

APPENDIX B

VALID PCD

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

RECD: 24/1/13
 CON ENOS: 21/2/13
 JW

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.

24 JAN 2013
 Health, Safety & Licensing

I Joanne Player
 (Insert name of applicant)
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 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Pop In Store (Also known as North Road Store) 32 North Road	
Post town Brighton	Post code (if known) BN1 1YB

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

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 Joanne Player Trading Standards Manager Trading Standards Brighton & Hove City Council Bartholomew House Bartholomew Square Brighton BN1 1JP
Telephone number (if any) 01273 292488
E-mail address (optional) Jo.player@brighton-hove.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)

Alcohol has been discovered on the premises, which is reasonably believed to be stolen.

Alcohol has been discovered on the premises which is reasonably believed to be non duty paid (smuggled)

Invoices provided do not relate to all of the alcohol.

Trading Standards state that the following licensing objective has not been met:

- 1) the prevention of crime and disorder

Please provide as much information as possible to support the application (please read guidance note 2)

Pop In Store is a small convenience store and off-licence. The Premises Licence Holder and Designated Premises Supervisor is Zohre Kara. The Premises Licence was transferred to Mrs Zohre Kara in May 2012.

Trading Standards have identified a problem in Brighton & Hove with premises selling illegal alcohol. Illegal alcohol includes counterfeit alcohol, non duty paid (smuggled and diverted) alcohol, incorrectly described alcohol, incorrectly labelled alcohol and alcohol which has incomplete or no traceability. As a result Trading Standards have been working in partnership with HMRC and Sussex Police to tackle the problem and have seen a progression in the tactics being used in order to introduce illegal alcohol into the market.

The amount of excise and VAT due on alcohol is dependent on the quantity and ABV (alcohol by volume). The excise duty and VAT on a 500ml can of 5.3% ABV lager is £0.63; a 500ml can of 5.5% ABV lager is £0.66 and a 500ml can of strong lager at 9.0% ABV lager is £1.32. These figures exclude any production costs, distribution costs and profit.

Non payment of duty and VAT has an impact on both the local and national economy. Businesses willing to stock illegal alcohol receive an unfair trading advantage over other businesses. There is also a risk of counterfeit products entering the market with the inherent risks to the public's health as a result of the use of industrial alcohol and other chemicals not intended for human consumption, poor production methods and quality control and no traceability of the products.

Trading Standards received intelligence that some supermarkets had seen an increase in the levels of thefts of branded spirits.

Trading Standards received intelligence from Sussex Police that a shop in North Road was receiving stolen goods and as a result a joint Police and Trading Standards visit to Pop In Store was conducted on 08 November 2012. During the course of the inspection it was noted that there was damage to the caps and neck surrounds of some of the one litre bottles of Smirnoff Red and also to a one litre bottle of Smirnoff Blue. Some of the damage appeared indicative that security caps or security tags had been removed illicitly. The one litre bottles of Smirnoff Red were being sold for £18.99 a bottle and the Smirnoff No 57 Export Strength (Blue) for £23.99 a bottle; the price in the supermarkets for a one litre bottle of Smirnoff Red ranges in price from £17.00 per bottle to £21.30 per bottle, the Cash & Carry price currently ranges between £18.35 and £19.91 inclusive of VAT. Also discovered on sale was a bottle of Oudinet Epernay Brut 2005 Champagne which was being sold for £14.99, details for Marks & Spencers were found on the rear label, as a result there were suspicions that both the Champagne and the Smirnoff vodka were stolen goods.

It was also noted that the premises were advertising beer on sale from £1.00. Officers identified that the only beers on sale were 500ml cans of Tyskie, Lech and Zywiec Polish lagers.

Officers discovered that cans of Tyskie, Zywiec and Tatra lagers on sale in the shop had no English labelling in breach of food legislation and indicative that they had not been produced for the UK market. At the time the premises were instructed to remove from sale all of these brands due to the non compliance and to arrange for them to be exchanged and the reasons behind the instruction.

