

[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 Nicola Briers

(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 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Maria and Phillips 7 Stockport Road Hyde Tameside	
Post town Hyde	Post code (if known) SK14 1RH
Name of premises licence holder or club holding club premises certificate (if known) Erica Demetorova	
Number of premises licence or club premises certificate (if known) PL0197	

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

Nicola Briers Trading Standards Officer Tame Street Depot Tame Street Stalybridge SK15 1ST
Telephone number (if any) 0161 342 3670
E-mail address (optional) nicola.briers@tameside.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 checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input 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 Prevention of Crime and Disorder

-Public Safety

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

Tameside MBC Trading Standards Department, in its capacity as a responsible authority, wish to apply for the review of a premises licence under S.51 of the Licensing Act 2003 for Maria and Phillips, 7 Stockport Road, Hyde, SK14 1RH.

Since June 2021 there has been a pattern of behaviour involving this premises in relation to the possession and supply of illicit tobacco that is not legally permitted to be sold in the UK. I have detailed below the sequence of reports received and actions taken by this department in relation to this issue.

1. On 28th June 2021 the department received a complaint from a member of the public via the Citizens Advice Consumer Service that the shop was selling single cigarettes to underage children and 'dodgy' cigarettes
2. Following receipt of this complaint I carried out an unannounced inspection of the premises with a colleague Tim Watson on 8th July 2021. During the visit I spoke with shop worker Andrew Bridge. Six pouches of Amber Leaf hand rolling tobacco found in the back store room was seized on examination of these tobacco they were found not to have the required warning statements in English or be packaged in the required standardised packaging (see the summary below of the legislative requirements for tobacco products).
3. Other issues were also identified during the visit these were as follows:
 - No tobacco notice on display contrary to Children and Young Persons (Protection from Tobacco) Act 1991
 - No refusals book was in place – whilst this is not a condition on the premises licence, maintenance of a refusal log will help demonstrate that the premises is actively refusing sales and they have an effective system in place. A refusal book was provided to Andrew Bridge at the time of the visit.
 - Many items in the shop were not priced contrary to The Price marking Order 2004. I advised that all items must be priced either individually on the shelf edge or via a price list.
4. On the 13th July 2021 a warning letter was sent to Erica Demetorova the licence holder for the premises advising her of the offences of the sale of illicit/counterfeit tobacco and requesting that she sign and return an enclosed form authorising Tameside MBC to retain the items for disposal. I received the completed form on 24th August 2021. It was decided to take no further enforcement action on this occasion.
5. On 9th November 2021 I received an email from the Designated District Licensing Officer for Greater Manchester Police stating that the premises was selling high strength vapes to school children.
6. In December 2021 Tameside Trading Standards sent a letter to over 200 retailers where e-cigarettes were likely to be sold to advise them of the law relating to the sale of e-cigarettes in particular the requirement of the tank size of disposable e-cigarettes and their obligations regarding underage sales. I can confirm that this letter was sent to Maria and Phillips, 7 Stockport Road, Hyde.
7. A decision was taken to add the premises to a list of premises to be visited as part of a test purchase operation carried out in conjunction with a test purchaser

working on behalf of the Red Snapper Group. On 14th February 2022 the test purchaser made a successful purchase of Richmond Superking cigarettes for £5.00. On examination of this product it was found not to be packaged in the required standardised packaging (see the summary below of the legislative requirements for tobacco products).

