

[Insert name and address of relevant licensing authority and its reference number (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 Tim Watson

(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 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Best One 39 Canterbury Street Ashton-under-Lyne Tameside	
Post town Ashton-under-Lyne	Post code (if known) OL6 6HX

Name of premises licence holder or club holding club premises certificate (if known) Mr Iqbal Shamraiz
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Number of premises licence or club premises certificate (if known) PL0790

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

Tim Watson Trading Standards Officer Tame Street Depot Tame Street Stalybridge SK15 1ST
Telephone number (if any) 0161 342 2014
E-mail address (optional) timothy.watson@tameside.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 checked="" 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 Prevention of Crime and Disorder

-Public Safety

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

Tameside MBC Trading Standards Department, in its capacity as a responsible authority, wish to apply for the review of a premises licence under S.51 of the Licensing Act 2003 for Best One, 39 Canterbury Street, Ashton-under-Lyne.

Since June 2021 there has been a pattern of behaviour involving this premises in relation to the possession and supply of illicit tobacco that is not legally permitted to be sold in the UK. I have detailed below the sequence of reports received and actions taken by this department in relation to this issue.

1. On 4th June 2021 the department received a report from a resident of Ashton-under-Lyne, via the Citizens Advice Consumer Service, alleging that the premises was selling “counterfeit cigarettes and tobacco under the counter”. The report specifically alleged that packs of ‘Richmond’ and ‘Mayfair’ were being sold for £5.50.
2. Following receipt of this intelligence a decision was taken in the department to add the premises to a list of premises to be visited as part of a test purchase operation carried out in conjunction with a test purchaser working on behalf of the Red Snapper Group on 22nd June 2021. During this operation the test purchaser made a successful purchase of Benson and Hedges Gold cigarettes for £5.50. On examination of this product it was found not to have the required warning statements in English (see the summary below of the legislative requirements for tobacco products).
3. I arranged a joint unannounced inspection of the premises with Sharon Campbell from Tameside MBC licensing department and PC Martin Thorley, Delegated District Licensing Officer for Tameside on 21st July 2021. On entering the premises there were a number of staff present, including someone who presented himself as the owner and licensee Iqbal Shamraiz. A full search of the premises was conducted, during which a key was requested and obtained for a locked filing cabinet behind the counter. A packet of ‘Golden Virginia’ hand rolling tobacco (50 g) and a pack of 20 ‘Rothmans’ cigarettes were found inside one of the drawers and on examination of these items they were found not to have the required warning statements in English or be packaged in the required standardised packaging (see the summary below of the legislative requirements for tobacco products).
4. On 15th September 2021 I sent a warning letter to Mr Shamraiz advising him of the offences for the sale of illicit/counterfeit tobacco and requesting that he sign and return an enclosed form authorising Tameside MBC to retain the items for disposal. In response to this letter I received an email from the email address [REDACTED] containing a photograph of the form signed (signature accompanied by ‘Shamraiz’ in capital letters) and dated 18/09/21. It was decided to take no further enforcement action on this occasion.
5. On 9th December 2021 I received information from Sharon Campbell from Tameside MBC Licensing that she had received an anonymous complaint that illicit tobacco was being stored and sold from vehicles outside the premises.
6. On 4th January 2022 the authority received anonymous intelligence via the ‘Keep it Out’ illegal tobacco reporting website that illegal cigarettes and hand rolling tobacco had been observed being sold from the premises on 24th December 2021. The complainant gave the name ‘Shamraiz Hussain’ for the person selling it and also provided the following information:

The tobacco is being sold from the second till in shop and they have storage behind the shop second storage room next door does have large amount of cash at his own home too he is well known in the area

He drives 2007 Nissan Qashqai sometimes has the products in the boot he has a secondary car too £70,000 Range Rover too which he uses for pleasure on weekends the owner works in the evenings at the shop as he wholesales illegal cigarettes and tobacco while the shop sells under the counter

too

7. In light of the ongoing intelligence relating to the premises it was decided to add it to the list of premises to be visited during a test purchase operation carried out in conjunction with a test purchaser working on behalf of the Red Snapper Group on 13th February 2022. During this operation the test purchaser made a successful purchase of Richmond King Size cigarettes for £5.50 and he stated that the cigarettes were obtained by the person in the shop from a storage cabinet underneath a coffee machine, located to the right of the entrance to the shop. This pack of cigarettes was found not to be packaged in the required standardised packaging (see the summary below of the legislative requirements for tobacco products). The price paid for the cigarettes was also cheaper than the standard market price of £9.75.

