COMMITTEE REF:

LP/12A/16

Luton

NOTICE OF MEETING

COMMITTEE	**:**	LICENSING PANEL (361)
DATE	**:**	WEDNESDAY, 28TH DECEMBER 2016
TIME	**:**	10.00 AM
PLACE	**:**	COMMITTEE ROOM 4, TOWN HALL, LUTON
COUNCILLORS	**:**	HUSSAIN, KEENS, AND WORLDING
QUORUM	**:**	3 MEMBERS

CONTACT OFFICER: EUNICE LEWIS – TEL. 01582 547149

INFORMATION FOR THE PUBLIC

PURPOSE: To exercise the Council's functions under the Licensing Act 2003.

This meeting is open to the public and you are welcome to attend.

For further information, or to see the papers, please contact us at the Town Hall:

IN PERSON, 9 am to 5 pm, Monday to Friday, or

CALL the Contact Officer (shown above).

An induction loop facility is available for meetings held in Committee Room 3.

Arrangements can be made for access to meetings for disabled people.
If you would like us to arrange this for you, please call the Contact Officer (shown above).

EMERGENCY EVACUATION PROCEDURE

Committee Rooms 1, 2, 4 & Council Chamber

Turn left, follow the green emergency exit signs to the main town hall entrance and proceed to the assembly point at St George's Square.

Committee Room 3:

Proceed straight ahead through the double doors, follow the green emergency exit signs to the main Town Hall entrance and proceed to the assembly point at St George's Square.

INFORMATION FOR THE PUBLIC

PURPOSE: To exercise the Council's functions under the Licensing Act 2003.

For further information, or to see the papers, please contact us at the Town Hall:

IN PERSON, 9am to 5pm, Monday to Friday, or

CALL Democratic Services on 01582 547149

ACCESS the Council's Committee Management Information System **at agendas.luton.gov.uk/cmiswebpublic/**

An induction loop facility is available for meetings held in Committee Room 3.

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AGENDA

Agenda Item	*Subject*	*Page No.*

EMERGENCY EVACUATION COMMITTEE ROOM 4

Turn left, follow the green emergency exit signs to the main town hall entrance and proceed to the assembly point at St George's Square.

1. ELECTION OF CHAIR

2. MINUTES

None this time

3. DISCLOSURES OF INTERESTS

Members are reminded that they must disclose both the existence and the nature of any personal interest that they have in any matter to be considered at this meeting.

A Member with a personal interest in any matter to be considered at this meeting will also have a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

A Member who has a prejudicial interest must withdraw from the meeting room unless (s)he has obtained a dispensation from the Council's Standards Committee.

4. URGENT BUSINESS

The Chair to report on any business which is considered to be urgent and which should be discussed at the meeting in accordance with Section 100B(4)(b) of the Local Government Act 1972 and to determine when, during the meeting, any such business should be discussed.

Agenda Item	*Subject*	*Page No*
	REPORT	
5.	**Application for Review of Premises Licence - Luton International Supermarket 9 Wellington Street, Luton.**	1 - 104
6.	**Licensing Act 2003 (Hearings) Regulations 2005** To consider whether the Panel should exclude the public from all or part of the hearing during consideration of any item listed above if the Panel believe that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public, in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.	

Note:

The procedure for oral hearings is attached to this Agenda Page.

BOROUGH OF LUTON

PROCEDURE AT ORAL HEARINGS BEFORE THE

COUNCIL'S LICENSING PANEL

1. The Panel will be assisted on matters of law and procedure by its Clerk who will be one of the Council's Solicitors.

2. The Clerk will give a brief outline of the application and introduce the Members of the Panel, the Licensing Officer, the Applicant and those who have made representations. He/she will ensure that those present understand the procedure to be followed.

3. The hearing will normally be in public. However, the Panel may decide to exclude the public from any part of the meeting, not only the Panel’s deliberations (including the Applicant and those making representations) where it considers that the public interest in doing so outweighs the public interest in the hearing taking place in public.

4. The Licensing Officer will present the report outlining the application and relevant representations.

5. The Panel may question the Licensing Officer.

6. The Applicant may question the Licensing Officer.

7. Those making representations may question the Licensing Officer.

8. The Applicant or his/her representative will present his/her case and call their witnesses.

9. The Panel may question the Applicant

10. Those making representations may question the Applicant

11. Those making representations or their representative will present their case.

12. The Panel may question those making representations.

11. The Applicant may question those making representations.

12. The Applicant will sum up his/her case.

13. Those making representations will then sum up their case (s).

14. The Clerk will then raise any points that need to be raised before the Application is determined.

15. The Applicant and those making representations will be asked whether there is anything further they wish to say.

16. Members will consider whether the public interest of holding their deliberations in private outweighs the public interest in holding their deliberations in public. Where Members consider that they should deliberate in private all persons other than the Members, the Clerk and any person present solely for the purpose of taking notes, shall withdraw from the room. Any advice given by the Clerk to the Panel in private will be repeated to all the parties before the Panel announces their decision.

17. Where the decision must be made at the conclusion of the hearing the Chair will inform the Applicant, the Licensing Officer, and those making representations of its decision and the reasons for it. The decision will be confirmed in writing to all parties within 5 working days.

18. Where the decision is not required to be made at the conclusion of the hearing the panel will inform the parties in writing of its decision and the reasons for it within 5 working days.

Luton

AGENDA ITEM
5

COMMITTEE: LICENSING PANEL

DATE: 28TH DECEMBER 2016

SUBJECT: APPLICATION FOR REVIEW OF PREMISES LICENCE LUTON INTERNATIONAL SUPERMARKET

REPORT BY: SERVICE DIRECTOR OF ENVIRONMENTAL AND CONSUMER SERVICES

CONTACT OFFICER: TONY IRELAND **TEL:** 01582 546040

IMPLICATIONS:

LEGAL	☐	**COMMUNITY SAFETY**	☐
EQUALITIES	☐	**ENVIRONMENT**	☐
FINANCIAL	☐	**OTHER**	☐
STAFFING	☐		

WARDS AFFECTED: SOUTH

PURPOSE

1. The purpose of this report is to enable the Licensing Panel to consider the application received from Trading Standards for the review of the Premises Licence in respect of Luton International Supermarket, 9 Wellington Street Luton LU1 2QH

RECOMMENDATION

2. That the Licensing Panel determine the application from Trading Standards for the review of a Premises Licence in respect of Luton International Supermarket, 9 Wellington Street Luton.

BACKGROUND

3. The Applicant states that they are a responsible authority. The application for review of the premises licence was received on 11th November 2016 with regard to Luton International Supermarket.

A review application has been submitted previously for Luton International Supermarket by Trading Standards in April 2014 for illicit tobacco and evaded duty.

The current licence allows supply of alcohol for consumption off the premises to take place. A copy of the licence is attached at Appendix A. **(pgs 11-18)**

4. The application for review relates to the following licensing objectives:

   The prevention of crime and disorder & Public safety;

   A copy of the review application is attached at Appendix B. **(pgs 19-25)**

5. Information to support the application is as follows:

6. Supporting documents were attached with the application. They consist of:

   i. A witness statement from Trading Standard Enforcement Officers that attended the premises when the tobacco products were seized on a visit on 11.02.2016
   ii. Records and logs of articles seized along with photographs of the tobacco products stored in a microwave.
   iii. A witness statement from a Brand Enforcement Officer who confirmed the Golden Virginia hand rolled tobacco was counterfeit.
   iv. A witness statement from a Technical officer who is responsible for testing of consumer products, who stated the sample would pose a risk of a fire by not self-extinguishing as required by the applicable standard.
   v. Testing sheets for the applicable methodology.
   vi. Witness statement from September 2013 when illicit tobacco was previously found at the premises.