It was also noted that the premises were selling 500 ml cans of Tennents Super and Special Brew both 9% ABV for £1.50 each or 4 cans for £5.00 the equivalent price of £1.25. The premises were also selling Skol Super, Kestrel and K Cider and large bottles of Frosty Jack. As well as the stock of these products in the fridges and shelves cases of super strength lagers and ciders were also being stored on the shop floor in stacks and in the small rear stock room.

During the course of the inspection a number of street drinkers who are known to the Police entered and purchased cans of super strength alcohol from the premises.

Trading Standards and the Police integrity sealed and quarantined the bottles of vodka and Champagne and informed the manager Tayfun Kara that they had reasonable grounds to suspect that the alcohol was stolen. Trading Standards requested that invoices be provided by 30/11/12 for the vodkas, champagne and the Polish lagers identified with foreign labelling. Mr Kara responded that he had invoices and that the vodka had come from Bookers Cash & Carry.

Mr Kara contacted Trading Standards on 30/11/12 to say that he had some but not all of the invoices available but that he was waiting for the rest of them. An appointment was arranged for Trading Standards to attend the premises on 06/12/12 to pick up all of the applicable invoices and Mr Kara confirmed that the invoices would be available on that date.

Enquiries made with Marks & Spencer have confirmed that Oudinet Epernay Brut 2005 Champagne is produced exclusively for them and can not be legally sold by any other business. Normally it retails for £29.00 a bottle, it has been on offer at £24.00 per bottle; at the time of the inspection on 08 November 2012, Pop In had the bottle displayed for sale for £14.99.

The Brand Holder for Smirnoff has been able to identify that 8 of the 9 one litre bottles of vodka were supplied to central distribution hubs for Tesco, Co-op and Morrisons. To date they have been unable to identify the customer for the final bottle.

Trading Standards and the Police re-attended the premises on 06/12/12. On this occasion Mrs Zohre Kara was working in the shop. Mr Tayfun Kara had to be asked for the invoices and he had to return to the flat above the shop to collect them. Whilst waiting Trading Standards again checked the stock of lagers. Polish lagers were no longer being sold for £1.00 per can. Discovered in the chiller cabinet were 2 cans of Warka Strong lager with no English labelling contrary to food legislation. Underneath the shop counter were 27 mixed cans of Tyskie and Zwyiec lager with no English labelling.

Also discovered on sale were 6 x 1 litre bottles of Bells Whiskey. These were specifically checked following receipt of intelligence about the brands and size of bottles most commonly stolen by shop lifters for onwards sale. Four of these bottles had damage to the cap and/or neck surround and as a result there were reasonable grounds to suspect that all of the bottles were stolen goods.

The Brand Holder for Bells Whiskey has confirmed that all 6 bottles were supplied to distribution hubs for Tesco, Asda and the Co-Op.

Tayfun Kara showed Trading Standards a 70cl bottle of Chekov vodka as he had been unable to locate the lot marking. Trading Standards identified the lot marking for him and also showed him that there was damage to the cap fastening.

Officers again instructed Tayfun Kara to remove the foreign labelled Warka Strong lager from sale and advised him of the reasons.

It was also explained to Mr Kara that there were concerns that the bottles of Bells Whiskey and 1 x 70cl bottle of Chekov vodka were stolen

During the course of the inspection on 06 December 2012, again a number of street drinkers who were known to Police Officers purchased alcohol from the premises and on one occasion Sussex Police intervened to prevent Mrs Zohre Kara, the Premises Licence Holder and DPS from selling alcohol to a drunk street drinker.

Tayfun Kara produced to Trading Standards two cardboard boxes, one containing invoices and the second supermarket till receipts. As these had not been sorted so that the invoices requested on 08 November were easily available a decision was made to take the two boxes to check the traceability of the alcohol suspected of being stolen.

When Trading Standards asked Mr Kara if there were anymore invoices or receipts that he wanted them to see, he said that there wasn't and that all of the invoices and receipts for all of the alcohol identified were in the boxes.

