

*[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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Quality Food Store Ltd 14-16 Pilgrimage Street	
<b>Post town</b> London	<b>Post code (if known)</b> SE1 4LL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>
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<b>Number of premises licence or club premises certificate (if known)</b> 849870
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**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
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises

- 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 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

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

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

**Prevention of Crime and disorder –**

- Offer for sale “counterfeit” tobacco – (s 92(1)(c) Trade Marks Act 1994)
- Offer for sale “non duty paid” (smuggled) tobacco – s144 Licensing Act 2003
- Unauthorised licensable activity - Failure to ensure CCTV operated in accordance with condition 289 on premise licence – s136 Licensing Act 2003
- Unauthorised licensable activity - Failure to comply with condition 100 by supplying alcohol when there was no Designated Premises Supervisor – s136 Licensing Act
- Unauthorised licensable activity - Failure to comply with condition 293 on the premise licence – training in Challenge 25, record keeping of training
- Underage sale of alcohol – s146 Licensing Act
- Unauthorised licensable activity – Failure to operate a Challenge 25 policy
- Food on sale where the use by date had been exceeded – Food Labelling Regulations made under Food Safety Act

**Public Safety –**

- Failure to ensure CCTV operated in accordance with conditions on premise

licence

### **The protection of children from harm**

- Underage sale of alcohol
- Failure to operate an age verification scheme including Challenge 25
- Failure to train staff and keep records of any such training
- Failure maintain an up to date register of refused sales
- Failure to display signage at the alcohol display area and at the till to inform customers that a Challenge 25 policy was in place and that customers purchasing age restricted products should be prepared to show proof of age when buying alcohol.

On 21<sup>st</sup> September 2015 Trading Standards received a complaint about this premise from a member of the public. She complained that on Monday 14<sup>th</sup> September when she went to buy her usual brand of cigarettes (Sterling – usually priced at £6.990 she had been offered other cheap cigarettes. The man tried to persuade her to buy something else, saying words along the lines of “you know you can get European cigarettes for £6.00 a pack – I’ve got all the top brands – Marlboro, B&H and all the other brands”

The lady declined saying she didn’t want other brands and she just wanted her normal brand. She said that she’d had the others on holiday and they gave her a sore throat and were full of rubbish. The man countered this by saying, “No, no these are good ones. These are very good” and reached under the counter to show her them.

The complainant said he was “very pushy” saying, “Just try this one any time” and he gave her one single cigarette. She took it but said she disposed of it once she had left the shop.

Trading Standards carried out a visit to the shop on 25<sup>th</sup> September. Counterfeit and non duty paid Marlboro cigarettes were found behind the counter. Specifically, three packs of counterfeit (and thus no duty paid) Marlboro Red and one pack of non duty paid Marlboro Gold. The Marlboro Gold had been originally manufactured for the Polish market and was labelled in Polish for that market. Whilst this is accepted to be a small quantity, Trading Standards’ more recent experience indicates this is now the “norm”; shopkeepers know there is a high probability of an inspection and subsequent discovery. They therefore keep minimal quantities on the premise at any one time in the expectation they can later claim it is for their personal use and not for sale. Alternatively they believe such a small quantity will not result in a prosecution.

Mr. Bittu Singh Kapoor [hereafter referred to “BSK”], the sole director of Quality Food Store Ltd which holds the premise licence, later stated in interview under caution that the cigarettes were his and were for his personal use. On further questioning, he did go on to say that he did on occasion give these cheap cigarettes (and even whole packets) to customers though not for monetary gain.

This is not the first time a complaint from a member of the public has been made to Trading Standards about illegal tobacco being sold from this shop. As a result, some thirteen months earlier on 31<sup>st</sup> July 2014 Trading Standards seized a total of 29 packs of counterfeit cigarettes that were found behind the counter – 8 pkts B&H, 11

pkts Marlboro Red and 10 pkts Marlboro Gold. Illegal Guttka chewing tobacco was also found on that occasion. Again, under caution on 7 August 2014, BSK said these cigarettes were for his personal use.

In this interview about these illegal cigarettes and an underage sale of alcohol (see later) BSK was advised the Designated Premises Supervisor (Balbir Singh Kapoor) had to be replaced because BSK said he was no longer involved in the business. BSK was advised that until a new DPS was in place, sales of alcohol would breach condition 100 of the Premise Licence,

- No supply of alcohol may be made under the premise licence a) at the time when there is no Designated Premises Supervisor in respect of the premise....

At the time of the visit on 25 September 2015, the DPS had not been changed and it became clear from a telephone conversation with BSK, that Balbir Singh Kapoor did not play any role in the business and was indeed long term ill.

BSK was told again he could not serve alcohol until the issue of the DPS was sorted. Amarjit Kapoor Singh (an employee at the shop) was appointed as the DPS on 28 September. In a later interview under caution, BSK was unable to give any reason why this delay had occurred. It is of note that BSK did not hold a Personal Licence at this time.