   A copy of the supporting information is attached at Appendix C. **(pgs 26-65)**

7. The applicant has made an application for review relating to this premise before. The Licensing Service received an application for that review on 1st April 2014. This followed the earlier discovery of counterfeit tobacco on the premises. That application was heard by a Panel on 16 May 2014 after the premises licence holder and director had pleaded guilty to offences relating to its possession. At that time the Panel suspended the licence for a period of 28 days. A copy of the earlier report and minutes of the Panel hearing are attached as Appendix D. **(pgs 66-96)**

8. Since the application for review was received the Council has received an application to transfer the licence to a new holder, namely a company which is believed to be owned by same family as the previous holder. Unless the Council receives a representation from the police based on prevention of the Crime and Disorder objective within 14 days of the application the Council must transfer the licence. This does not however, prevent the application for a review being heard by a Panel, nor limit the options available to the Panel. Copies of the application for transfer and the notice of transfer are attached as Appendix E. **(pgs 97-104)**

RESPONSIBLE AUTHORITIES

9. Representations have been received from responsible authorities and are detailed as follows:

Police

None

Fire and Rescue Services

None

Environmental Health or Health and Safety Executive

None

Planning

None

Trading Standards

They are the applicant that submitted the application for the review.

Child Protection

None

INTERESTED PARTIES

10. No representations were received by Interest Parties.

POLICY CONSIDERATIONS

11. The following provisions of the Licensing Act 2003 apply to this application:

Section 51 Application for review of premises licence; and,
Section 52 Determination of application for review.

OBSERVATIONS

12. In determining this application, the Licensing Panel must, having regard to the representations received, and take such of the following steps (which may be more than one) as it considers necessary for the promotion of the licensing objectives. The steps are:

(a) Decide that no action is necessary to promote the licensing objectives;
(b) Modify or add conditions to the licence;
(c) Exclude a licensable activity from the licence;
(d) Remove the designated premises supervisor;
(e) Suspend the licence for a period (not exceeding 3 months); or
(f) Revoke the licence.

13. The licensing objectives are:

- The Prevention of Crime and Disorder;
- The Prevention of Public Nuisance;
- The Protection of Children from Harm; and
- Public Safety.

All the representations received in respect of this application relate to these licensing objectives.

14. The following paragraphs of the licensing authority's statement of licensing policy applies to this application:

Section 7 (Prevention of Crime & Disorder).
Section 8 (Public Safety) and,
Section 11 (Reviews and Expedited Reviews).

APPENDICES

The following Appendices are attached to this report:-

Appendix A: Premises Licence **(pgs 11-18)**

Appendix B: Review Application **(pgs 19-25)**

Appendix C: Supporting Information **(pgs 26-65)**

Appendix D: Copies of previous Panel Report and Minutes **(pgs 66-96)**

Appendix E: Copies of application to transfer and notice of transfer **(pgs 97-104)**

LIST OF BACKGROUND PAPERS
LICENSING ACT 2003

Guidance issued under s182 of the Licensing Act 2003
Luton Borough Council's Statement of Licensing Policy

APPENDIX - A

Part A
Premises Licence

Premises Licence Number	113502
This revision (reference number):	113502
Effective from:	16/05/2014

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
International Supermarket 9 Wellington Street	
Post town Luton	**Post code** LU1 2QH
Telephone number:	

Where the licence is time limited the dates

Start Date 02/09/2011 End Date

Licensable activities authorised by the licence

Supply of alcohol for consumption off the premises

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday – Sunday 07:00 to 24:00

The opening hours of the premises

Monday	07:00 to 24:00
Tuesday	07:00 to 24:00
Wednesday	07:00 to 24:00
Thursday	07:00 to 24:00
Friday	07:00 to 24:00
Saturday	07:00 to 24:00
Sunday	07:00 to 24:00

Seasonal Variations None
Non-standard Timings: None

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Alcohol for consumption off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mehmet Dogan
38 Heacham Close
Luton
LU4 0YJ

Registered number of holder, for example company number, charity number (where applicable)

Not Applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mehmet Dogan
38 Heacham Close
Luton
LU4 0YJ

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Luton Borough Council

114318

Annex 1 - Mandatory conditions

1. Where a premises licence authorises the supply of alcohol:
   a) No supply of alcohol may be made under the premises licence-
      i. at a time when there is no designated premises supervisor in respect of the premises licence, or
      ii. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
   b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 - Conditions consistent with the Operating Schedule

Conditions agreed with applicant and Police Licensing Officer under section 18 to confirm hearing is not necessary 19/09/2011.

1. An incident log shall be kept at the premises and made available on request to an authorised officer of the Town council or the police at all times whilst the premises is open. It will include the date, time and the name of the member of staff making each entry, and which will record the following:

    a. Any refusal of the sale of alcohol
    b. Any complaints received from the public
    c. Any incidents of disorder
    d. Any faults In the CCTV system
    e. All crimes reported by the premises
    f. Any visit by a relevant authority or emergency service.

2. A sign must be displayed asking customer to leave quietly.

3. A CCTV system which is fit for purpose with recording facilities will be in place at site and maintained in good working order. The system will produce images of evidential quality in all light conditions and will have constant, accurate time and date generation. Images will be kept for 31 days and will be made available to the police upon reasonable request.

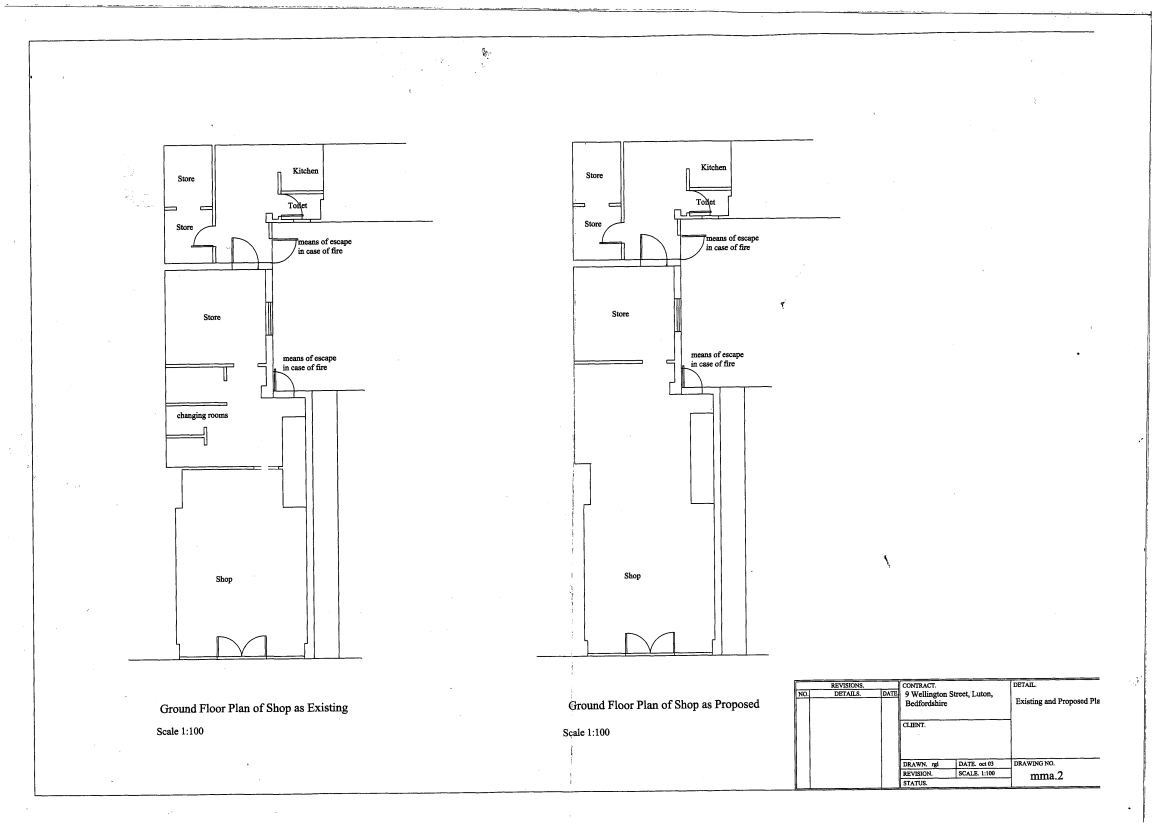
    a. There will be a colour camera covering the entrance/exit door which will be capable of providing a good quality head and shoulder image of persons leaving the premises.

