

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

We Hampshire County Council Trading Standards wish to apply for a 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 Tesco Metro 62 Chantry Way	
Post town Andover	Post code SP10 1LU

Name of premises licence holder or club holding club premises certificate (if known) Tesco Stores Ltd.
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Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am	Please ✓ yes
1. An interested party (please complete (A) or (B) below)	<input type="checkbox"/>
a) A person living in the vicinity of the premises	<input type="checkbox"/>
b) A body representing persons living in the vicinity of the premises	<input type="checkbox"/>
c) A person involved in business in the vicinity of the premises	<input type="checkbox"/>
d) A body representing persons involved in business in the vicinity of the premises	<input type="checkbox"/>
2. a responsible authority (please complete (C) below)	<input checked="" type="checkbox"/>
3. a member of the club to which this application relates (please complete (A) below)	<input type="checkbox"/>

(A) DETAILS OF INDIVIDUAL APPLICANTS (fill in as applicable)

Mr Mrs Miss Ms Other title (for example Rev)

Surname

First names

Please tick ✓ yes

I am 18 years old or over

Current address

Post Town Postcode

Daytime contact telephone number

Email address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

Email (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Hampshire County Council Trading Standards Service Montgomery House Monarch Way Winchester Hampshire SO22 5PW
Telephone number (if any) 01962 833658
Email (optional) stephen.lawford@hants.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 | ✓ |
| 2) public safety | |
| 3) the prevention of public nuisance | |
| 4) the protection of children from harm | ✓ |

Please state the ground(s) for review (please read guidance note 1)

Hampshire County Council Trading Standards Service wish to apply for a review for this premises under the licensing objectives :- The Prevention of Crime and Disorder and The Protection of Children from Harm.

This premises has failed three alcohol test purchase operations within six weeks. The first and second failures were on 29 March 2012 and were conducted by Hampshire Constabulary using a 16 year old volunteer and the third failure on 11 May 2012 was to a 16 year old female volunteer working with HCC Trading Standards Service.

The store had previously failed an alcohol test purchase by Hampshire Constabulary on 30 July 2011.

Please provide as much information as possible to support the application (please read guidance note 2)

Listed below are the details of all test purchases, mediation meetings and visits made to the store by Trading Standards Officers (TSO's)

30/07/11 – The store failed a police test purchase by selling alcohol to a 16 year old volunteer. The female cashier was issued with an £80 Penalty Notice for Disorder.

04/08/11 – As a result of the above failure, TSO Lawford visited the store and dealt with the Deputy Manager. A warning was given about the consequences of a 2nd sale within the next three months which could lead to a closure notice being issued in lieu of prosecution and a Review of the premise licence. It was recommended to refresh staff training every three months; to adopt Challenge 25 and display signage and to keep a refusals book and monitor it weekly. It was advised that further test purchases would follow.

06/08/11 - The store passed a Trading Standards test purchase by a 16 year old female volunteer.

14/10/11 - The store passed a Trading Standards test purchase by a 16 year old female volunteer.

29/03/12 – The store failed two police test purchases by selling alcohol to two 16 year old volunteers. The sale was made at a self-service till. The same female cashier made both sales and was issued with an £80 Penalty Notice for Disorder.

11/05/12 - The store failed a Trading Standards test purchase by a 16 year old female volunteer, when alcohol was sold to her without any questions being asked by the cashier. The sale was made at a self-service till. The female cashier was issued with an £80 Penalty Notice for Disorder.

31/05/12 - TSO Lawford and TSO Worrall discussed these test purchase failures at a mediation meeting with four representatives of the company. During this meeting the company were advised that a Review would be applied for and that Trading Standards would be asking for conditions to be attached to the premise licence and some of the proposed conditions were discussed.

Up until now HCC Trading Standards Service had only applied for a Review when all else had failed or, as can be seen with this store, where the test purchase record is appalling. However, there are two new paragraphs in the Guidance issued in 2012 under Section 182 of the Licensing Act 2003, namely :-

2.42 The Government believes it is completely unacceptable to sell alcohol to children.

REVIEW OF A PREMISES LICENCE FOLLOWING PERSISTENT SALES OF ALCOHOL TO CHILDREN

11.33 Where persistent sales of alcohol to children have occurred at premises,

responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

Persistently selling alcohol to children is defined in the Licensing Act as “two underage sales in a three month period.” This premise has made three underage sales in six weeks, which we feel is totally unacceptable, particularly for a company of this stature.