It has been mentioned earlier that BSK was interviewed about an underage sale on 7 August 2014. He had sold a bottle of Blossom Hill Wine to a 15 year old female Trading Standards test purchaser on 31 July 2014 contrary to s146 of The Licensing Act. BSK and the company later accepted a "simple" caution for this offence.

The Premise Licence contains a number of conditions to assist in the prevention of underage sales of alcohol, namely 293, 325, 333, 334, 343 and 488. It is not clear to this applicant why there are apparent duplications and in the event the sub-committee does not revoke this licence, Trading Standards request clarification by removal of these conditions and replace them with conditions listed later in this review.

It is however, clear that the premise is required to operate a Challenge 25 policy whereby staff are required to be trained in Challenge 25, records of training to be kept and be available for inspection, and a register of refused sales to be maintained. At the time of the visit on 25 September 2015 no training records were available for

inspection. **Mr Amarjit Kapoor Singh** who was working in the shop and a Personal Licence holder, did not appear to know what the officer was talking about when he requested the training records. **Amarjit** said there were four people working in the shop. He eventually found a refused sales book; this being the one that had been given to BSK on 31<sup>st</sup> July 2014 following the underage sale. There were five entries in the book with the last one being on 16 August 2014, nine days after his interview about the underage sale and some thirteen months earlier. Trading Standards say this indicated it was not being used. Also on 31<sup>st</sup> July 2014 a blank training record document suitable for completion by the business had been supplied together with an "Agecheck" pack.

A Challenge 25 test purchase was carried out on 6 December 2014 for both cigarettes and alcohol. **BSK** sold both items to the 19 year old female test purchaser without asking her for any identification. Condition 334 of the premise licence states "The premises shall operate a Challenge 25 policy whereby customers purchasing alcohol who look under 25 years of age will be asked for proof to validate their age. Proof of age shall include a driving licence, passport or PASS accredited card".

The Premise Licence has two conditions on it relating to the CCTV.

Condition 288 states "that the CCTV system installed upon the premises shall be maintained in good working condition and be operable at all times".

Condition 289 states "that recordings taken by the CCTV system installed upon the premises shall be kept and made available for inspection by authorised officers for a period of 28 days"

It is understood in late 2014 a new CCTV system was installed in the shop soon after a fatal stabbing that had taken place outside the shop. Fully operational CCTV clearly plays a vital part in the prevention and detection of crime.

At the time of the Trading Standards' inspection on 25 September 2015, the officer asked about the CCTV. **Mr Amarjit Singh Kapoor** – the only person working in the shop at the time, said he did not have access to the CCTV and did not know how to operate it. During the telephone conversation the officer had with **BSK, BSK** too said he did not know how to operate it. The officer formally requested CCTV footage for the previous 14 days in order to corroborate the complainant's claim about the premise selling illegal tobacco. The officer also explained to **BSK** that if any act was done to destroy that footage it could constitute a serious offence of perverting the course of justice.

Sometime later **BSK** contacted the Trading Standards Officer to say the CCTV footage was only retaining 11 days of CCTV footage.

On 8 October a further visit was made to the shop with a Police Licensing Officer in order to collect the CCTV footage. Initially only a man called "Ali" was working there but BSK soon arrived to inform the officers that the CCTV had broken down and that the hard drive had been replaced two days earlier on 6<sup>th</sup> October. Domar Solutions Ltd, the repair company, confirmed they had replaced the hard drive. Following a formal request to them the old hard drive was produced and sent to a computer forensics analyst. He was unable to recover any CCTV footage.

Trading Standards made a further visit to the shop on 15 December 2015. CCTV footage was only available from 00.00 hours on 6<sup>th</sup> December 2015; 9 days- once again in breach of condition 289 of the Premise Licence.

Training records were still unavailable and the new DPS, Amarjit Singh Kapoor, said he was not aware of any; this being something he should reasonably have ensured was carried out. Trading Standards say that he was put up as the new Designated Premises Supervisor in late September 2015 simply because he was the only person working in the shop who held a Personal Licence but has either not appreciated his responsibilities or not bothered to take any steps to familiarise himself with the licence and to ensure the conditions are adhered to.

Whilst carrying out a visit that day, fresh food for sale was inspected.

Food for sale is required to have either a "best before" date or a "use by" date. Foods with a best before date can still be sold beyond the stated date but the food must not be injurious to health. However it is a criminal offence to offer for sale food where a use by date has been exceeded. Foods which "from the microbiological point of view are highly perishable and therefore likely after a short period to constitute an immediate danger to human health" are required to be marked with a use by date and not a best before date. Typical foods are dairy ones such as milk cream and fresh poultry, and foods intended for consumption either without cooking or after treatment (such as reheating) where it is unlikely to be sufficient to destroy food poisoning organisms which may be present (ham, salami and similar).

Examination of food in the fridge disclosed the following items for sale beyond their use by date.