Annex 3 - Conditions attached after a hearing by the licensing authority

Review hearing 16th May 2014 – Premises Licence suspended for 28 days starting 10th June 2014.

Annex 4 - Plans

Note: Plans may not be shown to any scale that may be specified in the drawing.



Part B
Premises Licence Summary

Premises Licence Number	113502
This revision (reference number):	113502
Effective from:	16/05/2014

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
International Supermarket 9 Wellington Street	
Post town Luton	**Post code** LU1 2QH
Telephone number:	

Where the licence is time limited the dates

Start Date 02/09/2011 End Date

Licensable activities authorised by the licence

Supply of alcohol for consumption off the premises

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday – Sunday 07:00 to 24:00

The opening hours of the premises

Monday	07:00 to 24:00
Tuesday	07:00 to 24:00
Wednesday	07:00 to 24:00
Thursday	07:00 to 24:00
Friday	07:00 to 24:00
Saturday	07:00 to 24:00
Sunday	07:00 to 24:00

Seasonal Variations None
Non-standard Timings: None

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Alcohol for consumption off the premises

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Alarengin Ltd
9 Wellington Street
Luton
LU1 2QH

Registered number of holder, for example company number, charity number (where applicable)

Not Applicable

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mrs Insaf Dogan

State whether access to the premises by children is restricted or prohibited

Not Applicable

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, Ian Bartram, 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 **Devran Food Ltd** **trading as Luton International Supermarket** **9 Wellington Street**	
Post town Luton	**Post code** LU1 2QH
Name of premises licence holder or club holding premises certificate (if known) **Mehmet DOGAN**	
Number of premises licence or club premises certificate (if known) 113502	

Part 2 – Applicant details	
I am:	*Please tick*
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	☐
2. a responsible authority ***(please complete (C) below)***	✓
3. a member of the club to which this application relates ***(please complete (A)***	☐

A – Details of individual applicant (fill in as applicable)			
TITLE *(delete as appropriate)*: Mr Mrs Miss Ms Other (please state)			
Surname **Forenames**			
I am 18 years old or over. *Please tick* ✓		Yes ☐	No ☐
Current address			
Post town		**Post code**	
Daytime contact telephone number	**Email address (optional)**		

B – Details of other applicant	
Name and address	
Telephone number (if any)	**Email address (optional)**

C – Details of responsible authority applicant	
Name and address Ian Bartram Trading Standards Service 2nd Floor Clemitson House 44-48 Gordon Street Luton LU1 2QP	
Telephone number (if any) 01582 547105	**Email address (optional)** Ian.bartram@luton.gov.uk

This application to review relates to the following licensing objective(s):	Please tick ✓
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:

On 11th February 2016 an inspection visit was carried out at the business of Devran Food Limited trading as Luton International Supermarket, 9 Wellington Street, Luton, LU1 2QH.

Tobacco products that were non-compliant with the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 were seized.

These products did not have a required prescribed health warning in English and also a required prescribed picture warning on them.

Seized items:

1.5 kg of Golden Virginia hand rolling tobacco, found at rear of the shop.

33 Packets of 20 foreign labelled cigarettes, found in a Microwave by the checkout.

(Witness Statement of Michael Alan Smith refers: Appendix A)

The Golden Virginia was examined by the Trade Mark owners brand enforcement officer and it is deemed to be Counterfeit,

(Witness Statement of Stephen Horsey refers: Appendix B)

A brand known as Bond Street was tested for Reduced Ignition Propensity and it failed.
Reduced Ignition Propensity for cigarettes is a safety issue and constitutes an offence under the General Product Safety Regulations 2005.

(Witness Statement of Stephen John Littlewood and Report number LT909 refers: Appendix C)

On 23rd February 2016 a further inspection visit was carried out and tobacco product was seized for being non-compliant with the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002.

Seized items:

43 packets of 20 cigarettes.

A brand known as Bond Street was tested for Reduced Ignition Propensity and it failed.
Reduced Ignition Propensity for cigarettes is a safety issue and constitutes an offence under the General Product Safety Regulations 2005.

(**Witness Statement of Stephen John Littlewood and Report number LT910 refers: Appendix D)**

Summary of seized tobacco:

1520 cigarettes
1.5 kg hand rolling tobacco

(Witness Statement of Michael Alan Smith refers)

Summary of Offences:

On 11th February 2016 and 23rd February 2016

Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 and Consumer Protection Act 1987 section 12. **(2 offences)**

On 11th February 2016, Trade Marks Act 1994 Section 92 (breach of Trade Mark) **(1 Offence)**

On 11th February 2016 and 23rd February 2016

General Product Safety Regulation 2005 regulation 8(1) and regulation 20(1).
(2 Offences)

Prosecution Result

Following a 'Not Guilty' plea and a subsequent trial

On 4th November 2016 at Luton Magistrates Court Mr Mehmet Dogan as the Director was found Guilty of the 5 offences detailed above.

On 4th November 2016 Devran Foods Ltd the Company was found Guilty of the same 5 offences.

Please provide as much information as possible to support the application:
(please read guidance note 2) (use additional sheets if necessary)

On 8th November 2016 the following fines and costs were imposed.

For Mr Dogan as Director:
4 counts of labelling Fine £440 each
Trade Marks Fine £265
Costs £655
Victim Surcharge £44
Total £2724

For Devran Foods Ltd
4 counts Fine £1015 each
Trade Marks Fine £1015
Costs £1000
Victim Surcharge £101
Total £6176

Recomemendations:

Permanent revocation of the alcohol licence.

Reason for the above recommendation:

The licensee is a repeat offender and the extant offences are of such a serious nature as to justify the revocation of the licence.

The licensee has demonstrated a propensity to commit criminal offences (previous licence suspension refers) and is not a fit and proper person to hold a premises licence.

Trading Standards as a responsible authority recommends revocation due to the seriousness of these offences.

This is supported by guidance issued under section 182 of the Licensing Act 2003.

11.27 There is a certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly Seriously.

One of them being: for the sale of smuggled tobacco and alcohol.

11.28 Guidance states- It is envisaged that licensing authorities, the Police and other Law Enforcement Agencies, which are responsible authorites will use the review procedures to effectively deter such activities in 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.

	Please tick yes ✓
Have you made an application for review relating to these premises before?	✓

	Day	Month	Year
If yes, please state the date of that application	01	April	2014

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

On 16th May 2014 the Licensing Panel Suspended the Premise Licence for 28 days

Summary of facts

On 23rd September 2013 an inspection by the Trading Standards Service was carried out to clamp down on illicit tobacco.

The Trading Standards Service seized:
16180 cigarettes and 1.75kg hand rolling tobacco

The evaded duty on 16180 cigarettes was £4611.30
and on 1.75kg hand rolling tobacco was £395.50

On 11th February 2014 a further seizure, assisted by HMRC, was made consisting

10160 cigarettes and 4.35kg hand rolling tobacco

The evaded cuty on 10160 cigarettes was £2095.60
And on 4.35kg hand rolling tobacco was £971.80

HM Revenue and Customs (HMRC) were satisfied that United Kingdom Excise Duty had not been paid on the said goods the total evasion being £8074.20.

The goods were seized in accordance with section 139 of the Customs & Excise Management Act 1979.

No notice of claim against forfeiture was received within the statutory time limit therefore the tobacco was condemed and forteited in accordance with paragraph 5 schedule 3 to the above legislation.

Witness statement S Dibble, Trading Standards, is attached as Appendix 1
Witness statement F Ozturk, Trading Standards, is attached as Appendix 2
Witness statement M Clark, HMRC, is attached as Appendix 3

The Trading Standards Service recomemended a revocation of the alcohol licence.

The Panel suspended the licence for 28 days.

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 *(please read guidance note 4)*. **If signing on behalf of the applicant please state in what capacity.** **Signature** *I Bartram* *(Signed on the original)* **Date** 11 November 2016 **Capacity** Trading Standards Officer and Inspector of Weights & Measures	
Contact name (where not previously given) and address for correspondence associated with this application *(please read guidance note 5)* As Box C above	
Post Town	**Post Code**
Telephone number (if any)	**Email 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.

