

APPENDIX A



(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.

I 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 Berfin Supermarket a.k.a Denmark Food and Wine 74 Denmark Hill	
Post town London	Post code (if known) SE5 8RZ
Name of premises licence holder or club holding club premises certificate (if known)	
Number of premises licence or club premises certificate (if known)	

Part 2 - Applicant details

I am

Please tick yes

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

- | | |
|---|--------------------------|
| 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)

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

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

Name and address Southwark Council – Trading Standards Bill Masini Trading Standards Officer Regulatory Services 3 rd Floor Hub 1 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

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

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

Prevention of Crime and disorder –

- Offer and sale of beers, lagers and ciders above 6.5% ABV – breach of condition 841
- Offer and sale of duty evaded super strength beer – Customs and Excise Management Act
- Staff working at premise not trained and fully conversant in the correct operation of CCTV and unable to demonstrate its operation on immediate request to authorised officers from Southwark Council and/or the Police – breach of condition 793
- Failure to produce traceable invoices for all super strength beers purchased – General Food Hygiene Regulations 2013

Prevention of Public Nuisance

- Sale of super strength beers and ciders when a known problem in the immediate vicinity and reason for restriction already on licence

Trading Standards believe it would be helpful to explain/recap the background leading to this second review within a year of the first.

On 21 September 2016 Trading Standards applied for a Review of the Premises Licence relating to this premise. This revolved around a lack of management and compliance with conditions on the Premises Licence at the time with a particular emphasis on the sale of so called Super strength beers, lagers and ciders. At the time of that review there was a restriction on the Premises Licence preventing the sale of such drinks (the condition stating 5.5% ABV) after 23.00 hours but a test purchase of K cider (8.4% ABV) was made well after that terminal hour. The licence at the time permitted alcohol to be sold 24 hours a day, 7 days a week but Mr Incedal the Premises Licence Holder and Designated Premises Supervisor at the time stated he only operated the business up to 2.00am at the weekend and midnight during the week. Mr Incedal had accepted a "Simple Caution" for 5 offences under The Licensing Act.

As officers arrived at the premise to carry out the visit that led to that Review the person working in the shop, Cennet Incedal, had been in the process of selling 3 cans of K-cider (8.4% ABV) to a young lady who clearly had alcohol dependency problems.

On 16 November 2016 Mr Incedal attended the Review Hearing along with his Representative and they both addressed the sub-committee and answered their questions. He explained he was happy to have the permitted licensable hours reduced in line with what he currently operated and, following the earlier interview under caution with Trading Standards, and subsequent discussions, proposed his wife Cennet Incedal to be The Designated Premises Supervisor.

In that Review application, Trading Standards invited the Licensing Sub-committee to consider all options available to it but if the licence was to continue, proposed a number of conditions which would either "modernise" and/or give better meaning to existing conditions and be accordance with the current Southwark's Statement of Licensing Policy, together with some conditions to tackle issues around problem drinking in the immediate area that it had witnessed at the time of the first visit on 3 August 2016 that led to the Review Application. This last issue had the following proposed condition.

No beers, lagers or ciders in single cans, bottles or multi-packs with an ABV of more than

6.5% will be displayed, sold or offered for sale from the premises

There was some discussion with the Premises Licence Holder and his representative, Godkay Taz, on this Trading Standards' proposed condition.

The Notice of Decision outlined that

1. Ismail Incedal, the then Premises Licence Holder and Designated Premises Supervisor, be removed from being the DPS
2. There be a reduction of licensable hours
3. The conditions to be modified in accordance with those proposed in the Review Application except that the one relating to the Super Strength beers, lagers and ciders to read:
 - No beers/ ciders in single cans, bottles or multi-packs with an ABV of more than 6.5% will be displayed / sold or offered for sale from the premises, unless prior written permission has been obtained from a Metropolitan Police Licensing Officer for Southwark. Such permission must be kept at the premises and made available immediately on request to relevant authorities.