8. On 17th February 2022 Tameside MBC visited the premises with officers from Greater Manchester Police as part of 'Operation Avro'. One packet of Amber leaf hand rolling tobacco was found in the pocket of a jacket hung behind the counter. The tobacco did not have the required standardised packaging. This test purchase and seizure highlights that the business has not headed the warning given in the letter sent to them on the 13th July 2021.
9. On 27th June 2022 I sent a letter to the licence holder (Ms Erica Demetorova) and the Designated Premises Supervisor (Thomas Joy) detailing the issues found at the premises and my concerns that they were not promoting the four licensing objectives. I requested that the licence holder and DPS attend a meeting on the 7th July 2022 at the Council Offices to discuss an amendment to the premises licence conditions. This meeting had to be rearranged on two occasions due to the licence holder not being in the Country. On the 30th August 2022 Mr Joy attended the council offices for the meeting with Regulatory Compliance Officer Rebecca Birch and myself in attendance. The licence holder (Ms Erica Demetorova) did not attend and therefore we were unable to amend the licence conditions for the premise. Mr Joy indicated that he no longer wanted to be the DPS for the premises and that 'Shaun' was looking to become the DPS. We advised Mr Joy that he must be involved in the day to day running of the business. If he did not have control of the business alcohol should not be sold until the DPS is transferred to 'shaun'. During this meeting Mr Joy was given a warning letter advising him of the offences of the sale of illicit/counterfeit tobacco and he signed the attached form authorising Tameside MBC to retain the packet of hand rolling tobacco seized on 17th February 2022 for disposal.
10. On 4th September 2022 a further test purchasing exercise was carried out and a packet of Richmond Superking cigarettes were purchased for £5. The cigarettes were retrieved from under the counter and money paid for the cigarettes placed in the till. On examination the cigarettes were found not to be in the required standardised packaging.
11. On 5th September 2022 I received a phone call from Zishan Ali Shaikh 'shaun' to inform me that he has completed the training to become a personal licence holder. He advised that the course provider would send his application to Tameside to become a personal licence holder.
12. A warrant to enter the flat above Maria and Philips was obtained from the magistrates' court on 20th September 2022. A visit was carried out on the 13th October 2022 with officers from Trading Standards, Greater Manchester Police and a tobacco detection dog. During the visit the entry warrant was executed for the flat and 37 packets of illicit tobacco were found and seized. These were of various brands, 8 packets of Richmond Super King, 19 packets of Marlboro, 10 packets of Gold Leaf. The cigarettes were not in the required standardised packaging and some did not have the required warning statements in English.
13. During the visit 66 x 'Elux 3500' disposable e-cigarettes were also seized. These products did not meet the requirements of the Tobacco and Related Products Regulations 2016 in relation to their tank size and they had not been published on

the register of compliant products by the Medicines and Healthcare products Regulatory Agency (MHRA), which is also a requirement of the regulations. Under the regulations no person may supply any products that do not meet these requirements and it is an offence to do so, therefore it is the responsibility of retailers supplying e-cigarettes and e-liquids to make the necessary checks before offering them for sale. As detailed above Tameside Trading Standards wrote to all known businesses in the borough supplying or likely to be supplying these products, advising on the legal requirements for supply and to advise that it was an offence to supply products in breach of the regulations. The seizure of these e-cigarettes highlights that the business had not followed the advice in this letter.

14. All items seized have been handled in accordance with Tameside MBC's evidence handling procedures and were bagged and tagged at the time of seizures and subsequently logged and stored in the authority's locked evidence store (Room 61) at Tame Street Depot, Tame Street, Stalybridge, SK15 1ST, where they remain. Receipts for the seizures were also provided to the business.

This application to review the licence of the premises in question relates to the licensing objective 'the prevention of crime and disorder'. The supply or possession for supply of the type of tobacco seized from this premises constitutes a criminal offence. The relevant legislative provisions are as follows:

The Tobacco and Related Products Regulations 2016

Part 2 ('Labelling of tobacco products') of the regulations requires that tobacco products contain warning statements in **English** and no person may 'supply' a product unless it contains these warnings.

In accordance with regulations 2 and 3(2) the definition of 'supply' includes cases where a person (in the course of a business) "possesses it for supply" (for consumption in the United Kingdom).

Breach of Part 2 of the regulations represents a criminal offence with the maximum penalty on indictment being a fine and 2 years imprisonment.

The Standardised Packaging of Tobacco Products Regulations 2015

These regulations include the requirement that the only permitted colour for the external packaging of packs of cigarettes and hand rolling tobacco is 'Pantone 448C' (drab dark brown) with a matt finish. No person may 'supply' any products that do not meet this requirement and the definition of 'supply' in these regulations also includes possession for supply. The supply of tobacco products not meeting this requirement represents a criminal offence with the maximum penalty on indictment being a fine and 2 years imprisonment.