APPENDIX -C
Appendix A

Statement of witness

(Criminal Procedure Rules, r 27.2);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF Michael Alan SMITH
Age of witness (if over [18] enter "over [18]"): Over 18

This statement (consisting of 3 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed: [redacted]

Date: 09/05/16

I am a Senior Enforcement Officer with Luton Borough Council Trading Standards and am authorised to enforce to enforce the Consumer Protection Act 1987, the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 and the Trade Marks Act 1994.

On the 11th February 2016, following information received that a premises was selling foreign labelled tobacco, I attended the premises of Luton International Supermarket, 9 Wellington Street, Luton, LU1 2QH. I was accompanied by my colleague Dawn MASSIE, an Investigations Support Officer. We arrived at the premises at 11.15 a.m whereby I met with a person I now know to be the owner Mehmet DOGAN. I showed him my warrant ID card and explained our reasons for attending, i.e., that we had received information he was selling foreign labelled tobacco products and that I intended to do an inspection.

I carried out the inspection in the back areas of the premises and discovered 3 x packs of 10 of foreign labelled Golden Virginia 50g packets of tobacco in a downstairs stockroom. I handed these to Ms MASSIE who entered the details onto a 'RECORD OF ARTICLES SEIZED', herein known as the 'seizure log'

[redacted] 09/05/16.

and placed them into a sealed bag with seal number P00070134. I produce these 3 packets of 10 as exhibits **MAS/1/1-3** respectively.

On searching under the counter, I saw a microwave there which I couldn't open. I asked Mr DOGAN to open it, which after fiddling with the mechanism, he managed to get the door open. In the microwave were 33 packets of various brands of foreign labelled cigarettes. I produce these items as exhibit **MAS/2/1-33** respectively. I handed these to Ms MASSIE who entered them onto the seizure log and placed them into a sealed bag with seal number P00070133. She also completed a 'Notice of Powers and Rights' form. Mr DOHAN tried to explain that the items belonged to a member of his staff and were nothing to do with him. I reminded him that foreign labelled and/or illicit tobacco products should not be in the premises.

I seized these items and handed Mr DOGAN a 'Schedule 5 Consumer Rights Act – Entry Notice', a copy of which I produce as exhibit **MAS/3**. I handed Mr DOGAN the seizure log and Notice of Powers and Rights form to sign. He signed them and I gave him a copy of both of them. I now produce these documents as exhibits **MAS/4** and **MAS/5** respectively. We left the premises at 11.55a.m. whereby on our return to the office, placed the exhibits into secure storage.

On the 23rd February 2016, I visited a number of premises in relation to an illicit tobacco operation. One of these was Luton International Supermarket which I visited with my colleague Stephen DIBBLE, the Trading Standards Team Leader and a representative from Wagtail UK Ltd Chris along with his sniffer dog. We arrived at the premises at 10.15a.m. On searching the premises, there was a carton of 10 packets of foreign labelled Marlboro on top of the microwave under the counter. Inside the microwave were a further 33 packets of foreign labelled cigarettes. I took photographs of the items.

I seized these items and handed Mr DOGAN a 'Schedule 5 Consumer Rights Act – Entry Notice', a copy of which I produce as exhibit **MAS/6**. I handed Mr

[redacted] 09/05/16

DOGAN the seizure log and Notice of Powers and Rights form to sign. He signed them and I gave him a copy of both of them. I now produce these documents as exhibits **MAS/7** and **MAS/8** respectively. I produce the photographs as exhibits **MAS/9/1-3** respectively. We left the premises at 10.35a.m. whereby on our return to the office, placed the exhibits into secure storage.

Signed: [redacted] **Date:** 09/05/16

Contact: Mick Smith
Direct line: 01582 547102
Email: Michael.smith@luton.gov.uk
Our ref:
Your ref:
www.luton.gov.uk

MAS/3

Environment & Regeneration
Business & Consumer Services
Trading Standards
Clemitson House
2nd Floor 44-48 Gordon Street
Luton
LU1 2QP

Tel: 01582 546000
Fax: 01582 546676
Consumer Direct: 03454 04 05 06
Email: tradingstandards@luton.gov.uk

t/a Luton International Supermarket
9 Wellington Street
Luton
LU1 2QH

Date: 11th February 2016

Schedule 5 Consumer Rights Act - Entry Notice

This notice is given in compliance with:

Paragraph 23(6) of Schedule 5 to the Consumer Rights Act 2015 which requires written notice to the occupier (if present) when entering commercial premises.

Purpose of entry:

Under the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002, entry is necessary, to carry out an inspection to check compliance with consumer legislation the officer, (stated above) is authorised to enforce as detailed in schedule 5 of the Consumer Rights Act 2015 whereby the purpose of entry would be defeated if prior notice would be given.

Obstruction offence:

Obstructing a duly authorised officer is an offence. Obstruction includes where a person intentionally obstructs an officer; intentionally fails to comply with instructions given by an officer; without good reason fails to give an officer assistance or information reasonably required; makes a statement or a reckless statement which they know is false or misleading.

Yours sincerely

[redacted]

Mick Smith
Trading Standards

Luton Borough Council
Trading Standards Service

Officers Name:
MICHAEL ALAN SMITH
Exhibit: MAS/3
Case No: PSU 1266

Data Protection Act 1998
We have a policy of open access to records.
Service users have the right to see personal information about themselves held by this department.

LUTON BOROUGH COUNCIL

MAS/4

LUTON BOROUGH COUNCIL

TRADING STANDARD SERVICE
RECORD OF ARTICLES SEIZED
Police and Criminal Evidence Act Code of Practice A.4/B.7

Premises Searched Record No: ..... Date: 11/2/16

Time Commenced: 11.15 Time Concluded: 11.47

Address of Property: LUTON INTERNATIONAL SUPERMARKET
9 WELLINGTON STREET LUTON

Vehicle Registration No: ..... Description: .....

Item No.	Quantity	Description	Location
1	3X 10X50gmS	GOLDEN VIRGINIA CLASSIC	BACK OF SHOP
			EVIDENCE BAG P00070134
2	33PACKETS	VARIOUS PACKETS OF	FRONT OF SHOP - COUNTER
		CIGARETTES	EVIDENCE BAG - P00070133
			Luton Borough Council Trading Standards Service
			Officers Name: MICHAEL ALAN SMITH Exhibit: MAS/4 Case No: PSU1266

Copy of above seizure [redacted]: MEHMET DOGAN

Recipient's Signature [redacted] D.O.B.: 25/05/1950

Officer Signature: [redacted] Position: SENIOR ENFORCEMENT OFFICER.

Application for access to property may be made to:

Trading Standards Service
44-48 Gordon Street
Luton
LU1 2QP

P8267

MAS 15

Notice of Powers and Rights (Officer Copy)

LUTON BOROUGH COUNCIL

To: LUTON INTERNATIONAL SUPERMARKET

Address: 9 WELLINGTON STREET, LUTON, LU1 2QH

Date: 11/2/16 Time in: 11-15 Time out: 11-47

Officer(s): M. SMITH, D. MASSIE Tel: 01582 547102

Person Seen: MEHMET DOGAN Position*: OWNER

* If you are an employee, you should give this notice to the business owner(s) or relevant manager or company director etc.

Trading Standards
Clemitson House
44-48 Gordon Street
Luton
LU1 2QP
tradingstandards@luton.gov.uk

Issued on .....under:

Ref:

THE PROTECTION OF FREEDOMS ACT 2012 (POWERS OF ENTRY CODE) YES ☐ Time.....

THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODE B) YES ☐ Time.....

(Not to be used for Entry with Concent under PACE Code B)

1) Purpose of Inspection

☐ This inspection visit is being carried out under a Judicial Warrant.

