



**Dinas a Sir Abertawe**

**Hysbysiad o Gyfarfod**

Fe'ch gwahoddir i gyfarfod

**Is-bwyllgor Trwyddedu Statudol**

**Lleoliad:** Siambr y Cyngor - Neuadd y Ddinas, Abertawe

**Dyddiad:** Dydd Llun, 25 Mawrth 2019

**Amser:** 10.00 am

**Cadeirydd:** Cynghorydd Penny Matthews

**Aelodaeth:**

Cynghorwyr: P Downing a/ac H M Morris

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**Agenda**

**Rhif y Dudalen.**

- 1 Ymddiheuriadau am absenoldeb.
- 2 Datgeliadau o fuddiannau personol a rhagfarnol.  
[www.swansea.gov.uk/disclosuresofinterests](http://www.swansea.gov.uk/disclosuresofinterests)
- 3 Licensing Act 2003 - Section 51 Application for a Review of a Premises Licence - Yangtze River Chinese Takeaway, 106 High Street, Swansea. 1 - 14

**Huw Evans**

**Pennaeth Gwasanaethau Democrataidd**

**Dydd Llun, 18 Mawrth 2019**

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**Cyswllt: Gwasanaethau Democrataidd - 636923**



**Report of the Licensing Manager  
To the Statutory Licensing Sub Committee  
25<sup>th</sup> March 2019**

**Licensing Act 2003  
Section 51 Application for a Review of a Premises  
Licence**

**1. Premises: Yangtze River Chinese Takeaway, 106 High Street,  
Swansea, SA1 1LZ**

**1.1 The premises is currently licensed for the following activity**

**Late Night Refreshment**

Monday to Thursday – 2300 hours to 0000 hours

Friday & Saturday – 2300 hours to 0100 hours

Sunday – 2300 hours to 0000 hours

**1.2 The Premises Licence Holder is Xiang Liu, Yangtze River,  
106 High Street, Swansea, SA1 1LZ**

A Location plan is attached at Appendix A

**2. Application For A Review of a Premises Licence**

**2.1 An application for a review of a premises licence was received by this  
authority on the 29<sup>th</sup> January 2019.**

**2.2 A Responsible Authority or other persons may apply to the Licensing  
Authority for a review of a premises licence, on the basis that they  
consider that one or more of the Licensing Objectives are not being  
promoted.**

**2.3 Immigration Enforcement, acting as a Responsible Authority,  
consider that the following Licensing Objective is not being promoted:**

**The Prevention of Crime and Disorder**

Full details of the grounds for a review are contained in the application  
form which is attached at Appendix B

### **3. Procedure**

- 3.1 When an application for a review is submitted to a Licensing Authority, copies must also be served, by the applicant, on the premises licence holder and the responsible authorities.
- 3.2 The Licensing Authority must then advertise the application by placing a notice at, or near, the premises together with a copy conspicuously placed at the offices of the Authority, for 28 days following the date of the application.
- 3.3 This statutory period allows for representations to be made by the responsible authorities and other persons.

### **4. Promotion Of The Licensing Objectives**

- 4.1 The Licensing Act 2003 defines four licensing objectives, namely:-
  - (i) Prevention of Crime and Disorder
  - (ii) Public Safety
  - (iii) Prevention of Public Nuisance
  - (iv) Protection of Children from Harm
- 4.2 Each of these objectives is of equal importance and premises licence holders must demonstrate that they are promoting these objectives by adhering to the licence conditions and requirements of the Act.

### **5. Relevant Representations**

#### **5.1 Responsible Authorities**

- a) **South Wales Police**  
No representations.
- b) **Trading Standards**  
No representations.
- c) **Mid and West Wales Fire Authority**  
No representations.
- d) **Health and Safety**  
No representations.
- e) **Planning Authority**  
No representations.
- f) **Pollution Division**  
No representations.

- g) Child Protection**  
No representations.
- h) Primary Care Trust/Local Health Board**  
No representations.
- i) Licensing Authority**  
No representations.
- j) Immigration**  
**The applicant in this case.**
- k) Other Persons**  
No representations.