8. On 14th February 2022 the department received information by email from PC Daniel Wilson of Greater Manchester Police as follows:

"The staff at the Best One Canterbury stores, Ashton under Lyne are selling fake cigarettes, tobacco and drinks

The shop is on the corner of Union Road and Canterbury Street.

The staff members are described as Asian males. The staff change regularly."

PC Wilson also stated in his email that GMP had received similar intelligence on 13/09/20.

9. On 17th February 2022 Tameside MBC visited the premises with officers from Greater Manchester Police as part of 'Operation Avro'. The person working in the shop at the time of the visit was confirmed by GMP as being N [REDACTED] M [REDACTED] and whilst carrying out a full search of the premises a key was obtained from Mr M [REDACTED] for a storage cabinet underneath a coffee machine. The following items were found and seized:

200 x Richmond King Size cigarettes

400 x Business Royals cigarettes

200 x Mayfair Kingsize cigarettes

9 x 50 g Amber leaf hand rolling tobacco

The above cigarettes were found not to have the required warning statements in English or be packaged in the required standardised packaging (see the summary below of the legislative requirements for tobacco products).

During the visit 90 x 'Elux 3500' disposable e-cigarettes were also seized. These products did not meet the requirements of the Tobacco and Related Products Regulations 2016 in relation to their tank size and they had not been published on the register of compliant products by the Medicines and Healthcare products Regulatory Agency (MHRA), which is also a requirement of the regulations. Under the regulations no person may supply any products that do meet these requirements and it is an offence to do so, therefore it is the responsibility of retailers supplying e-cigarettes and e-liquids to make the necessary checks before offering them for sale. In December 2021 Tameside MBC Trading Standards wrote to all known businesses in the borough supplying or likely to be supplying these products, advising on the legal requirements for supply and to advise that it was an offence to supply products in breach of the regulations. The seizure of these e-cigarettes highlights that the business had not followed the advice in this letter.

All items seized have been handled in accordance with Tameside MBC's evidence handling procedures and were bagged and tagged at the time of seizure and subsequently logged and stored in the authority's locked evidence store [REDACTED] where they remain. Receipts for the seizures were also provided to the business.

This application to review the licence of the premises in question relates to the licensing objective

‘the prevention of crime and disorder’. The supply or possession for supply of the type of tobacco seized from this premises constitutes a criminal offence. The relevant legislative provisions are as follows:

The Tobacco and Related Products Regulations 2016

Part 2 (‘Labelling of tobacco products’) of the regulations requires that tobacco products contain warning statements in **English** and no person may ‘supply’ a product unless it contains these warnings.

In accordance with regulations 2 and 3(2) the definition of ‘supply’ includes cases where a person (in the course of a business) “possesses it for supply” (for consumption in the United Kingdom).

Breach of Part 2 of the regulations represents a criminal offence with the maximum penalty on indictment being a fine and 2 years imprisonment.

The Standardised Packaging of Tobacco Products Regulations 2015

These regulations include the requirement that the only permitted colour for the external packaging of packs of cigarettes and hand rolling tobacco is ‘Pantone 448C’ (drab dark brown) with a matt finish. No person may ‘supply’ any products that do not meet this requirement and the definition of ‘supply’ in these regulations also includes possession for supply. The supply of tobacco products not meeting this requirement represents a criminal offence with the maximum penalty on indictment being a fine and 2 years imprisonment.

