

## WALSALL COUNCIL

### 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 Stuart Powell, Chief Inspector of Weights and Measures, Walsall Metropolitan Borough Council

*(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**

European Off Licence and Convenience Store, 278 Wolverhampton Road, Walsall, WS2 8RQ

**Post town** Walsall

**Post code (if known)** WS2 8RQ

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

Mr Bikramjit Singh Mann

**Number of premises licence or club premises certificate (if known)**

**WS/PRL/0221**

#### Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

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 ✓ yes

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:

Stuart Powell, Chief Inspector of Weights & Measures, Walsall Council, Civic Centre,  
Darwall Street, Walsall, WS1 1TP

Telephone number (if any)

01922 653040

E-mail address (optional)

tradingstandards@walsall.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 | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review** (please read guidance note 2)

The grounds for this application for a review of a premises licence are that one of the licensing objectives has been seriously undermined, namely the prevention of crime and disorder, by virtue of illegal tobacco (cigarettes and hand rolling tobacco) being sold from the premises

Illegal tobacco products can fall into three categories;

- Genuine well known brands which are made to be sold outside of the UK and then smuggled into the UK thus avoiding duty (eg Marlboro, Benson & Hedges)
- Counterfeits of genuine brands
- Little known brands which are made specifically for smuggling often referred to as "cheap whites" (eg NZ Slim).

Additionally all cigarettes and tobacco has to be marked with designated health warnings and since May 2016 cigarettes must be sold in standardised plain packaging. Cigarettes must also pass self extinguishing fire safety tests.

Criminal offences for illegal tobacco products are committed under:

- Trade Marks Act 1994 for counterfeit products, (which carries a penalty of unlimited fines and/or imprisonment of up to ten years);
- General Product Safety Regulations 2005 for selling cigarettes which do not self extinguish as required
- Consumer Protection Act 1987: for selling tobacco products without correct labelling.

- Tobacco Products Duty Act 1979 and Customs and Excise Management Act 1979 for tobacco products specifically made for smuggling (cheap whites) counterfeit products and genuine products that do not have a UK duty stamp.
- Licensing Act 2003 for the storage of smuggled tobacco.

Section 11 of the 2018 Guidance to the Licensing Act 2003 deals with licence reviews and the review process. Paragraph 11.27 states:

*'There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:...'*

**• [amongst a number of other things] for the sale or storage of smuggled tobacco and alcohol.'**

Walsall Trading Standards has received numerous complaints about illegal tobacco being sold from the premises and a large quantity of illegal tobacco products has been found in the store on three occasions during visits by Trading Standards Officers and a tobacco detector dog. Counterfeit and incorrectly labelled cigarettes has also been bought from the store during a covert test purchase operation in the last year.

Furthermore, the named Designated Premises Supervisor, Mr Bikramjit Singh Mann who is the owner of the premises, and also the Premises Licence holder, has stated to trading standards that he has no involvement with the running of the business as he merely leases the premises to the owner of the business. This lack of involvement by Mr Mann is contrary to Paragraph 10.28 of the Revised Guidance issued in April 2018 under section 182 of the Licensing Act 2003. The guidance states

*'..the DPS and the premises licence holder remain responsible for the premises at all times.'*

Mr Mann is fully aware that sales of illegal tobacco have taken place in the store, and was invited to be interviewed about the offences by trading standards following the first seizure of cigarettes and tobacco.

As a consequence, it is felt that it is necessary and proportionate to request a review of the premises licence as the business owners are involved in an illegal activity; it is a criminal offence to sell or have possession for sale tobacco products of this type. Illegal tobacco is produced, smuggled and distributed by organised crime gangs with large profits to be made. These activities also have the potential to have a serious detrimental effect on the health of customers, facilitate smoking by children and to bring more crime into the area.

In addition, there are questions relating to the lack of involvement in the business of the DPS and Premises Licence Holder.

**Committee is asked to consider revocation of the premises licence.**

**Please provide as much information as possible to support the application** (please read guidance note 3)

The trading standards section of Walsall Council is responsible for enforcing the law in relation to counterfeit products, product safety (including labelling) and under age sales of products, including alcohol and cigarettes. As part of this programme of enforcement, intelligence is gathered from different sources and action taken depending on the severity of the potential breaches of legislation.

