[Insert details including name and address of licensing authority and application reference if any (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.

Bill Masini (On behalf of Trading Standards) (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

## Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Val's Store 387 Lordship Lane

Post town London

Post code (if known) SE22 8JN

Name of premises licence holder or club holding club premises certificate (if known)

Number of premises licence or club premises certificate (if known 836533

#### Part 2 - Applicant details

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### Please tick yes

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1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- a body representing persons involved in business in the vicinity of the premises

2) a responsible	authority (please	e complete (C	) below)		$\boxtimes$
3) a member of t below)	he club to which	this applicati	on relates	(please com	olete (A)
(A) DETAILS OF	INDIVIDUAL A	PPLICANT (f	ill in as ap	plicable)	
Please tick Mr 🔲 Mrs	. 🗍 Miss	☐ Ms		Other title (for examp	ole, Rev)
Surname		F	irst name	S	
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Post town	·		Post C	ode	
Daytime contact	telephone nur	nber			
E-mail address (optional)					
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# (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

Southwark Council – Trading Standards

Bill Masini Trading Standards Officer Community Safety & Enforcement 3<sup>rd</sup> Floor Hub 2 PO Box 64529 London SE1P 5LX

Telephone number (if any) 0207 525 2629

E-mail address (optional) bill.masini@southwark.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)

## Prevention of Crime and disorder -

- Breach of Premise Licence condition 842 maximum alcohol content of beers
- Breach of Premise Licence condition 841 no personal licence holder on premise
- Breach of Premise Licence condition 843 before employing anyone at the premises there was a failure to carry out sufficient checks of their bona fides of individuals to ensure they were legally entitled to employment in the UK.
- Failure to pay employee the minimum wage as required by The National Minimum Wage Act 1998
- Forgery and Counterfeiting Act 1981 S1 and S3 making false entries in Refusals Book and knowing them to be false, with the intention of inducing Southwark Council Officers to accept the book as genuine, and by reason of so doing, Officers then accepting the book to not show a breach of condition 4AI
- Offer for sale unsafe "Apple style" phone chargers contrary to The Consumer Protection Act 1987

# Protection of children from harm -

- Failure to adopt Challenge 25 breach of condition 8AA
- Failure to properly operate refusals register breach of condition 8AI
- Failure to produce training records for member of staff breach of condition 8AB

Trading Standards made an application to review this premise licence in late 2015 for the following reasons:

- 1. Sale of alcohol to 15 year old girl
- 2. Sale of alcohol after permitted hours of 23:00 hours
- 3. Offering for sale of duty evaded cigarettes
- 4. A failure to pay those working in the shop the minimum wage as required by The National Minimum Wage Act 1998

The hearing was on 5 November 2015 and as a result, the Licensing Sub-Committee decided to impose extra conditions to the licence and to suspend the licence for **4** weeks. Included in those conditions were:

- 1. Requirements around age verification (training, adoption of "Challenge 25" and use of a refusal book)
- 2. a ban on the sale of a super strength beers, lagers and ciders above 6% ABV
- 3. a requirement for there to be a personal licence holder on the licensed premise in order to supervise the sale of alcohol
- 4. additional requirements relating to the verification of people to be able to legally work in the UK
- 5. Improved CCTV
- 6. An Introduction of an EPOS system (Electronic Point of Sale)

Late morning on 15 July 2016 Trading Standards visited the premise with the Police Officers from Night Time Economy Team and officers from UK Border Force. The purpose was to check that the business was now operating in compliance with the modified Premise Licence. The man behind the counter said he would get the boss and went to the back of the shop. It soon became clear that he had exited from the premise from a first floor kitchen window. Of note is that despite there being rooms above the shop and people living in them, the only safe means of leaving was via the shop front door. The shop is permitted to trade between 8am and 11pm and outside those hours a metal shutter on the outside comes down to secure the shop, thereby leaving no means of escape in the case of an emergency. This was reported to Southwark's Residential Housing Team and The London Fire Service for them to take appropriate action.