☑ This inspection visit is being carried out using statutory powers. Details of the purpose of entry for the purposes contained in the accompanying "Entry Notice"

2) Officers Powers

Authorised officers have a legal right to enter and inspect business premises when they are open for business or at any reasonable time. They may visit by appointment if appropriate but often will not, as to do so may defeat the purpose of the inspection or may not be practicable. You should ask to see an officer's official credentials or identification before allowing them to proceed. It is good practice to do so as criminals do sometimes pose as bogus officials. Powers vary depending on the legislation but in most cases officers will have powers to;

- enter and inspect all parts of the premises
- observe the operation of the business
- interview staff during the inspection
- seize and retain any food, goods, computers or documents that may be required as evidence
- break open containers or vending machines
- make test purchases, take samples and photographs
- inspect and test any goods, equipment or installations
- seize items that are liable to forfeiture
- require the production and take copies of recordings (including computer records), documents and video recordings associated with the business
- access electronic devices to obtain or access information

Where entry is under a warrant any type of premises may be entered - with reasonable force if necessary.

3) Consent of landowner or occupier

The Powers of Entry Code states that "Reasonable effort should also be made to obtain the consent of the landowner or occupier, unless obtaining consent would frustrate the purpose of the visit, for example by causing undue delay". However, if consent is withheld, the power to enter premises and inspect may still exist and failure to allow the entry may be obstruction.

4) Declaration of landowner or occupier

I confirm receipt of this notice . I understand that I am not obliged to give consent and may withdraw any consent at any time, however I also understand that officers may still have lawful authority to enter and exercise powers and understand the consequences or penalty for obstructing officers.

☑ No consent sought (give reasons on back of officer copy)

☐ I hereby [consent] / [do not consent] to officers entering the premises for the stated purpose, under the Code of Practice.

Name of Person signing: M. DOGAN Signat[redacted] Date: 11/2/16

Officers Name: MICHAEL ALAN SMITH

Exhibit: MAS/5

Case No: PSU1266

5) At Action After Exercise of Powers

Approval / Reason for visit: ☐ Warrant ☐ Investigation ☐ Routine Inspection ☐ Project

☐ Other (Give reasons) .....

If warrant, person handed to ..... or left on premises ☐

Was 48 hours advanced notice of date and time of visit given: YES / NO

If not, give reasons .....

If no consent sought, give reasons .....

If consent refused, reasons given .....

Forced Entry YES / NO

Details of damage caused and circumstances whilst on premises .....

.....

.....

6) Persons present

Names of all officers present(unless operationally sensitive)

Names of all person accompanying officers (unless operationally sensitive)

Names of all other persons present (if known)

Details of any request made by the occupier that were refused

Details of any obstructive behaviour by an occupier

Notes

This copy should be scanned along with the following document(s) (where appropriate)

Warrant
Search with Consent Notice

and attached to the Flare visit record

Copies of the seizure records and sieze and sift notices (as appropriate) should be recorded under the Propery records procedure

Contact: Mick Smith MAS/6
Direct line: 01582 547102
Email: Michael.smith@luton.gov.uk
Our ref:
Your ref:
www.luton.gov.uk

Environment & Regeneration
Business & Consumer Services
Trading Standards
Clemitson House
2nd Floor 44-48 Gordon Street
Luton
LU1 2QP

Tel: 01582 546000
Fax: 01582 546676
Consumer Direct: 03454 04 05 06
Email: tradingstandards@luton.gov.uk

t/a Luton International Supermarket
9 Wellington Street
Luton
LU1 2QH

Date: 23rd February 2016

Schedule 5 Consumer Rights Act - Entry Notice

This notice is given in compliance with:

Paragraph 23(6) of Schedule 5 to the Consumer Rights Act 2015 which requires written notice to the occupier (if present) when entering commercial premises.

Purpose of entry:

Under the Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002, entry is necessary, to carry out an inspection to check compliance with consumer legislation the officer, (stated above) is authorised to enforce as detailed in schedule 5 of the Consumer Rights Act 2015 whereby the purpose of entry would be defeated if prior notice would be given.

Obstruction offence:

Obstructing a duly authorised officer is an offence. Obstruction includes where a person intentionally obstructs an officer; intentionally fails to comply with instructions given by an officer; without good reason fails to give an officer assistance or information reasonably required; makes a statement or a reckless statement which they know is false or misleading.

Yours sincerely

Mick Smith
Trading Standards

Luton Borough Council
Trading Standards Service

Officers Name:
MICHAEL ALAN SMITH
Exhibit: MAS/6
Case No: PSU 1266

Data Protection Act 1998
We have a policy of open access to records.
Service users have the right to see personal information about themselves held by this department.

LUTON BOROUGH COUNCIL

MAS/7

LUTON BOROUGH COUNCIL

TRADING STANDARD SERVICE
RECORD OF ARTICLES SEIZED
Police and Criminal Evidence Act Code of Practice A.4/B.7

Premises Searched Record No: ..... Date: 23/2/16

Time Commenced: 10:15 Time Concluded: 10:35

Address of Property: LUTON INTERNATIONAL SUPERMARKET, 9 WELLINGTON STREET, LUTON

Vehicle Registration No: N/A Description: N/A

Item No.	Quantity	Description	Location
1	43	20x Cigarettes	Microwave oven

Luton Borough Council
Trading Standards Service

Officers Name: MICHAEL ALAN SMITH
Exhibit: MAS/7
Case No: PSU/266

Copy of above seizure record handed to (name): Mr DOHAN

Recipient's Signature: [redacted] D.O.B.: 25/05/80

Officer Signature: [redacted] Position: OWNER

Application for access to property may be made to:

Trading Standards Service
44-48 Gordon Street
Luton
LU1 2QP

P8267

MAS/8

Notice of Powers and Rights (Officer Copy)

LUTON BOROUGH COUNCIL

To: Mr DOHAN

Address: LUTON INTERNATIONAL SUPERMARKET 9 Wellington Street

Date: 23/2/16 Time in: 10:15 Time out: 10.35

Officer(s): MICK SMITH Tel: 01582 547102

Person Seen: MR DOHAN Position*: DIRECTOR

* If you are an employee, you should give this notice to the business owner(s) or relevant manager or company director etc.

Trading Standards
Clemitson House
44-48 Gordon Street
Luton
LU1 2QP
tradingstandards@luton.gov.uk

Issued on .....under:

Ref:

THE PROTECTION OF FREEDOMS ACT 2012 (POWERS OF ENTRY CODE) YES ☐ Time.....
THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODE B) YES ☑ Time.....
(Not to be used for Entry with Concent under PACE Code B)

1) Purpose of inspection

☐ This inspection visit is being carried out under a Judicial Warrant.

☐ This inspection visit is being carried out using statutory powers.
- ☐ Details of the purpose of entry is contained in the accompanying "Entry Notice"
- ☐ Details of the purpose of entry is contained in the advanced notice we have sent to you

2) Officers Powers

Authorised officers have a legal right to enter and inspect business premises when they are open for business or at any reasonable time. They may visit by appointment if appropriate but often will not, as to do so may defeat the purpose of the inspection or may not be practicable. You should ask to see an officer's official credentials or identification before allowing them to proceed. It is good practice to do so as criminals do sometimes pose as bogus officials. Powers vary depending on the legislation but in most cases officers will have powers to;

- enter and inspect all parts of the premises
- observe the operation of the business
- interview staff during the inspection
- seize and retain any food, goods, computers or documents that may be required as evidence
- break open containers or vending machines
- make test purchases, take samples and photographs
- inspect and test any goods, equipment or installations
- seize items that are liable to forfeiture
- require the production and take copies of recordings (including computer records), documents and video recordings associated with the business
- access electronic devices to obtain or access information

Where entry is under a warrant any type of premises may be entered - with reasonable force if necessary.

3) Consent of landowner or occupier

The Powers of Entry Code states that "Reasonable effort should also be made to obtain the consent of the landowner or occupier, unless obtaining consent would frustrate the purpose of the visit, for example by causing undue delay". **However, if consent is withheld, the power to enter premises and inspect may still exist and failure to allow the entry may be obstruction.**

4) Declaration of landowner or occupier

I confirm receipt of this notice . I understand that I am not obliged to give consent and may withdraw any consent at any time, however I also understand that officers may still have lawful authority to enter and exercise powers and understand the consequences or penalty for obstructing officers.