The above legislative requirements have been designed to reduce the appeal of tobacco products (particularly to young people) and to ensure that required health warnings are as prominent as possible. The seizures made from this premises, combined with the ongoing intelligence received by Tameside MBC Trading Standards highlights a disregard by the business of their legal responsibilities and a pattern of behaviour that suggests a desire to profit from the supply of illicit tobacco. The evidence highlighting the cheap prices charged for these products also suggests that their aim is to promote the supply of tobacco to customers for which genuine (fully taxed) products may be unaffordable, which may include children under 18. Again, this suggests a willingness to breach legal provisions for commercial gain.

Tameside MBC Trading Standards submits this application to review the premises licence of this business on the basis that it is failing to comply with the licensing objective of the prevention of crime and disorder due to their continued possession and supply of illicit tobacco.

In support of this application I refer to Chapter 11 of the Home Office document ‘*Revised Guidance issued under section 182 of the Licensing Act 2003*’ (April 2018), which contains a section titled ‘*Reviews arising in connection with crime*’. Paragraph 11.27 (pages 93-94) lists types of criminal activity that should be treated seriously in relation to licensed premises and one of these is the use of the premises *for the sale or storage of smuggled tobacco and alcohol*. Some of the tobacco seized from this premises has foreign labelling and is therefore clearly not intended for the UK market. It is therefore reasonable to suspect that it has been illegally smuggled into the country without the full UK Excise Duty being paid. As outlined in this application, in supplying and possessing for supply these products, the premises are also committing criminal offences under the **Tobacco and Related Products Regulations 2016** and the **Standardised Packaging of Tobacco Products Regulations 2015**.

Also of relevance to this application is Paragraph 11.28 of the Home Office guidance, which states;

*It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. **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.

Tameside MBC also believes that the possession and evidence of supply of this illicit tobacco poses a risk to the safety of consumers purchasing the products. Therefore, this application is also submitted in relation to the licensing objective 'Public Safety', on the following grounds:

-Some of the products seized/purchased did not contain the required health warnings in English or in compliance with the Tobacco and Related Products Regulations 2016. This, in addition to the cheaper prices charged, could lead to the promotion of the tobacco to users, including children, who may otherwise choose not to purchase and smoke it.

-The illicit nature of the tobacco products seized/purchased means that the source of supply to the business is unable to be verified and therefore it is reasonable to suspect that the products may have been manufactured specifically for the illegal market. Therefore, it is unknown whether the products have been manufactured using safe manufacturing processes and whether they contain any hazardous ingredients.

There have also been illicit products found previously by other Trading Standards authorities that have been found to be unsafe under the General Product Safety Regulations 2005, due to not complying with a mandatory safety standard (EN 16156) for cigarettes that requires them to be self-extinguishing if left unattended or not inhaled from after a set period of time. This standard came into force in November 2011 as a result of a high number of house fires being attributed to smoking. As above, the unknown supply chain for the products in question means that their compliance with this standard is unknown and they may therefore present a fire hazard.

Finally, the seizure of e-cigarettes on 17th February 2022 is also relevant to the 'Public Safety' licensing objective. The brand/model of e-cigarettes seized have not been approved for supply by the Medicines and Healthcare products Regulatory Agency and therefore their compliance with the product safety requirements in the Tobacco and Related Products Regulations 2016 have not been verified. Where a retailer fails to establish the legal compliance of e-cigarettes they are supplying there is the potential that they are exposing their customers to unsafe products. The seizure in question highlights a failure of this business to carry out this check, despite being previously advised by this department (by letter) of the requirement to do so.

[illegible]

If you have made representations before relating to the 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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 **11/04/22**

Capacity **Applicant**

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

Tim Watson
Trading Standards Officer
Tame Street Depot
Tame Street
Stalybridge
SK15 1ST

Post town

Stalybridge

Post Code

SK15 1ST

Telephone number (if any) 0161 342 2014

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) timothy.watson@tameside.gov.uk

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.