With regard to the worker who left the shop, Mr Ratnayake, who later came to the shop, said he knew him as **supp**and apart from a mobile telephone number that was subsequently never answered, he had no details and had failed to comply with

condition 843 about employment of workers which had been imposed at the previous Review hearing. Trading Standards say it is highly probable that this worker had breached Immigration laws and for that reason did not want to wait for UK Border Force to discover this and take appropriate action which usually starts with someone's arrest.

The issue of so called super strength beers, lagers and ciders is a serious problem in many areas including Southwark. As well as leading to crime and anti- social behaviour, they are a matter of grave concern to the health of those who consume these drinks. Under the prevention of Crime and Disorder objective, in consultation with the Premise Licence Holder's representative and advisor at the time of the previous Review, it was agreed for there to be a ban on the sale of these drinks with an ABV of more than 6%.

When the downstairs stock area was checked during this visit, cans of Skol Super, Tennents Super, some bottles of White Ace cider (2 and 3 litres – 7.5% ABV) and a few bottles of Guinness Extra (7.5% ABV) were found. These were in opened trays or on the shelves. The Skol Super cans were labelled as 8% ABV (see photo 1) and this indicated to Trading Standards that these cans were fairly new. The reason for saying this was because these particular beers had always been 9% ABV but the manufacturers had reduced the strength because one can alone had contained more that the (then) recommended number of daily units of alcohol for both men and women. Mr Ratnayake said he had bought these drinks before the maximum strength condition had come into force and they were not for sale. To check this, Trading Standards took details from the cans and checked these with Carlsberg, the manufacturer of Skol Super. It became evident that the last batch of 9% Skol Super was produced on 20 November 2015.

One tray of Skol Super (and cans) had a code: 13/04/17 19:14 LGB01A106A. Carlsberg confirmed this was canned on 15 April 2016

Another tray of Skol Super (and cans) had a code: 25/12/16 01:38 LGB01A362A. See photo 2 – base of can

Carlsberg confirmed this was canned on 26 December 2015.

Whilst inspecting the premise Trading Standards identified four "Apple Style" chargers for sale which were known within the profession to be unsafe and contravene safety legislation – The Consumer Protection Act 1987. These were

seized. Mr Ratnayake was unable to provide any purchase invoices for these items.

On 12 October 2016 Trading Standards made another visit to the shop with the Night Time Economy Police. They arrived at about 11.20 hours. Once again this visit was to check for compliance with the Premise Licence. There was a young Latvian man working behind the counter in the shop. He was the only person on the premise. However he said he did not work there and was "looking after the shop" while the owner was at the bank. He said he did not have a personal licence and there was no written authorisation for him to sell alcohol which because he had been selling alcohol was in breach of conditions 101 and 841 of the Premise Licence. He did however say he was not selling alcohol. So in view of that statement he was asked to print off the mornings takings and to allow the officers to view the CCTV footage for that morning – as per condition 789 of the Premise Licence. He was unable to do either and so a telephone call was made to Mr Ratnayake. He explained to the police how to access the CCTV and it became apparent the worker, Mr V

had been working at the premises on his own. A print off of the sales for the morning revealed he had sold 16 items of alcohol during this period. See document 3. Mr

not want to get into trouble. He then handed the officer a red lined book that had written on the front "Staff". The book appeared to have its first entry dated 6 August 2015. It showed the hours he had worked and confirmed he had worked there for a couple of months. The book also showed the working hours for other members of staff by the names of "**Constant Constant Co** 

shows he was paid £3.50/hour and this continues up to the last entry for "**1** July 2016. The same applies to **1** though by October 2016 he was paid £4.00/hour. **1** was paid £4.00/hour. This is contrary to the national legal minimum hourly rate of £7.20 which came into force on 1<sup>st</sup> April 2016. Prior to that date the minimum hourly rate was £6.70. It is a crime for an employer to pay its employees below the specified amount by virtue of The Minimum Wage Act 1998.