## **6. Policy Considerations**

- 6.1 In considering this application Members should have regard to the Council's current statement of Licensing Policy in July 2018. Specifically in relation to this application;
  - (i) Section 15 Application for Licences, Certificates, Authorisations and Reviews  
15.17 In respect of the review process, responsible authorities will aim to give licence holders early warning of any concerns identified at a premises. However in cases where the prevention of crime and disorder objective is being undermined it is expected that revocation of the licence, even in the first instance, will be seriously considered.
- 6.2 A copy of the Policy has previously been circulated to Members.

## **7. Guidance Issued By The Home Secretary**

- 7.1 Members should also have regard to the relevant parts of the current guidance issued by the Home Secretary in April 2018, in particular;
  - (i) Introduction – Chapter 1
  - (ii) Licensing Objectives – Chapter 2
  - (iii) Conditions – Chapter 10
  - (iv) Reviews – Chapter 11
  - (v) Promotion of Equality – Chapter 14 paragraphs 14.66 -14.67

### **Paragraphs 2.1 to 2.6 of the Guidance refers to Crime and Disorder, in particular**

Paragraph 2.3 states: *“Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of*

*closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.”*

## **Chapter 10 refers to Conditions attached to premises licences and club premises certificates, in particular**

### **Proportionality**

*Paragraph 10.10 states: “The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.”*

## **Paragraphs 11.24 to 11.28 of the Guidance refers to Reviews arising in connection with crime, in particular**

*Paragraph 11.26 states: “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 and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.”

Paragraph 11.27 states: *“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 sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;*
- *for the sale and distribution of illegal firearms;*
- *for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;*
- *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;*
- *for prostitution or the sale of unlawful pornography;*
- *by organised groups of paedophiles to groom children;*
- *as the base for the organisation of criminal activity, particularly by gangs;*
- *for the organisation of racist activity or the promotion of racist attacks;*
- ***for employing a person who is disqualified from that work by reason of their immigration status in the UK;***
- *for unlawful gambling; and*
- *for the sale or storage of smuggled tobacco and alcohol.”*

Paragraph 11.28 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.”*

- 7.2 A copy of the Home Secretary’s Guidance has previously been circulated to Members.

## **8. Determination Of The Application**

- 8.1 The decision must be based on the individual merits of the Review application and Members must have regard to the application and any relevant representations received, when taking steps to promote the licensing objectives outlined in paragraph 4 above.
- 8.2 In addition in arriving at the decision Members should have regard to the relevant provisions of the Council’s Statement of Licensing Policy and the Secretary of State’s Guidance as previously provided. Reasons must be provided for any departures from the Policy or Guidance.