We are not asking for revocation of the licence, but feel suspension of the licence is entirely appropriate. Case law - R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350 QB: Slade J.: 7 November 2008, allows the panel to do this, not as a punishment but as a deterrence. The main principles of court's decision were as follows:-

1. The general approach of Licensing Authorities on a Review is to establish the cause or causes of the concerns and to take remedial action which is necessary and proportionate.
2. However, when considering Reviews arising in connection with crime (and underage sales are included) deterrence is an appropriate objective and one contemplated by the Secretary of State in the Guidance.
3. Whilst punishment may strictly not be a valid tool on a Review, in Reviews where there has been activity in connection with crime, deterrence could be.

However, we have a very good working relationship with the company and are suggesting a three month suspension or full compliance with a number of conditions that we feel are appropriate and proportionate. So if the company are fully compliant with these conditions during the Representation period and the appeal notice period, there may be no suspension of the premise licence at all.

The conditions include a number of external training qualifications which we believe are appropriate, as it appears the company's internal training has failed to prevent the store from failing four test purchases made by three different staff. All this in a nine and a half month period.

May we also highlight the following paragraphs of the Secretary of State's Guidance issued in 2012 under Section 182 of the Licensing Act 2003.

11.24 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the

licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11.27 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.29 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

11.30 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are 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. We would also encourage liaison with the local Community Safety Partnership.

Trading Standards ask that the following conditions be attached to the premise licence :-

- 1) A written log shall be kept of all refusals including refusals to sell alcohol. The holders of the premises licence shall ensure that the refusals log is properly maintained and checked and signed on a weekly basis, and be produced on request to police and trading standards officers.
- 2) The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase alcohol at or from the premises shall produce means of identification acceptable to the licensing authority - passport, photo driving licence or PASS accredited photo ID - proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.
- 3) All staff shall be trained to challenge every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification. Such training shall be provided not less than every three months, and written records shall be kept of all training and refresher training, and be produced on

request to police and trading standards officers.

4) 'Challenge 25' posters shall be displayed in prominent positions at the premises.

5) The current DPS must have passed the BIIAB Level 2 Award for Designated Premises Supervisors (ADPS) or equivalent qualification.

6) All Managers at the store must be Personal Licence Holders.

7) All supervisors and team leaders must have passed the BIIAB Level 2 Award for Personal Licence Holders (APLH) or equivalent qualification before being allowed to sell alcohol.

8) All till-trained staff must have passed the BIIAB Level 1 Award for Responsible Alcohol Retailing (ARAR) or equivalent qualification before being allowed to sell alcohol.

9) All sales of alcohol made through the self-service tills must be made by a member of staff who has passed the BIIAB Level 2 Award for Personal Licence Holders (APLH) or equivalent qualification.

10) A Personal Licence Holder must be on duty at the store when licensable activity is taking place.

11) The premise licence shall be suspended for three months. However, if the sub-committee feel that is not proportionate, the premise licence shall be suspended until all the conditions have been complied with to the satisfaction of HCC Trading Standards Service, Hampshire Constabulary and the Licensing Authority.

Please tick ✓ yes

Have you made an application for review relating to these premises before?

Day Month

Year

If yes, please state the date of that application

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

No

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 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent.

(please read guidance note 4) **If signing on behalf of the applicant, please state in what capacity.**

Signature.....

S. Lawford.....

Date.....

12/06/12.....

Capacity.....

Trading Standards Officer.....

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you using email, your email address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details, for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

DATA PROTECTION ACT 1998

The personal information you have provided, or which has been obtained from other sources, will only be used for the purpose of the licensing function, and for auditing, monitoring, statistical and other research.

The information will be retained by the council for a period not exceeding 7 years.

The information may be shared with other council departments and statutory bodies.