Of note is that the previous Licence Review application made reference to an interview with Mr Ratnayake under caution dated 30 July 2016 – 7 days before the red staff book appeared to be first used. In that interview he said his staff were paid  $\pm 5.00$ /hour and he was unable to tell the interviewing officer what the legal minimum hourly rate was at that time. Mr Ratnayake was told the legal minimum at that interview but continued to pay barely half that amount even after that and had lied in

interview. Further reference will be made to this when Mr Ratnayake was interviewed.

An extract from this book accompanies this review and is marked "4". The original will be produced at the hearing.

Still dealing with Mr when asked he could not explain what Challenge 25 was, nor was he able to say what were acceptable forms of ID or say what a refusals book was. No training records or refusals book could be located behind the till area. These indicated breaches of Premise Licence conditions 8AA (Challenge 25), 8AB (training & records thereof) and 8AI (refusals register). The Trading Standards Officer explained to Mr and Mr Ratnayake alcohol could not be sold whilst there was no personal licence holder on the premise. The Police served a section 19 Notice indicating the breaches that also included the failure to produce a premise licence or a certified copy, contrary to section 57(7) of The Licensing Act. Mr Koslovskis signed the notice acknowledging receipt. Officers left at 12.30 hours.

Not confident due notice had been taken of this visit, the Trading Standards Officer returned to the shop two hours later at 14:30 hours with a colleague. That officer, not known to Mr **Constant** who was still in the shop, attempted to make a test purchase of alcohol. He bought a bottle of cider for £2.69. The seller was Mr **Constant** who was still on his own in the shop. Again the same Trading Standards Officer who had made the earlier visit issued a notice about not selling alcohol.

Mr Ratnayake and Mr were interviewed under caution on 18 October. Mr Ratnayake said he had run the business since September 2011. He said he had not bought any super strength beer since the review decision [5 November 2015]. He also said had not been on a training course and there were no training records for him though he had told him not to sell to anyone under 18. He was asked about people working in the shop. After a long discussion, with Mr Ratnayake giving evasive answers, he said did not have any one employee on the Payroll. An extract from the interview:

Officer: So, has anybody paid any taxes? Ratnayake: Yes, but... Officer: Not yes, but Other Officer: The answer is yes or no Ratnayake: No, no Other officer: Nobody who has worked there?

**Officer:** So, in five years that you have been running that business, just literally over five years, you have never paid any tax or national insurance for people who have worked for you?

Ratnayake: No, no.

Mr Ratnayake has never had any officially registered employees so long as he has had his business.

Mr Ratnayake said he paid staff £7.20 per hour (the minimum wage) but could not account for why the book said otherwise other than to say:

"He living in my old room and I give him food, everything, room and dress money. I give in hand, like that. I give room, everything free, more than other, that's why they work with me."

Ratnayake was unable to say who lived on the premise or demonstrate any checks that he carried out in accordance with condition 843.

With regard to the issue of workers, Trading Standards say Ratnayake knew or at the very least, closed his eyes to the legality of any workers and this suited him so he could pay between £3.50 and £4.00 an hour, (in cash) and allowed him to not register any worker with HMRC to avoid paying employee contributions. It may also have suited the worker who accepted the low hourly rate because he/she either was an illegal immigrant, had no right to work or was in receipt of other state benefits and did not want to be shown on the "system" as earning money from Ratnayake.

By doing this, apart from the issues of tax and immigration laws and worker rights, Trading Standards say this gave Ratnayake an unfair commercial advantage over any similar business that was legally compliant.

