff, with this being documented. This documentation must be readily available for inspection by officers.

On 3rd April 2023 WSCCTS carried out an advice visit to Sparks News 56 Queens Road Haywards Heath, West Sussex, RH16 1EE. It was established that the business has been run by KK News Limited, who had been trading there for the last 2 years. Mr K Murugaivan, an employee, was advised on under age sales, also the owner was spoken to on the phone. The owner gave her name as Minnie, understood to be Miss Kandasamy, and provided the company information. Miss Kandasamy was given advice on under age sales, including being sign posted to the Business Companion website. This website provides businesses with advice on how to comply with consumer protection legislation. Miss Kandasamy was advised that test purchases of age restricted products would take place and if they sold a licence review would be applied for. The DPS was confirmed as Lakminy Thambu Kandasamy.

During the advice visit a refusals log appeared to be in use, as well as a till prompt and identity accepted was appropriate. However, the challenge 25 policy was not in place. Challenge 25 posters were provided to the business. No training records were in place, but it was said that verbal training had been completed. The business was advised to ensure they complete signed records of any training completed.

On 6th April 2023 a follow up letter of advice on age restricted sales was sent to Lakminy Kandasamy's email [REDACTED]. The letter included advice on; asking for identification to prove age when selling age restricted products, the challenge 25 policy, refusals logs and staff training. At the end of the email was a link to the business companion website.

On 24th May 2023 at approximately 12:04 Officers from WSCCTS visited Sparks News 56 Queens Road, Haywards Heath, West Sussex, RH16 1EE as part of a controlled test purchasing operation. Officers witnessed an employee, who gave his name as Mr Morgkyin sell a bottle of Blue WKD, an alcoholic drink, to a child under the age of 18. This sale is contrary to Section 146 of the Licensing Act 2003. It was witnessed that the seller did not ask the volunteer for their age or ask them for any identification.

Immediately after the sale Mr Morgkyin was interviewed under caution. He was hard of hearing and his English speaking was limited as it did not appear to be his first language. He did seem to understand what under age sales were but thought the volunteer was 18. He showed us the till prompt and was able to provide the refusals log. The refusal log showed usage since 03/04/2023, when Trading Standards conducted an advice visit, with the last entry on 20/05/2023. The shop had a steady flow of customers, so daily refusals would be expected, but this is not the case. Training logs could not be found, Mr Morgkyin said these may be upstairs. He was apologetic and stated that he usually checks identification when selling age restricted products.

KK News Ltd director Miss Kandasamy responded to a formal written interview request and stated that both herself and staff member Jeyarajah have personal licences. This has been confirmed by the issuing councils. Miss Kandasamy confirmed that she is the owner and responsible for the day to day running of the business, so she stated that she can speak on behalf of the company.

The reason given for the sale was that the volunteer looked over 21 years old. This is contrary to the mandatory licence condition to have in place a challenge 25 policy. Miss Kandasamy stated that there is a policy to read and explain about under age sales every week. This was not provided when requested during the visit on 24/05/2023, despite the premises licence mandatory condition that

records should be readily available for inspection. Miss Kandasamy stated that council officers gave the business the procedures for age restricted sales, indicating that procedures have not been implemented by Miss Kandasamy. She states that she has had external and online training for age restricted sales. The training logs provided by Miss Kandasamy include one for Kalyanasundaram Murugaiyan who joined 15/04/2019 but the date of initial training/induction is stated to be on 21/04/2023. The training log says it includes training on who the licence holder and DPS are, where the licence is, authorisation to sell alcohol, age verification and refusal log. It appears this training was been repeated on 01/06/2023 and 23/06/2023.

Another training log for G Jeyarajah was provided by Miss Kandasamy. This states that this person joined on 19/07/2021 and was trained on 21/04/2023, 01/06/2023 and 25/06/2023. The employees and Miss Kandasamy have signed all of the training logs, which all state that the training includes licensing objectives, an age verification policy and refusal logs.

A signed designated supervisor staff authorisation form has been provided to show that Miss Kandasamy has given advice to Mr Murugaiyan and Govindapillai Jeyarajah about age restricted sales, when authorising them on 21/04/2023, 01/06/2023 and 23/06/2023.

A premises Age Verification Policy has been provided that confirms Miss Kandasamy is the responsible person for the business in relation to age restricted sales, this was signed on 21/04/2023. Further refusal logs have been provided showing it has been in use since 24/05/2023 until 13/06/2023, with various staff refusing mostly e-cigarettes sales. It is stated that the log is checked weekly, these logs have been signed off by Miss Kandasamy or G Jeyarajah at the end of each page.

Photographs of the tobacco notice, and the challenge 25 policy displayed at Sparks News have been provided along with photographs of the till prompt, as evidence of these being in place. Miss Kandasamy states that a DPS or personal licence holder will remain in the shop and supervise sales to prevent the sale of age restricted products to minors. She also states that the CCTV is monitored daily.

Under section 146 of the Licensing Act 2003 it is a criminal offence to sell alcohol to a person who is under the age of 18 years old. Miss Kandasamy admits the offence has been committed by herself and the company, she apologises for the sale that took place on 24/05/2023.

Despite being trained with a personal licence since 25/06/2008 and being a DPS at Sparks News since 11/03/2017 Miss Kandasamy has not put adequate due diligence procedures in place until Trading Standards visited on 03/04/2023. Miss Kandasamy left her staff untrained for years after they joined the business, allowing them to sell age restricted products without knowledge of how to ensure children are protected from harm. The challenge 25 policy is a mandatory condition of the premises licence and still has not been complied with.

The Responsible Authority do not have confidence the licensing objectives are or will be promoted by the continuation of licensable activities at these premises and deem it both proportionate and necessary to invite the committee to consider a review of the premises alcohol licence, to limit further criminal activity by the licence holder and to act as a deterrent against such illegal conduct.

Home office guide (Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk)) on protecting children from harm states that:

2.29 Licensing authorities should give considerable weight to representations about child protection matters.

11.27 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.

11.28 It is envisaged that.....responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

It's contended that the sale/supply alcohol in the circumstances outlined above is a breach of the licencing objectives and the licensee has failed in their responsibilities to protect children from harm. The Responsible Authority respectfully suggest an appropriate outcome of the review would be a revocation of the premises 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			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please tick ✓ yes

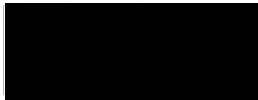
- I have sent copies of this form and enclosures to the Responsible Authorities and the Premises Licence holder or Club holding the Club Premises Certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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 24/08/23

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.