Events leading to this second review application

On 24 May 2017 at around midday a Trading Standards and Southwark's Police Night Time Economy team carried out a joint inspection at the premise. However before doing so Trading Standards carried out a test purchase and bought a can of Carlsberg Special Brew (8% ABV), this of course being in breach of the ban on such drinks (now condition 841). It was immediately obvious that a huge quantity of beers, lagers and ciders were offered for sale in breach of that condition. The seller was Cennet Incedal, the Designated Premises Supervisor. Since these drinks could not be sold legally Trading Standards seized the following items displayed in the shop:

- 50 x 500ml cans – K – Cider – 8.4% ABV
- 28 x 500ml cans – Diamond White Cider - 7.5% ABV
- 17 x 500ml cans – White Star Cider – 7.5% ABV
- 29 x 500ml cans – Special Brew – 8% ABV
- 45 x 500ml cans – Mocne Strong beer – 7% ABV
- 31 x 500ml cans – Debowe strong beer – 7% ABV
- 38 x 500ml cans – Skol Super - 8% ABV

- 28 x 500ml cans – Tennents Super – 8% ABV
- 40 x 500ml cans – Kestrel Super – 9% ABV
- 4 x 3 Litre bottles – Amberdown White Cider 7.5% ABV

A total of 306 cans and 12 litres of bottled cider. Officers were not in a position at the time to seize any more alcohol but it was noted also displayed in the shop were large quantities of Nigerian (Foreign) Guinness (7.5% ABV) and Dragon Stout (7.5% ABV). NO permission had been sought from the Police to sell these products.

In the storeroom downstairs were the following drinks:

- 240 cans of K-Cider (10 trays each containing 24 cans)
- 96 cans of Skol Super (4 trays each containing 24 cans)
- 48 cans of Okocim strong beer (7% ABV) (2 trays each containing 24 cans)
- 48 cans of Debowe strong beer (2 trays each containing 24 cans)
- 24 cans of Kestrel Super (1 tray containing 24 cans)
- 24 cans of Special Brew (1 tray containing 24 cans)
- 2 x 3 Litre bottles of Amberdown White cider
- 2x 2 litre bottles of Amberdown White cider
- 144 bottles of Guinness Foreign (6 boxes each containing 24 bottles)
- 72 bottles of Dragon Stout (3 boxes each 24 bottles)

A total of 696 cans/ glass bottles and 10 litres of Amberdown white cider in plastic bottles. This make a total of 1012 cans/bottles plus 22 litres of Amberdown white cider – in excess of 500 litres of alcohol in breach of this maximum strength condition some six months after that condition was imposed.

Mr and Mrs Incedal were told those drinks could not be sold.

Displayed on the fridge door opposite the counter was the virtually the same notice that had been displayed at the time the visit that led to the first review hearing except that Crest beer (10%ABV) was no longer sold and Special Brew was not mentioned (though of course still sold), namely:

Attention

Skol Super

Kestel Super

Tenents

K-cider

White Star

Perla

Okocim

Will not be allowed to be sold after 11pm due to high alcohol volume. Thank you

The premises Licence holder and Designated Premises Supervisor were not fully conversant in the correct operation of the CCTV and were unable to demonstrate its operation to Trading Standards and the Police, contrary to condition 793 of the Premises Licence. There

On 25 May Trading Standards revisited the premise and served a notice requiring the production of invoices for the purchase of alcohol from 1 November 2016 to that date, 25 May 2017. During that visit, two women with clear alcohol dependency problems and regular customers sought to buy cans of K- cider but were advised it was no longer available.

On 31 May 2017 a number of invoices were produced, these purporting to be a complete set of invoices for the business for this period.

An analysis was made of what super strength beers and ciders had been bought. See attached documentation "Declared purchases of Super strength beers, lagers and ciders – 16 November 2016 – 23 May 2017.

It shows 128 cans of K-cider were purchased for the business a mere eight days after the Review hearing. It also shows large quantities of ciders (e.g. 1336 cans of K-cider) were purchased in this period but very little, if any, super strength beers; no Special Brew or Kestrel Super appeared to have been bought, along only 24 cans (1 tray) of Skol Super and Tennents Super. Disregarding what stock may or may not have been in the shop at the time of the previous review on 16 November, in view of what Mr Incedal said later in interview about carrying on as before with these drinks, Trading Standards was concerned about duty evaded drinks being purchased (without invoices) and sold on to the public.

On 13 June Mr Incedal was interviewed under caution. That interview lasted for two hours and six minutes. A transcript of that interview will be produced for the review hearing but a copy will be given to Mr Incedal at the time of handing him a copy of

this application.