The above legislative requirements have been designed to reduce the appeal of tobacco products (particularly to young people) and to ensure that required health warnings are as prominent as possible. The seizures made from this premises, combined with the ongoing intelligence received by Tameside MBC Trading Standards highlights a disregard by the business of their legal responsibilities and a pattern of behaviour that suggests a desire to profit from the supply of illicit tobacco. The evidence highlighting the cheap prices charged for these products also suggests that their aim is to promote the supply of tobacco to customers for which genuine (fully taxed) products may be unaffordable, which may include children under 18.

Again, this suggests a willingness to breach legal provisions for commercial gain.

Tameside MBC Trading Standards submits this application to review the premises licence of this business on the basis that it is failing to comply with the licensing objective of the prevention of crime and disorder due to their continued possession and supply of illicit tobacco.

In support of this application I refer to Chapter 11 of the Home Office document '*Revised Guidance issued under section 182 of the Licensing Act 2003*' (April 2018), which contains a section titled '*Reviews arising in connection with crime*'. Paragraph 11.27 (pages 93-94) lists types of criminal activity that should be treated seriously in relation to licensed premises and one of these is the use of the premises *for the sale or storage of smuggled tobacco and alcohol*. Some of the tobacco seized from this premises has foreign labelling and is therefore clearly not intended for the UK market. The cigarettes test purchased from the premises cost £5 each. The cost of a legal packet of cigarettes in the UK is currently around £10. The duty on a packet of cigarettes is at least £5.26. It is therefore reasonable to suspect that it has been illegally smuggled into the country without the full UK Excise Duty being paid. As outlined in this application, in supplying and possessing for supply these products, the premises are also committing criminal offences under the **Tobacco and Related Products Regulations 2016** and the **Standardised Packaging of Tobacco Products Regulations 2015**.

Also of relevance to this application is Paragraph 11.28 of the Home Office guidance, which states;

*It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.***

Tameside MBC also believes that the possession and evidence of supply of this illicit tobacco poses a risk to the safety of consumers purchasing the products. Therefore, this application is also submitted in relation to the licensing objective 'Public Safety', on the following grounds:

-Some of the products seized/purchased did not contain the required health warnings in English or in compliance with the Tobacco and Related Products Regulations 2016. This, in addition to the cheaper prices charged, could lead to the promotion of the tobacco to users, including children, who may otherwise choose not to purchase and smoke it.

-The illicit nature of the tobacco products seized/purchased means that the source of supply to the business is unable to be verified and therefore it is reasonable to suspect that the products may have been manufactured specifically for the illegal market. Therefore, it is unknown whether the products have been manufactured using safe manufacturing processes and whether they contain any hazardous ingredients.

There have also been illicit products found previously by other Trading Standards authorities that have been found to be unsafe under the General Product Safety Regulations 2005, due to not complying with a mandatory safety standard (EN

16156) for cigarettes that requires them to be self-extinguishing if left unattended or not inhaled from after a set period of time. This standard came into force in November 2011 as a result of a high number of house fires being attributed to smoking. As above, the unknown supply chain for the products in question means that their compliance with this standard is unknown and they may therefore present a fire hazard.

Finally, the seizure of e-cigarettes on 17th February 2022 is also relevant to the 'Public Safety' licensing objective. The brand/model of e-cigarettes seized have not been approved for supply by the Medicines and Healthcare products Regulatory Agency and therefore their compliance with the product safety requirements in the Tobacco and Related Products Regulations 2016 have not been verified. Where a retailer fails to establish the legal compliance of e-cigarettes they are supplying there is the potential that they are exposing their customers to unsafe products. The seizure in question highlights a failure of this business to carry out this check, despite being previously advised by this department (by letter) of the requirement to do so.

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"/>

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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 *N. Briers*
.....

Date 14.2.23
.....

Capacity **Applicant**
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Nicola Briers Trading Standards Officer Tame Street Depot Tame Street Stalybridge SK15 1ST	
Post town Stalybridge	Post Code SK15 1ST
Telephone number (if any) 0161 342 3670	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) nicola.briers@tameside.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.