☐ No consent sought (give reasons on back of officer copy)
☐ I hereby [consent] / [do not consent] to officers entering the premises for the stated purpose, under the Code of Practice.

Name of Person signing: [redacted] Signature: [redacted] Date: 23/2/16

Officers Name: MICHAEL ALAN SMITH
Exhibit: MAS/8
Case No: BSU 1266

5) At Action After Exercise of Powers

Approval / Reason for visit: ☐ Warrant ☐ Investigation ☐ Routine Inspection ☑ Project

☐ Other (Give reasons) .....

If warrant, person handed to ..... or left on premises ☐

Was 48 hours advanced notice of date and time of visit given: ~~YES~~ / NO

If not, give reasons ..... Defeat purpose of the entry

If no consent sought, give reasons ..... Using statutory powers -

If consent refused, reasons given .....

Forced Entry ~~YES~~ / NO

Details of damage caused and circumstances whilst on premises ..... Nil

.....

.....

6) Persons present

Names of all officers present(unless operationally sensitive)

MICK SMITH, STEPHEN DIBBLE

Names of all person accompanying officers (unless operationally sensitive)

MARC PATRICK WRIGTAIL CHRIS

Names of all other persons present (if known)

Details of any request made by the occupier that were refused

Details of any obstructive behaviour by an occupier

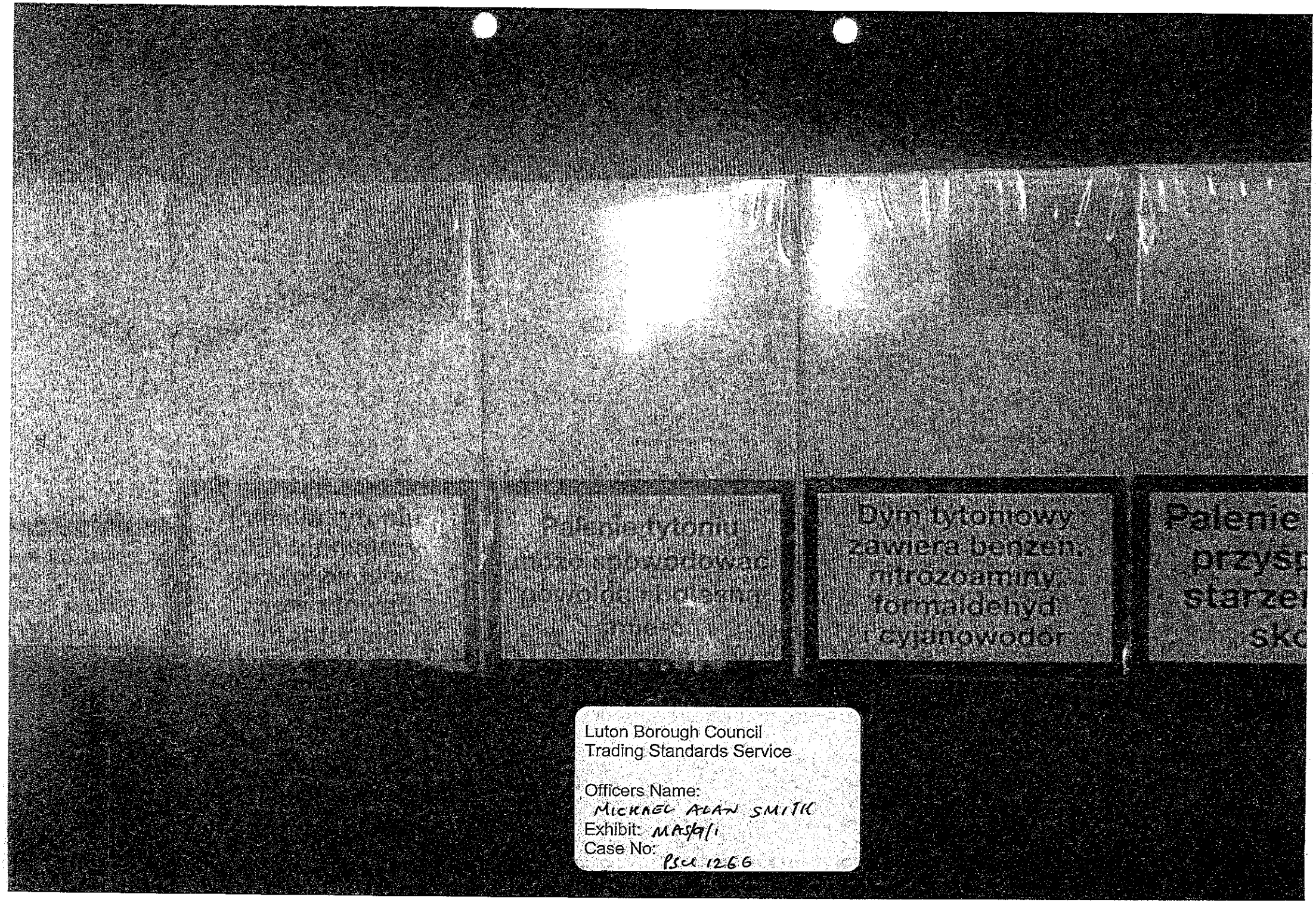
Notes

This copy should be scanned along with the following document(s) (where appropriate)

Warrant
Search with Consent Notice

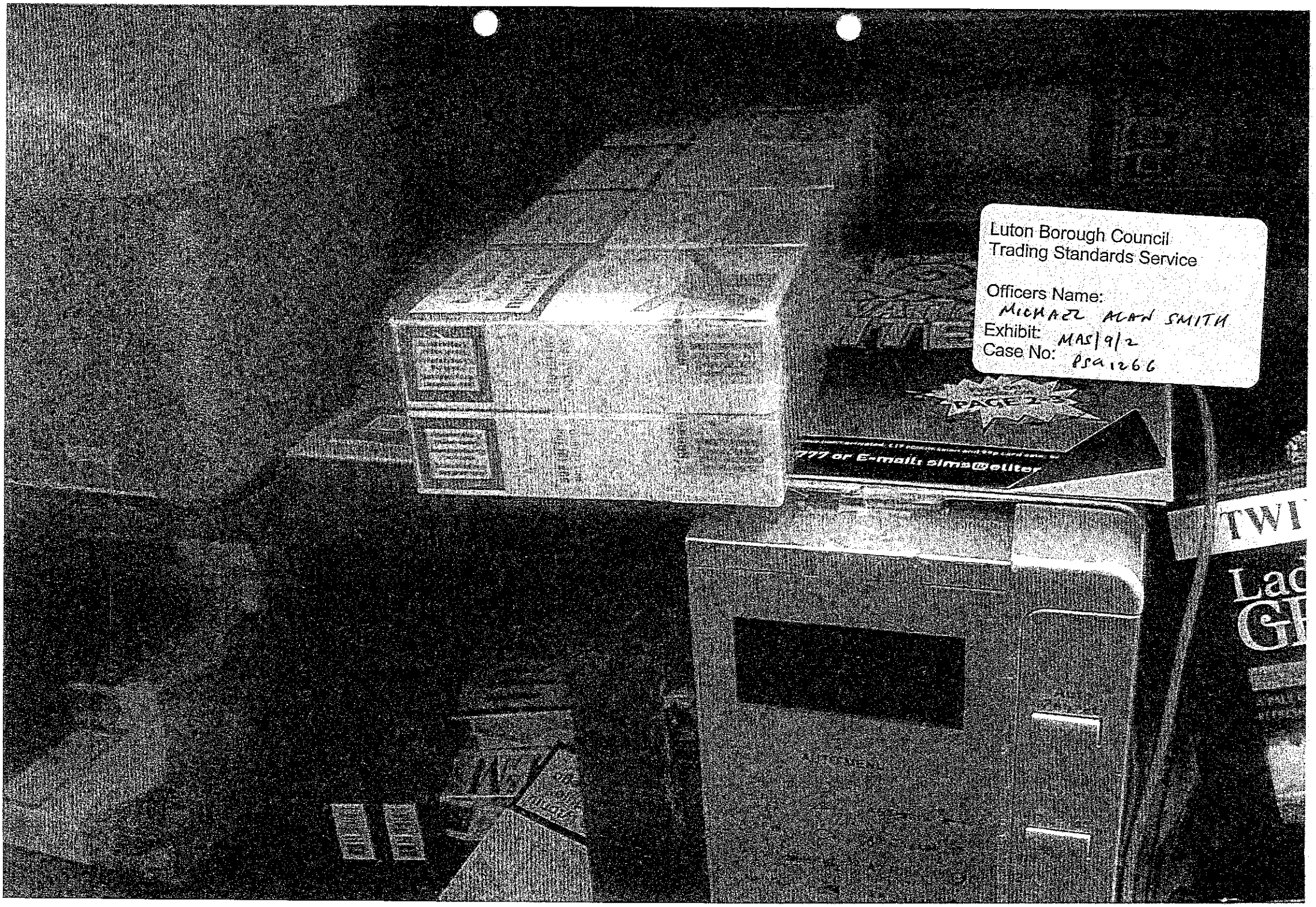
and attached to the Flare visit record.