Intelligence received by trading standards in 2018 indicated that sales of counterfeit, illegal and non-duty paid cigarettes and hand rolling tobacco were being made from European Off Licence and Convenience Store.

In October 2018, trading Standards and a tobacco search dog visited the store and found over 26000 illegal cigarettes and a quantity of illegal hand rolling tobacco. Some of this was in a bag in a storeroom, but the majority was hidden in a ceiling behind a light fitting. The light fitting was held closed by an electromagnet.

Deliberate concealment of these products indicates that there is a knowledge that they cannot be legally sold and that the seller is committing a crime.

Following information that illegal sales of tobacco were still taking place, on instruction from trading standards, a test purchase was made from the store in December 2018. The purchaser was charged £5 for a packet of 20 Marlboro cigarettes, which it was immediately obvious did not comply with UK labelling Regulations for tobacco products. Genuine Marlboro cigarettes usually retail for approximately £11 a packet. The test purchaser who bought Marlboro cigarettes from this store was charged £5, when the normal retail price for this brand is approximately £11 a pack.

Following a trading standards investigation into the supply of illegal cigarettes from the store, it was found that the owner (owner A) of the business at the time the cigarettes were found in the ceiling was out of the country. This owner stated in an interview under caution that he did not know who he had bought the business from, had no details of the staff working for him, didn't know the guarantor for his rent payments and had no details of the person that he subsequently sold the business to (Owner B). Owner A also stated that when he took over the business, there was an agreement with Mr Mann that he would become the DPS. This never happened.

In January 2019, during the investigation into the illegal cigarettes found in October 2018, Mr Mann told trading standards that he was not involved with the business and should not now be the DPS. It was also found that the business had a new owner (owner B), who also stated that he was to become the DPS.

It was after the business was sold to owner B that the test purchase of Marlboro cigarettes was made. Owner B is already under investigation by trading standards for the supply of illegal cigarettes from another store in the borough.

Intelligence has subsequently been received by trading standards that sales of illegal tobacco were ongoing from these premises. Because of this, a further visit was made to the store by officers from trading standards and police on 13 September 2019. During this visit, over 19000 illegal cigarettes were found in the flat above the store. Owner B was not present during this visit, and the male serving in the store had a key to the flat, but stated that he lived at a different address.

Into 2020 and more complaints were received that illegal tobacco was still being sold from this store and a covert test purchase was made during which a branded packet

of Richmond Blue was sold. These have been examined by the trade mark holder and found to be counterfeit.

Following this, trading standards and West Midlands Police carried out a search, where 22380 illegal cigarettes and 300 grammes of hand rolling tobacco were found. Many of the cigarettes were still in the boxes used to smuggle them into the UK and were found in a storeroom. The owner of the store, still owner B, said while under caution that he knew they were illegal and that it was an offence to sell them.

Despite both owner A and owner B stating that there were steps in place for them to become the DPS, and their landlord Mr Bikramjit Singh Mann, denying that he has anything to do with the businesses operating from his premises, Mr Mann is still the DPS in October 2020.

The 2018 Guidance also states that;

*4.31 'Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act.'*

Further, 4.37 of the Guidance states

*'Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.'*

It is clear that there are serious issues with the level of control of the business by Mr Mann, and it appears from his own admission that he does not have any responsibility for the business operating from his premises and cannot therefore promote the licensing objectives or compliance with the Act.

There have been long term and regular breaches at these premises of the Licensing Act 2003 and other legislation enacted to prevent harm to both consumers and honest businesses.

Committee is requested to consider revocation of the premises licence for this premises.

**tick ✓ yes**

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

**Please**

**No**

If yes please state the date of that application

Day Month Year

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

tick ✓ yes

Please

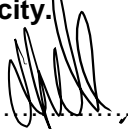
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**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 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date . 09/12/2020

Capacity **Applicant**

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

**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. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.



6. This is the address which we shall use to correspond with you about this application.