Dealing with **set of the set of t** 

Asked about a Refusals book that had not been available for inspection on 12 October, Mr Ratnayake produced it at the interview. This was the same book that had been examined on the 15 July visit. It would appear Mr Ratnayake had forgotten that book had been taken on the first visit, photocopied and returned. An extract of the photocopy is produced with this review and marked 5. The complete document will be produced at the hearing An extract of that book is produced with this review and marked 6. The complete book will be produced at the hearing. The following will be noted:

- The officer mistakenly wrote 16/7/2016 when he signed it when the date of the visit was Friday 15 July.
- The entry immediately before the officer's signature is 26/11/15 there being no entries for nearly 7 months and yet apparently in run up to the previous review the book showed:
  - 38 refusals in August 2015,
  - 12 refusals in September 2015
  - and 17 refusals in October 2015
- Immediately **after** the officer's signature there are seven entries indicating refusals for
  - 06/02/16 at 18.45
  - 16/02/16 at 19.01
  - 18/03/16 at 21.10
  - 29/03/16 at 20.30
  - 24/05/16
  - 18/08/16

Mr Ratnayake was asked about the Refusals book and he said it is a record of all his refusals.

Asked how soon after [the refusal] he would write it in [the book] he said:

"Yes, thirty minute something. Customer going out and you take the book and write... Yes, same day, same day, yes because sometime we can't write same time".

At a later interview on 17 November under caution, Mr Ratnayake said he had made all the entries but sought to give the impression he could not understand the point officers were driving at when they seeking an explanation as the why entries were made apparently for refused sales many months after they occurred. Trading Standards say Mr Ratnayake sought to use the book as an instrument of fraud in order induce other to believe it to be a genuine record of refused sales and thereby satisfy the requirements of his premises licence relating to recording Refused sales (condition 8AI). However, he had failed to see the officer's signature and date in July 2016. To make such false entries in a Refusals Book and knowing them to false with the intention of inducing Southwark Council to accept the book as genuine, and by so doing, officers then accepting the book to not show a breach of condition 8AI are prima facie offences under The Forgery and Counterfeiting Act 1981. Trading Standards are also concerned that at the previous hearing the Licensing Sub-Committee may well have been misled because this book was produced to them and they were invited to consider the book to demonstrate how diligent Mr Ratnayake was in relation to underage sales when it is now shown to be a fabrication. Mr Ratnayake sought to totally undermine the purpose of a Refused Sales Book and mislead others.

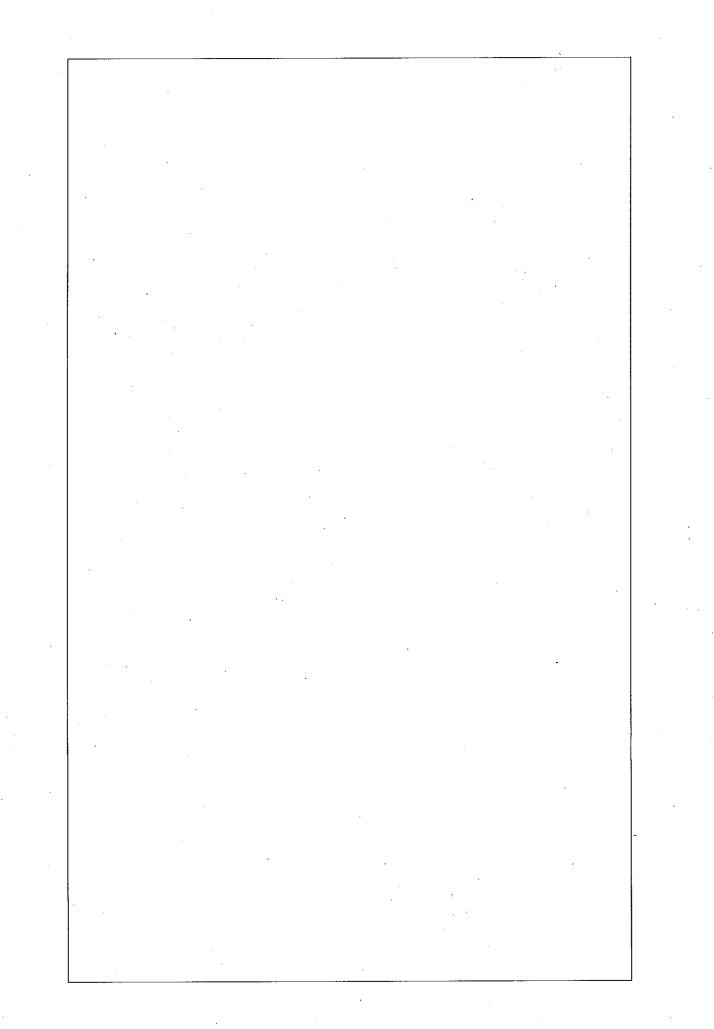
The day after the first interviews (19 October), whilst out with Police Officers from the Night Time Economy Team, Police and Trading Standards decided to visit the shop again. The purpose was to see whether previous advice had been heeded, whether the absconder Jay and from a public safety perspective whether people were now living upstairs. (Both Police and Trading Standards were aware that The London Fire Service had served an enforcement order preventing anyone from living upstairs until a safe and proper exit had been installed).

