

Fit and Proper Person Application Form

Important Notes for Applicants

Applications

- 1) An application must be made by the site owner. Where there are joint owners, it is acceptable for only one of the owners to make the application and detail other owner(s) on the form.
- 2) If the occupier is a company or a corporate body, the application form must be completed by an officer of the company (“appropriate person”).

The “appropriate person” means;

- (a) where the applicant is a company, an officer of the company;
 - (b) where the applicant is a partnership, one of the partners;
 - (c) where the applicant is a body corporate the conduct of the management of which is vested in its members, a member;
 - (d) where the declarant is a body not falling within paragraph (a), (b) or (c), a member of the management committee;
- 3) Criminal record checks (DBS certificates) must be dated no more than six months earlier than the date of the Fit and Proper Person application. These must be submitted for the individual being assessed as the fit and proper person and, where applicable, other individuals responsible for the day-to-day management of the site. If the site owner is a company, the individual responsible for day-to-day management of the site must also submit a criminal record check.
 - 4) You are strongly advised to retain a copy of the form for your records

Processing of Applications

- 5) There are other considerations that the Local Authority may take into account as outlined in the Regulations, such as:
 - a) Ability to secure proper management of the site (e.g. site licence compliance and long term maintenance of the site).
 - b) Sufficient competence to manage site.
 - c) Management structure and funding arrangements.
 - d) Proposed management structure and funding arrangements.
 - e) Any offences (as outlined above) committed by responsible or relevant person outlined in paragraphs 3 & 4 of Schedule 3 of the Regulations.
- 6) The above will ensure that a balanced decision is made, tailored to a particular area or site. The Local Authority is to ensure that consistent standards are applied to companies and other organisations who are not individuals.
- 7) The applicant may have to provide further detailed information about responsible persons who have responsibilities for the day-to-day management of the site.
- 8) The Local Authority can decide to either:

- i) Grant the application unconditionally and include the person's name on the register for 5 years;
 - ii) If they anticipate another decision, serve a preliminary notice on the applicant.
- 9) The preliminary notice must include reasons for their decision and about the right to make representations.
- 10) The site owner has 28 days to make written representations about the content of the preliminary notice.
- 11) The Local Authority must take into account any representations before making its final decision and issuing the final decision notice. This must be done as soon as reasonably practicable after the conclusion of the 28 day period.
- 12) A Final notice must include reasons for the decision and about the right of appeal against the decision.

Register

- 13) The Council must keep and maintain a register of fit and proper persons. This means that some of the information you provide in your application will be entered into the register. The information that will be included are your name, business address and contact details, name of the site.
- 14) Having assessed the application the Local Authority may decide to add the person to its fit and proper person register. Addition to the register may be with or without conditions.
- 15) If the person fails the fit and proper person test, the application and record of that decision is added to the register.

Review

- 16) During inclusion on the register, the Local Authority will be able to review a person's inclusion if relevant new information comes to light.
- 17) Such review may result in removal from the register, addition, variation, or removal of a condition attached to a person's inclusion.
- 18) Following a review, the Local Authority must issue a notice to the site owner setting out specified information about any action it intends to take.
- 19) The site owner will have 28 days to make written representations which the Local Authority must consider before making a final decision.

Right of Appeal

- 20) A site owner has the right to appeal to the First Tier Tribunal (Property Chamber) against any decision to:
 - a) Include a person on the register for less than 5 years
 - b) Attach or vary condition to an entry on the register
 - c) Reject an application for an entry or remove a person from the register.

Data Protection

- Test Valley Borough Council manages personal data in accordance with the provisions of the Data Protection Act 1998. The information you provide on this form will be used by the Council for the purposes of the fit and proper assessment.
- We may share your information and make any other necessary enquiries with other departments within the council and other statutory organisations in relation to the application.
- Your personal information will be processed in line with Data Protection legislation and we will not disclose information about you to anyone outside the Council unless the law permits or requires us to. We will retain your data for as long as it is required for our administrative use, after which it will be securely disposed of.
- Where the application is being made on behalf of a person appointed or to be appointed to manage the site, you are strongly advised to ensure they are aware of the register and the information that will be entered into it. As the applicant, it is your responsibility to seek confirmation that the information they have provided is true and accurate.
- If you believe the data we process on you is incorrect you may request to see this information and, if necessary have it corrected or deleted. In the event that you wish to complain or contact the Council regarding any aspects of how your information is handled please direct your complaints or queries to: The Data Protection Officer by email at DPO@testvalley.gov.uk, or by post at Beech Hurst, Weyhill Road, Andover, Hampshire, SP10 3AJ. You also have the right to complain to the Information Commissioner <https://ico.org.uk/>