To summarise he said;

- He was a sole trader
- He had been trading at the shop since 2010.
- He made all day to day decisions and bought all the stock in the shop including the super strength beers and ciders found in the shop
- He was aware of the street drinkers in the immediate area by his shop and that he had been warned by the police not to sell to people who look drunk.
- He had a person at the previous hearing who was there to interpret for him though this person was not a professional interpreter.
- He paid cash for this service but received no invoice. [It is understood this person, Godkay Taz, said he was Mr Incedal's legal advisor].
- He understood the outcome of that hearing was that his wife became the DPS (he having been removed), he could not sell strong beers and ciders after 11 o'clock, [already on the licence!] and that on a Friday and Saturday night he had to close one hour earlier than he usually did.
- He did not read the Notice of Decision or take steps to understand it.
- He accepted it was his responsibility to know what had been decided by the Committee
- He said he did not know who drank super strength beers and ciders
- He avoided questions around street drinkers and the whole issue of alcoholics drinking in the area, many of whom were having treatment in the immediate area to address their addiction.
- When challenged about the lack of invoices for super strength beers (see analysis of declared purchases) Mr Incedal initially said he may have lost some invoices. Then he said he may have forgotten to get some invoices. Eventually he said he went to a particular cash & carry where he either got no invoice or they describe something else on an invoice to what has actually been bought at a low price. He admitted there were many invoices missing.
- After further questioning Mr Incedal identified another cash and carry where he said he paid £33 for a tray of 24 cans of Kestrel Super (9% ABV). A till receipt would be given but when the cash and carry checked what a customer like him had bought when leaving the premise, the receipt would be torn up.
- £33 per tray equates to £1.37 a can. Duty alone on a beer with an ABV of 9% for the year 2017-18 is £1.34!
- Mr Incedal admitted he knew to buy alcohol at this price and not to have invoices for it was illegal.

Trading Standards do not accept the explanation that Mr Incedal did not understand the implications after the first review. His command of English is sufficient to understand. Regardless of that, he has adult children born and brought up in the UK who still live with him and he could have asked them to explain. Additionally, Trading Standards have always sought to be very approachable and have been happy to explain matters. Indeed, such conversations took place during the hearing (where there were detailed discussions around the condition re super strength beers and ciders) and also afterwards.

Trading Standards also concluded at the end of interview that Mr Incedal either failed or refused to recognise the scale of the alcohol dependency in the immediate area and how his business contributed to the problem. He has fuelled this problem by, in breach of the premises licence,

- continuing to buy and sell high strength ciders where the sale price is low because duty is low
- continuing to buy and sell high strength beers where the sale price is artificially low (£1.99) because he has knowingly bought duty evaded or smuggled products without invoices - with the bonus (for him) that these products have "not gone through the books" and he has therefore evaded tax.

The sub-committee is invited to consider all options available to it including revocation. However, Trading Standards does not believe further conditions will improve compliance.

Please tick yes

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

If yes please state the date of that application

21 Sept
2016

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

Prevention of Crime and disorder –

- Unauthorised licensable activity – Failure to comply with condition 336 – supplying alcohol when no personal licence holder present
- Unauthorised licensable activity – Sale of K-cider (8.4% ABV) – outside permitted hour – (condition 342) – s136 Licensing Act 2003
- Unauthorised licensable activity – Failure to comply with condition 128 – offering to supply spirits

Protection of Children from Harm

- Unauthorised licensable activity - Failure to comply with condition 326 on the premise licence – training of staff with regard to age identification

Please tick yes

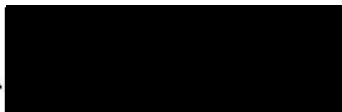
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

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

Signature



Date 17 October 2017

Capacity Trading Standards Officer acting 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 with you using an e-mail address your e-mail 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.

Berfin Supermarket - declared purchases of super strength beers, lagers and ciders - 16 November 2016 - 23 May 2017

[illegible]

Berfin Supermarket - declared purchases of super strength beers, lagers and ciders - 16 November 2016 - 23 May 2017

Date	K-cider 500ml	Amberdown White Cider 3 litre	White Star cider 500ml	Diamond White cider - 500ml	Frosty Jack - 3 litre	Dragon Stout - 284ml	Nigerian Guinness - 600ml	Nigerian Guinness - 325ml	Skol Super - 500ml	Tennants Super 500ml	Okocim 500ml	Debowe 500ml	Special Brew 500ml	Kestrel Super 500ml	Mocne strong
02.05.17	48														
08.05.17	96							48							
12.05.17	72							24							
13.05.17						24									
Totals	1336	28	48	120	4	528	108	384	24	24	48	24	0	0	0
Totals in shop & stock room	290	12		28	not noted	significant in shop but not noted 72 in stockroom	significant quantity in shop but not noted	significant quantity in shop but not noted. 144 in stock room	134	28	48	79	53	64	45