

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 Mr Jaswinder Singh Matoo of Sandwell Metropolitan Borough Council
(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 Top Tak 74-76 Cape Hill Smethwick B66 4PB	
Post town SMETHWICK	Post code (if known) B66 4PB

Name of premises licence holder or club holding club premises certificate (if known) MRS AZAR EBRAHIMI
--

Number of premises licence or club premises certificate (if known) XXXXXXXXXX Licence number redacted

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

Mr Jaswinder Singh Matoo, Area Trading Standards Officer
Sandwell M.B.C.
Trading Standards
Oldbury Council House
Freeth Street
Oldbury

Telephone number (if any)

██████████

Telephone number redacted

E-mail address (optional)

██████████

@sandwell.gov.uk Email address redacted

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)

On the 10 August 2021 officers from Sandwell Trading Standards conducted an inspection at Top Tak, 74-76 Cape Hill, Smethwick, B66 4PB. The inspection was undertaken as part of an operation targeting the sale/supply of counterfeit wine. Officers found 5 bottles of counterfeit Yellowtail wine on sale in the store which had been mixed in with genuine bottles on the shelves. During the course of the inspection officers also found a total of 31 pouches of counterfeit hand rolling tobacco, 5 pouches of non-duty paid hand rolling tobacco, and 7,160 cigarettes of which 2,460 were counterfeit. All seized goods were found to be either counterfeit or duty evaded which did not comply with the Tobacco and Related Products Regulations 2016 in that they failed to carry the appropriate health warnings on their packaging. The cigarettes were found hidden underneath the counter and on sale in the tobacco gantry behind the counter. During the visit numerous customers came into the store asking for cheap cigarettes/tobacco and were turned away by the member of staff on the sales counter. The total retail value of the seized goods is estimated at being £6066.

The sale of illicit/counterfeit tobacco products has a serious impact on the economy. Legitimate traders cannot compete with the small minority of dishonest traders who operate within the black market. These dishonest traders are making large profits by selling cheap and potentially dangerous counterfeit products without any regard to public safety and tax avoidance.

More worryingly, national intelligence suggests that the trade in illegal tobacco is often linked to more serious crime such as terrorism, human trafficking, prostitution and the sale of drugs. The trade in illegal tobacco is believed to be accepted as a low risk method of generating income to fund more serious criminality.

It is an offence under Section 144 of the Licensing Act 2003 to keep any goods on a licensed premises that have been imported without payment of duty.

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

Guidance under section 182 of the Licensing Act 2003 states that the licensing authority's role when determining a review where criminality is alleged is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder. Furthermore, there is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously including the sale or storage of smuggled tobacco and alcohol. The guidance goes on to state that where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

In the case of *The Crown (Bassetlaw District Council) V Worksop Magistrates Court 2008*, it was held the powers contained under section 52 of the Licensing Act 2003 to revoke an alcohol licence can be used as a deterrent when criminal offences have been committed.

It is a criminal offence under the Trade Marks Act 1994, the Tobacco and Related Products Regulations 2016 and the Fraud Act 2006 to store illicit tobacco with a view to supply. Furthermore under section 144 of the Licensing Act 2003, it is an offence to knowingly keep, or allow to be kept any goods on a licensed premises which have been imported without payment of duty.

The premises licence holder and proprietor of the store, Mrs Azra Ebrahimi, was interviewed under caution and failed to provide any credible explanation as to why the illicit goods were found in her store. Instead she concocted a fabricated story of how a stranger had entered her store and asked for the illicit tobacco/cigarettes to be looked after for him until he returned to collect them. She has not provided a name/address for this person. She has also failed to provide any credible explanation for the counterfeit wine found in the shop. Mrs Ebrahimi was asked if she knew of the licensing objectives being the premise licence holder for the business to which she responded that she did not.

The concealment of the cigarettes/tobacco and wine on the shelves demonstrates clear deception and a determination to engage in illegal activity. It is therefore of the opinion of Trading Standards to recommend that the premises licence is suspended for 3 months. Furthermore, it is also recommended that the current DPS is removed from the licence and a new DPS appointed. This is based on information gained from the current DPS, Nastaran Khanoie, who confirmed that she was only appointed DPS for the premises because her mother Mrs Azar Ebrahimi struggles to understand written/spoken English. Miss Khanoie also confirmed under caution that she did not work at the premises in question due to underlying health conditions.

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

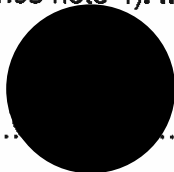
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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



Signature redacted

Date

16/05/2022

Capacity

Senior Trading Standards Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Sandwell M.B.C.
Trading Standards
Oldbury Council House
Freeth Street
Oldbury

Post town
Oldbury

Post Code
B69 3DB

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) [redacted]@sandwell.gov.uk Email address redacted

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.