Before entering the premise, a further test purchase of alcohol was made using a young looking male Southwark Council employee who had just turned 21 years of age. He was sold a bottle of Heineken lager with no questions asked to verify his age, this being in breach of condition 8AA about operating a Challenge 25 policy. The person who had made the sale was Mr Koslovskis and once again he was on his own in the shop, thereby in breach yet again of condition 841 (Personal Licence holder requirement). When officers entered the premise they spoke to Mr Koslovskis who said Mr Ratnayake was upstairs. Police went upstairs where there they spoke to him. Mr Ratnayake said he thought it was ok to sell alcohol because he was on the premise. He had not appreciated he was not on the Licensed Premise. There was also another man upstairs who said he was not living there; merely collecting some of his clothes. No remedial work had yet been carried out with regards to a safe exit.

Mr Ratnayake was interviewed again under caution on 17 November and in addition to matters outlined earlier in this review application, he was asked about the beers, lagers and ciders on the premise in excess of 6% ABV. He gave some details of the Cash and Carry's that he used and some weeks later he provided Trading Standards with his account details. He said he had not bought any such drinks from these businesses since the review. When pressed about the code markings indicating production *after* the date of that Review he said one delivery driver had made a mistake and made a wrong delivery of such drinks. When challenged as to which Cash and Carry he identified one and said they had not charged him. Trading Standards pointed out to him the trays were incomplete, were no longer sealed and the dates of production were several months apart [indicating probable separate dates for delivery]. He had no reason to open sealed trays of drinks that he could not legally sell. Asked for an explanation as to why this was the case he said he did not really know.

Trading Standards decided that it was in all parties' best interests to check the validity of Mr Ratnayake's explanation. It therefore carried out checks with the Cash and Carry's. Some were helpful but the one Mr Ratnayake had said was the one that had probably made the "wrong delivery" (outside Southwark's jurisdiction) proved to be obstructive and unhelpful. As at late February 2017, it had not supplied the information requested. Other unrelated matters had subsequently come to light and Trading Standards was not confident it could have relied on any information supplied anyway. This is the main reason why there appears to have been a delay in submitting this application to review this premise licence.

Trading Standards say the business continues to be run in a casual and illegal manner where numerous breaches of the licence have been identified. The conditions put on the Premise Licence at the previous Review Hearing do not appear to have been heeded. Mr Ratnayake has sought to run a business as a sole trader and Trading Standards understand and appreciate the difficulties involved in running such a business. However Trading Standards do not have confidence that he can run a legally compliant business and therefore no new conditions are proposed in this review. The Sub- Committee is invited to consider revocation of this Premise Licence.



#### Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day	I	Мо	nt	h	Y€	ea	r	
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## If you have made representations before relating to this premises please state what they were and when you made them

Application to review licence was submitted on 10 September 2015. Licence was reviewed because the following licensing objectives had been undermined:

## Prevention of Crime and disorder –

- Sale of alcohol to 15 year old child
- Sale of alcohol after permitted hours of 23:00
- Offer for sale duty evaded paid cigarettes
- Failure to pay employee the minimum wage as required by The National Minimum Wage Act 1998

## Protection of children from harm -

Sale of alcohol to 15 year old child

## **Prevention of Public Nuisance**

• Sale of alcohol after permitted hours of 23:00

# Please tick yes

X

 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

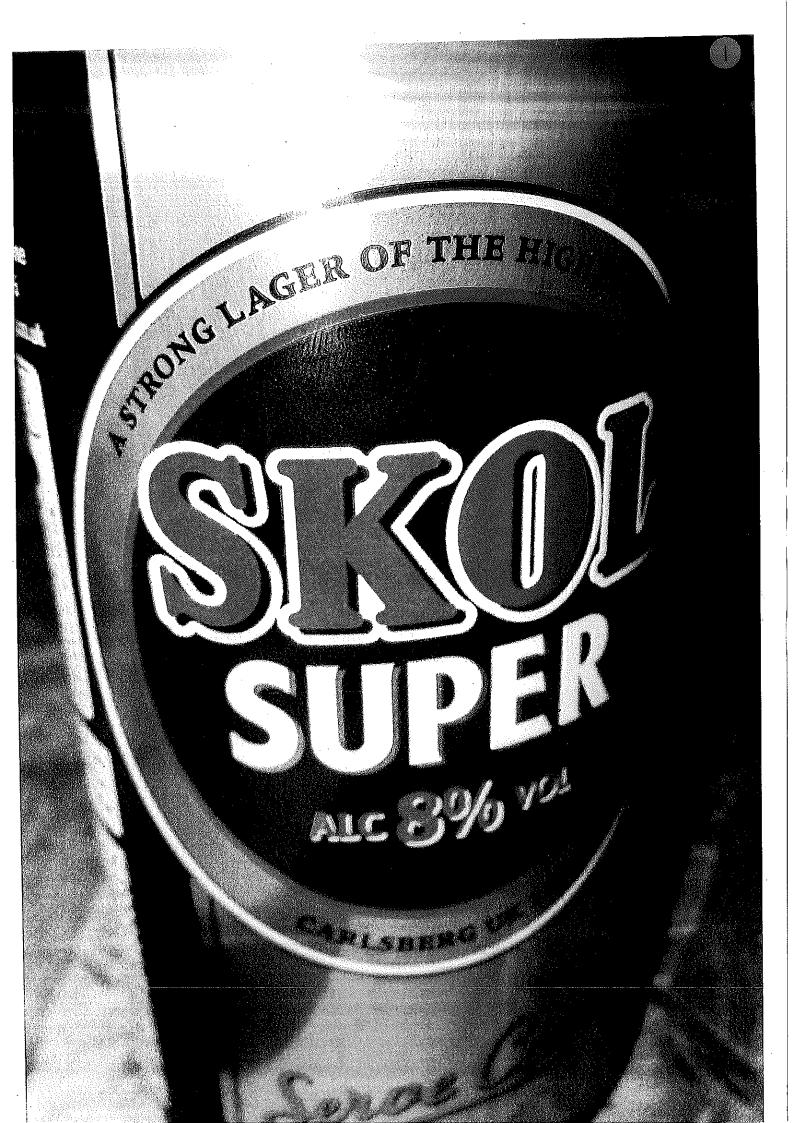
## Part 3 – Signatures (please read guidance note 3)