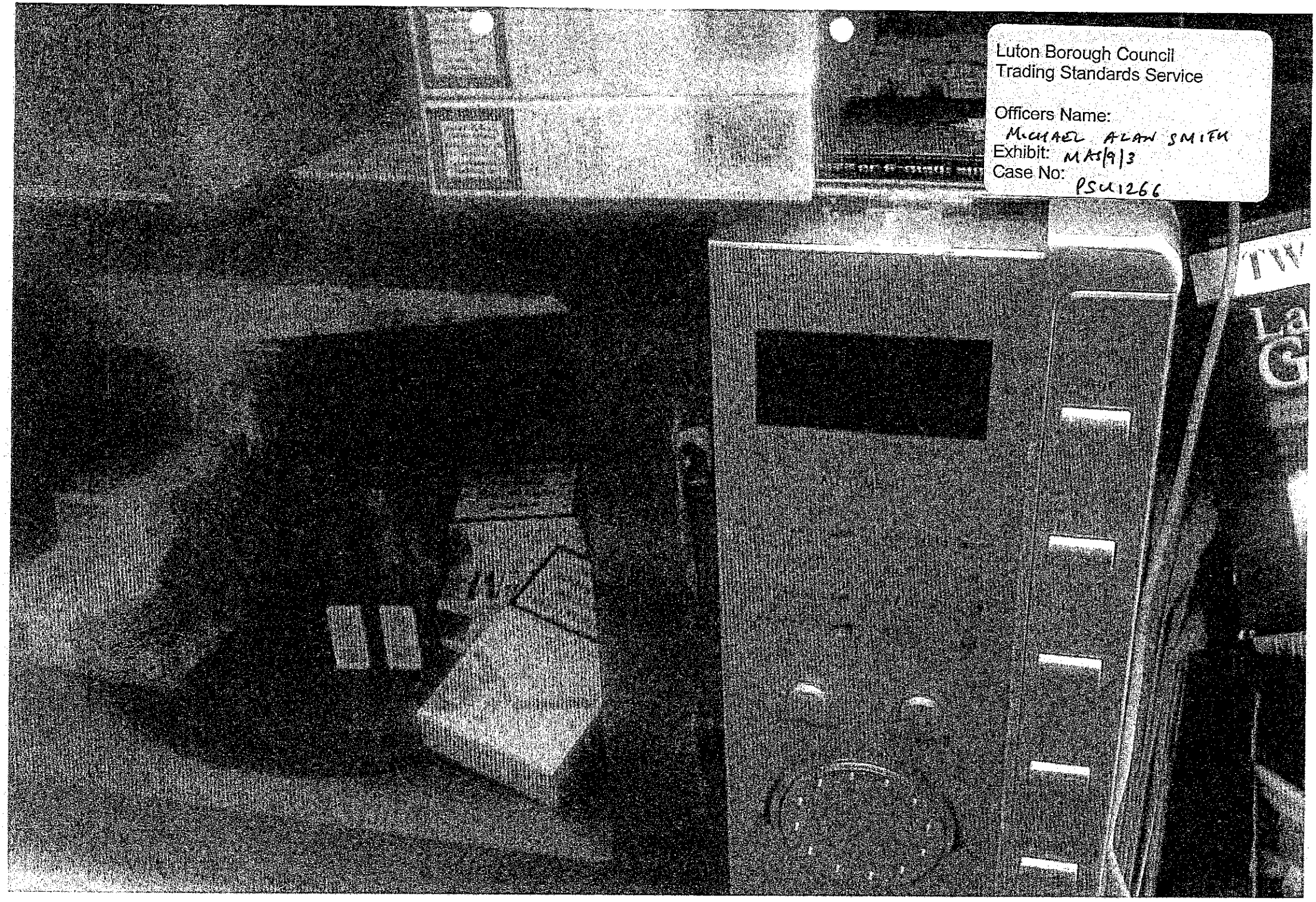
Copies of the seizure records and sieze and sift notices (as appropriate) should be recorded under the Propery records procedure



Luton Borough Council
Trading Standards Service

Officers Name:
MICHAEL ALAN SMITH
Exhibit: MAS/9/1
Case No:
PSU 1266


Luton Borough Council
Trading Standards Service
Officers Name:
MICHAEL ALAN SMITH
Exhibit: MAS/9/2
Case No: PSA1266
777 or E-mail: sims@elite
TWI



Luton Borough Council
Trading Standards Service

Officers Name:
MICHAEL ALAN SMITH
Exhibit: MAS/9/3
Case No:
PSU1266

WITNESS STATEMENT

(Criminal Procedure Rules, r27.1 (1);
Criminal Justice Act 1967, s.9, Magistrates Courts Act 1980, s5B)

Statement of Stephen Horsey

Age of witness: over 18

Occupation of witness: Brand Enforcement Officer

This statement, (consisting of 2 pages each signed by me,) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or not believe to be true.

Dated the 18th February 2016

I am employed by Imperial Tobacco Ltd as a Brand Enforcement Officer. As part of my duties I am responsible for working with Trading Standards Officers and other Law Enforcement Agencies to identify counterfeits of our cigarette and hand rolling tobacco brands.

I am authorised to make this declaration on behalf of Imperial Tobacco Ltd. and I do so from my own knowledge unless otherwise indicated.

I have been employed by Imperial Tobacco Ltd since August 2007 and I am fully trained in the identification of Imperial Tobacco owned brands.

On 17th February 2016 at the offices of Luton Trading Standards I spoke to Ramesh Patel and examined the following products:

1) 30x50g packs of Golden Virginia hand rolled tobacco in bag P00070134. After examination they were all returned to Ramesh Patel and placed in the same bag.

The print and materials used in the manufacture of all of the above products is not consistent with Imperial Tobacco Ltd specifications.

Signed_

Consequently, I can state that the pouches of tobacco which I have examined are not made by Imperial Tobacco Ltd nor did Imperial Tobacco Ltd authorise their manufacture or sale.

They are in fact all counterfeit.

I can confirm that Imperial Tobacco Ltd owns the registered trademark for Golden Virginia hand rolled tobacco.

I produce copies of the Trade Mark certificates in respect of this brand.
(Exhibit SH1).

I can say that while our tobacco is produced to certain consistent standards as regards Nicotine and Carbon Monoxide content, the content of counterfeit tobacco is unregulated.

I am willing to support any action deemed necessary by trading standards and I am prepared to attend Court.

Signed_____ [redacted]

(SH1) [redacted]

TRADE MARKS REGISTRY

Trade Marks Act 1994 of

REGISTRATION CERTIFICATE

Great Britain and Northern Ireland

The marks shown below have been registered as a series of three marks under No. 2600203 as of the date 04 November 2011.

The marks have been registered in respect of:

Class 34:
Tobacco, whether manufactured or unmanufactured; tobacco products; tobacco substitutes, not being for medicinal or curative purposes; hand rolling tobacco; cigarette papers, cigarette tubes, cigarette filters, pocket cigarette rolling machines, hand held machines for injecting tobacco into paper tubes; smokers' articles and matches.