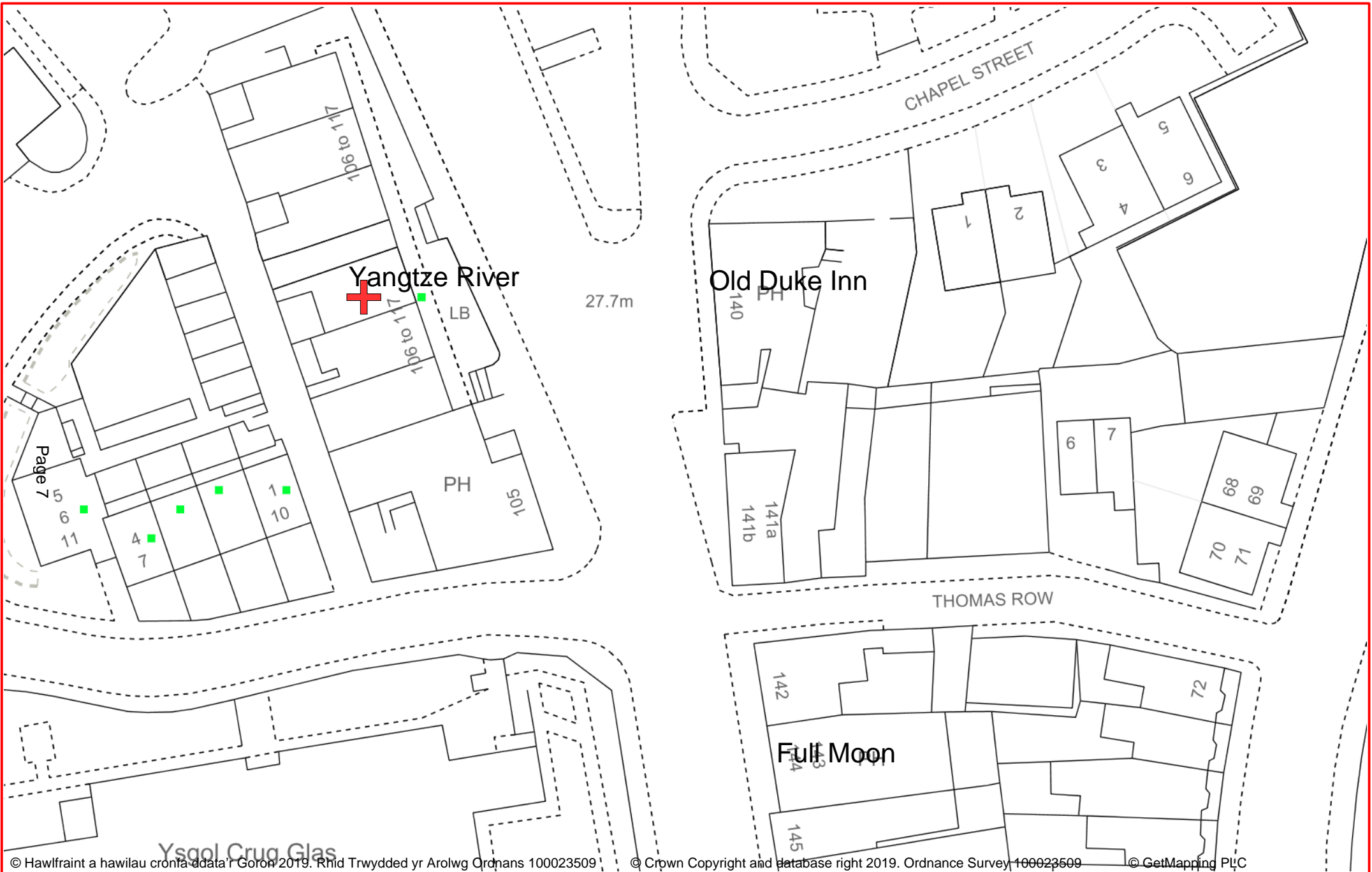
- 8.3 In reaching the decision the Committee must, having regard to the representations, take such of the steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives:-

The steps are -

- (a) to modify the conditions of the licence; (conditions of the licence are modified if any of them is altered or omitted or any new condition is added )
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;(not applicable in this application)
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

**The Licensing Sub Committee's instructions are requested.**

Background Papers:	Licence Application
Contact Officer:	Rachel Loosemore
Extension:	01792 635600



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This plan is for illustrative purposes only and should not be used as a legal document.

Yangtze River, 106 High Street, Swansea, SA1 1LZ

## Appendix A

Scale: 1:500

Date: 22/02/2019

Created by: Rachel.Loosemore



**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 Home Office Immigration Enforcement**

**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**

**Part 1 – Premises or club premises details**

Postal address of premises or, if none, ordnance survey map reference or description	
Yangtze River Chinese Takeaway 106, High Street	
Post town Swansea	Post code (if known) SA1 1LZ
Name of premises licence holder or club holding club premises certificate (if known) Xiang Liu	
Number of premises licence or club premises certificate (if known)	

**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)**

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

We have grounds to believe the license holder will fail to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) IE.Alcoholreviews@homeoffice.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="checked" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

**A visit to the Yangtze River Chinese Takeaway 106, High Street, Swansea SA1 1LZ was conducted on 05/12/2018 by officers from Immigration Enforcement.**

**On entry one male subject was encountered behind the counter and a further male subject was encountered in the kitchen. Both subjects have no permission to work in the UK.**

**During the visit the owner arrived and stated that her licence was with her accountant not on the premises. A Notice of Potential Liability was served at the premises on the owner.**

**The premises has not come to the attention of Home Office Immigration Enforcement previously.**

**As of today there has not been an initial decision made in relation to the civil penalty for the employment of 2 persons without the right to work in the UK.**

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**

yes

Please tick ✓

- 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

*P. Thomas*

Date 24/01/2019

Capacity Responsible Authority.....

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

**Alcohol Licensing Team**

**Lunar House**

**40 Wellesley Road**

**Post town**

**Croydon**

**Post Code**

**CR9 2BY**

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) IE. Alcoholreviews@homeoffice.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.