Trading Standards have been unable to identify any invoices or till receipts relating to the purchase of any 1 litre bottles of Smirnoff Red or Smirnoff (Blue) No 57 Export Strength; any 1 litre bottles of Bells Whiskey or any bottles of Marks & Spencer's Oudinet Epernay Brut 2005 Champagne.

The invoices and receipts provided show two supplies of Polish lager, albeit only one predates the inspection on 08 November 2012 and is dated 02 May 2012 and shows the supply of 5 cases containing 24 x 500ml cans per case of Tyskie lager and 5 cases containing 24 x 500ml cans of Lech lager; the price paid on the invoice is £20.99 plus VAT per case which equates to £1.05 per can; the premises were selling these lagers for £1.00. No invoices have been provided for the Tatra lager discovered on sale with no English labelling. There is an invoice dated 24 November 2012 which shows the supply of a case (24 x 500ml cans) of Warka lager, only two cans were discovered on 06 December 2012.

Enquiries have been made with Bookers Cash & Carry and Bestway Cash & Carry and they have confirmed that they sell Tyskie, Lech and Zwyiec 500ml cans including VAT in excess of £1.00 per 500ml. The UK Brand Holder for Tyskie has confirmed that all of their product is produced with compliant English labelling. In their view foreign labelled Tyskie is produced in Poland and then imported into the UK.

The invoices also show the purchase of cases of super strength lagers, some at £35.99 plus VAT per case of 24 x 500ml and others at £34.99 plus VAT per case of 24 x 500ml, this equates to £1.80 and £1.75 respectively. The premises were selling 500ml cans of super strength lagers and cider for £1.50 each or 4 cans for £5.00 being the equivalent price of £1.25 each.

The premises had on sale alcohol which appears to be stolen goods and in respect of which the Premises Licence Holder has failed to produce any invoices or receipts to show traceability which is contrary to food legislation. It is reasonable to believe therefore that these goods are stolen.

The premises had on sale foreign labelled lagers at a price which indicates that they were non duty paid (smuggled). Invoices and receipts for these lagers appear

incomplete in that they only show one supply of Polish lagers predating the inspection on 06/11/12 and fail to show the supply of the Tatra lager discovered on the premises.

The premises had on sale super strength lagers being sold below the purchase price and at a price which indicates that they were non duty paid (smuggled).

The premises are a source of alcohol to the street drinking community with the associated impact on crime and disorder and have been witnessed selling alcohol to members of the street drinking community.

Guidance issued under section 182 of the Licensing Act 2003 lists certain criminal activity which may arise in connection with licensed premises which the Secretary of State considers should be treated particularly seriously. This list includes the use of the licensed premises for the sale of smuggled alcohol. The list of criminal activity is not exhaustive and Trading Standards considers that the handling and selling of stolen goods should also be treated seriously.

The management of the premises have failed to provide any explanation as to how and why there were bottles of spirits on sale with damage to the caps or how and why there was a bottle of Marks & Spencers Champagne on sale. The management has also failed to provide traceability for the branded bottles of spirits and the Marks & Spencers Champagne. Whilst one invoice has been provided showing the supply of some but not all of the Polish lager, it is considered that this invoice does not relate to the stock discovered on 06 November in view of the date of the invoice, the quantity of stock received and the price paid compared to the price the lager was being sold at. It appears unlikely that a small independent premises can legitimately afford to sell stock for less than they purchased it and it is therefore reasonable to suspect that some if not all of the Polish lagers and cans of Super Strength lagers and ciders discovered on sale on 06 November 2012 are non duty paid (smuggled).

Trading Standards has no confidence that the management and the Premises Licence Holder are competent to run these premises so as to ensure that the Licensing Objectives are met.

At all relevant times Mrs Zohre Kara has been the Premises Licence Holder and DPS of these licensed premises. Trading Standards request that the Committee give serious consideration to the revocation of the premises licence and that this step is necessary and proportionate to ensure that the Licensing Objective of the prevention of crime and disorder is met.

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	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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 Joanne Player
Date 17/1/2013
Capacity TRADING STANDARDS MANAGER

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.