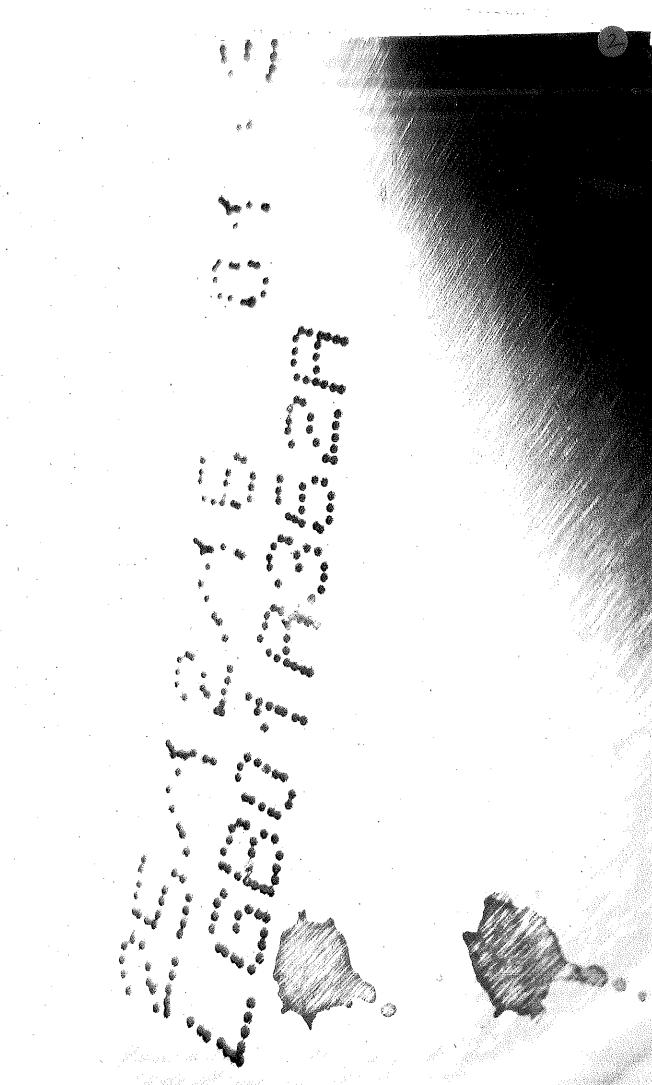
Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature							
Date 4 Mort 20	17						
Capacity Trading Standards Officer act	ing on behalf of Southwark Council						
Contact name (where not previously given) and postal 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 w mail address (optional)	ith you using an e-mail address your e-						