- 5 packs of Frankfurters where the use by date was 8<sup>th</sup> December – 7 days past the use by date
- 1 pack of "Grab & Go Indian Selection" where the use by date was 10<sup>th</sup> December – 5 days past the use by date
- 1 pack of "Grab & Go vegetable Samosa where the use by date was 14<sup>th</sup>

December – 1 day past the use by date

On 16 December 2015, **BSK** accepted a simple caution both as an individual and as the sole director, on behalf of the company for offences under The Trade Marks Act for the counterfeit cigarettes, and for carrying on a licensable activities otherwise than under and in accordance with authorisations, namely breaches of conditions 289 and 293 of the Premise Licence.

In summary, Trading Standards express their concerns that the business has been selling illegal “cheap” counterfeit cigarettes. Quite apart from evading duty and giving the business a commercial advantage over its competitors, such products undermine Government’s health strategy in reducing smoking because price is a major influence in consumer behaviour. It is universally accepted all tobacco is seriously harmful to health but counterfeit cigarettes are completely unregulated and likely to compound this harm. Such illegal tobacco continues to adversely impact on the poor in society and accentuate inequalities between the poor and the rich. Illegal tobacco is a problem in Southwark and throughout the country. Experience in dealing with this problem shows these outlets only ever have small quantities available for sale at any one time for the reasons given earlier in this application.

CCTV has an important role to play to prevent and detect crime. When challenged on the CCTV for this premise, no one working in the shop claimed to be able to operate it, nor did it appear to be working correctly or able to maintain it in accordance with the conditions on the licence. A casual approach appeared to be taken which is even more concerning when there had been a murder outside the premise in the recent past.

Again, in relation to the operation to the licence with regard to the requirements to have a Designated Premises Supervisor in place and to take steps to prevent underage sales, a casual couldn’t care less approach appears to have been adopted. **Bittu Singh Kapoor**, the sole director of the company holding the Premise Licence made a sale on 31<sup>st</sup> July 2014, was given all the guidance and paperwork to allow it to comply with its licence conditions such as training and refused sales register. The register has not been used from a mere 9 days after a formal interview and no training and records maintained. Challenge 25 is an important part of preventing underage sales and yet four months after the sale in 2014 and its associated dealings, he still failed to adopt this by selling age restricted products to a young looking 19 year old without asking any questions.

The sub-committee is invited to consider all options open to it including revocation. In

the event the licence is not revoked Trading Standards, as previously stated would like to see conditions 293, 325, 333, 334, 343 and 488 removed. It would also like to see conditions 289 and 293 removed.

In their place Trading Standards would like the following conditions to be added to the licence:

- 1. Condition 4AA The premises shall operate an agecheck 'Challenge 25' policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Proof of Age London (PAL) card.
- 2. Condition 4AB. All staff involved in the sale of alcohol shall attend a recognised training scheme which will include training in the agecheck 'Challenge 25' policy. They must obtain a certificate of competence. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request by the Council's authorised officers or the Police.
- 3. Agecheck or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an agecheck 'Challenge 25' policy applies and proof of age may be required
- 4. Condition 4AI A register of refused sales of alcohol and if applicable, cigarette sales which is clearly marked with details of the premises, address and name of licence holder shall be maintained in order to demonstrate effective operation of the policy. On a monthly basis, The Designated Premises Supervisor shall check the register to ensure it is being properly completed. He/she shall sign and date the register to that effect and, where appropriate, take corrective action if the register is not being completed correctly and in a timely manner. The register shall be available for inspection at the premises on request by the Council's authorised officers or the Police
- 5. That an electronic point of sale (EPOS) system be installed at all tills on the premises and it shall be configured to prompt the operator to check proof of age when an alcoholic product (any other product where the age for purchase is restricted by law) is scanned. The prompt should require the operator to confirm that the purchaser is over 18 (or any other age required by the relevant law for other products) before the next item can be scanned or the transaction completed.

- 6. There shall be a personal licence holder on the premises at all times alcohol is available for supply for the purpose of supervising such sales
- 7. 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
- 8. That an approved CCTV system shall be installed at the premises that records clear images of both the interior and exterior of the premises. The CCTV installed inside the premise shall be positioned to capture the sale of alcohol and tobacco products. The CCTV system shall have a minimum of 31 days recording facility and will be maintained in full working order at all times and be continually recording at all times the premise is in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the premise. All CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to The Police and/or Authorised Officers from Southwark Council
- 9. All staff working at the premise shall be trained and be fully conversant in the correct operation of the CCTV and be able to demonstrate its operation on immediate request by Police and/or Authorised Officers from Southwark Council
- 10 Amend condition 101 to read: "Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence. That authorisation must also be in writing and displayed on the premise adjacent to the display of the Licence Summary where the Police or the Council's authorised officers can inspect it.

**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 Month Year

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

Please tick yes

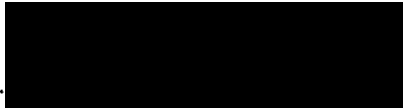
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, 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 8 March 2016

Capacity Trading Standards officer acting on behalf of Southwark Council

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**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.