## 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.



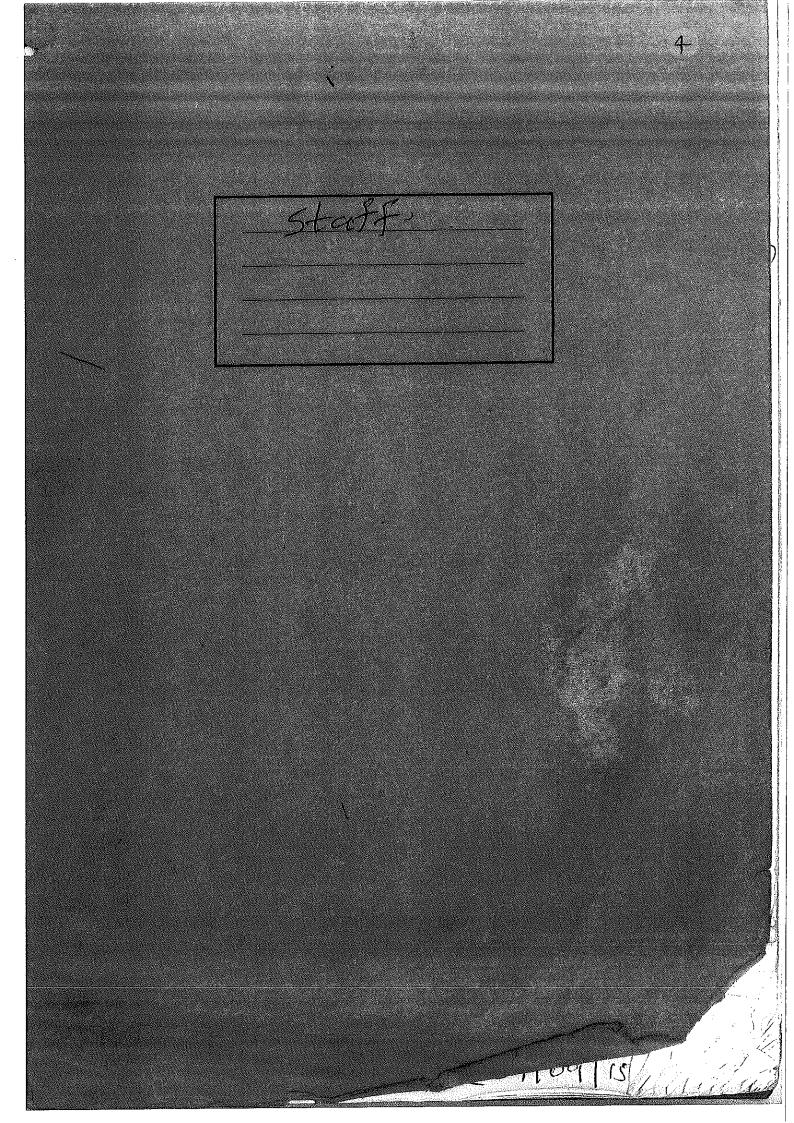


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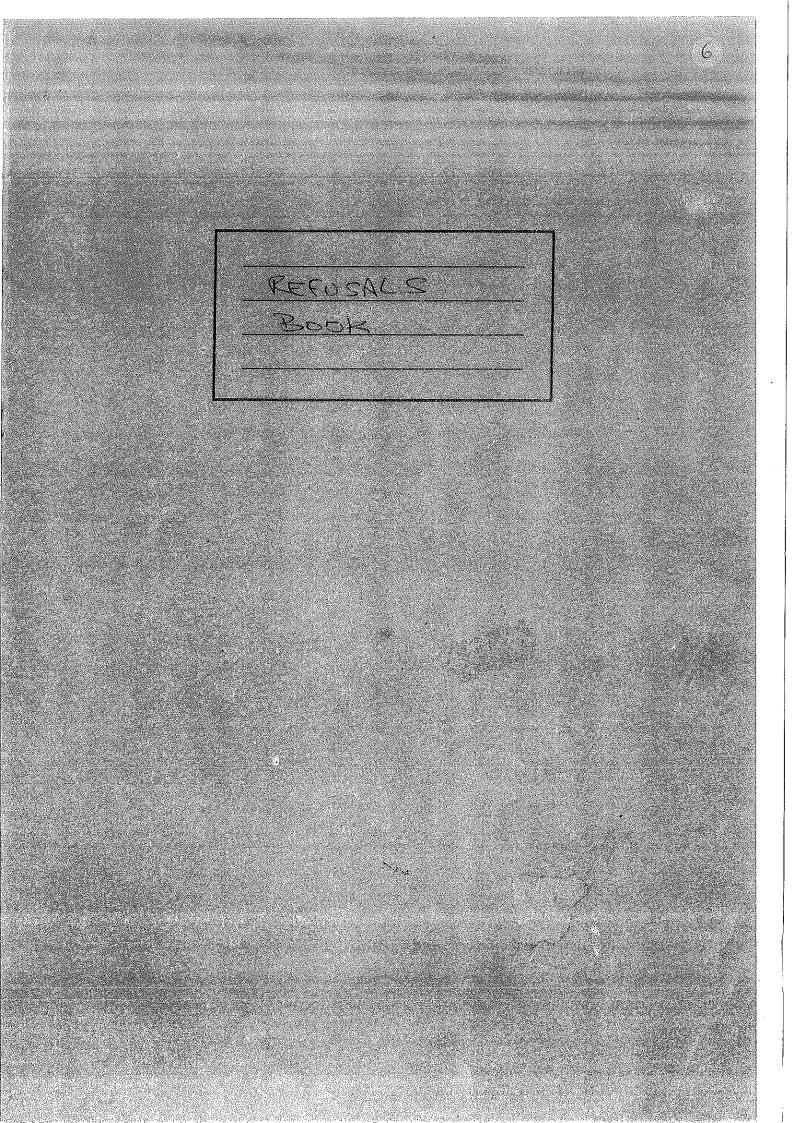
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REFUSALS

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