In the name of Imperial Tobacco Limited

The mark on this certificate was filed in colour and is reproduced here in colour. It has been scanned as accurately as our equipment allows but you should refer to the application form, which is available for public inspection, and any colour standard provided by the applicant to determine the exact colour(s).

Signed this day at my direction

[redacted]

JOHN ALTY, *Registrar of Trade Marks Intellectual Property Office*

DATE 10 February 2012

Intellectual Property Office is an operating name of the Patent Office

GATESHEAD COUNCIL

Appendix C

STATEMENT OF WITNESS

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s 9; Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: Stephen John Littlewood
AGE: (if over 18 enter "over 18"): _Over 18
OCCUPATION: Technical Officer
ADDRESS: Saltmeadows Road, Gateshead, NE8 3AH

TEL NO. Home: _____ **Business: 0191 478 4550**

This statement consisting of...1.. page(s) each signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the ...10th ..... day of ...March..... 2016

Signed ....[redacted].

I am employed as a Technical Officer for Gateshead Council. I am based at The Metrology Laboratory, and I am responsible for the testing of consumer products. On the 8th March 2016, the laboratory received a sample of Bond Street Filter Cigarettes from Ramesh Patel of Luton Trading Standards in a sealed evidence bag with the identification number S00105480. The cigarettes were tested against the provisions of BS EN ISO 12863:2010 for Reduced Ignition Propensity and the report LT909 was compiled of which I introduce as exhibit SJL-1. This report shows the sample failed the requirement of the standard. In my opinion this sample would not meet the General Product Safety Requirement in that a discarded cigarette would pose a risk of fire by not self-extinguishing as required by the standard. The packaging of the sample was placed into a sealed evidence bag with the identification number S00105481, and returned to Luton Trading Standards on March 10th 2016. X [redacted]

Signed:

.....[redacted].....

Gateshead Council

Exhibit Label

Exhibit SJL-1 Report LT909

Signed [redacted]

Dated 10/03/2016

Reduced Ignition Propensity – Screen Test for Cigarettes BS EN ISO 12863:2010

Bond Street 20 Filter Cigarettes

S00105480

Metrology Laboratory

Report Number LT909

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE
Metrology Laboratory
Saltmeadows Road
Gateshead
Tyne and Wear NE8 3AH
Tel/Fax: (0191) 4784550
Email: metrologylaboratory@gateshead.gov.uk
www.legalmetrology.info

Tyne & Wear

Report Number LT909

Submitted By: Luton Borough Council
Trading Standards
Town Hall
Luton
LU1 2BQ

Date Submitted: 8th March 2016

Date of Testing: 9th March 2016

Description and identification:

Two packs of Bond Street 20 Filter Cigarettes submitted in a sealed evidence bag with the identification number S0010580.

Methodology:

Samples boxes are opened and the contents removed and left for 24 hours to acclimatise to the environmental conditions of 20 degrees Celsius and a relative humidity of 50%. Whatman grade 2, 150 mm filter papers are previously conditioned for 8 hours in groups of 10.

The test chamber is to be placed centrally in the fume cupboard with the access door towards the opening. The substrate holder is placed into the test chamber on blocks raising it 20 mm from the floor. The 10 filter papers are to be placed in the holder and the weighting ring added. The appropriate wires are added to prevent the cigarette rolling during the test.

Take the first cigarette to be tested and from the non filter end mark a line 5 mm on the seam with a soft pencil. Mark another line 15 mm from the end. Ignite the cigarette and rotate until there is an even burn and when it has reached the 5 mm line transfer the holder into the test chamber.

When the cigarette burn has reached the 15 mm line remove from the holder and place onto the filter paper substrate with the filter end between the wires to prevent rolling and the seam facing up. Close the chamber door and open the chimney of the test chamber. There should be an undisturbed plume of smoke if the chamber is set up correctly.

The cigarette is left until it extinguishes, at the filter junction which is a fail or along the column before it reaches the filter junction which is a pass. A pass is defined if 75% of the 40 test pieces self extinguishes.

Reduced Ignition Propensity – Screen Test for Cigarettes BS EN ISO 12863:2010

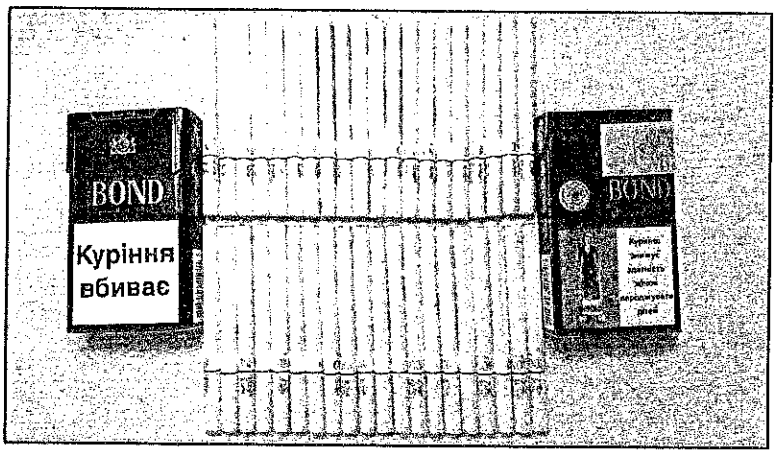
Sample Number	S00105480	Date	9th March 2016
Officer	SJ Littlewood	Test Report No.	LT909
Sample of...	2 x Bond Street 20 Filter Cigarettes		ID Tag S00105480

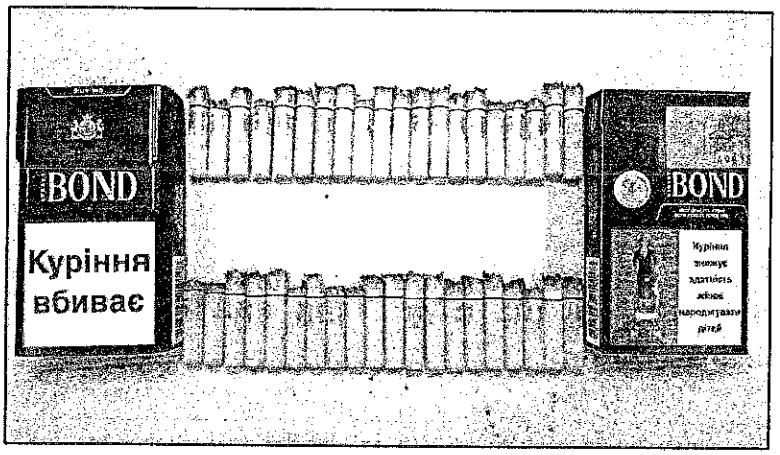
Test Piece	Pass	Fail	Test Piece	Pass	Fail
1		X	21		X
2		X	22		X
3		X	23		X
4		X	24		X
5		X	25		X
6		X	26		X
7		X	27		X
8		X	28		X
9		X	29		X
10		X	30		X
11		X	31		X
12		X	32		X
13		X	33		X
14		X	34		X
15		X	35		X
16		X	36		X
17		X	37		X
18		X	38		X
19		X	39		X
20		X	40		X

Number of Passes	0	Number of Failures	40
Percentage Pass	0.0%	Result of Test	FAIL

Reduced Ignition Propensity – Screen Test for Cigarettes BS EN ISO 12863:2010

Sample Number	S00105480	Date	9th March 2016
Officer	SJ Littlewood	Test Report No.	LT909
Sample of...	2 x Bond Street 20 Filter Cigarettes		ID Tag S00105480





Number of Passes	0	Number of Failures	40
Percentage FLB (Full Length Burn)	100.0%	Result of Test	FAIL
Notes			
Submitted by	Luton Borough Council		
Signature of Officer	[redacted]		

Appendix D

GATESHEAD COUNCIL

STATEMENT OF WITNESS

(Criminal Procedure Rules, r 27.1(1); Criminal Justice Act 1967, s 9; Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: Stephen John Littlewood
AGE: (if over 18 enter "over 18"): _Over 18
OCCUPATION: Technical Officer
ADDRESS: Saltmeadows Road, Gateshead, NE8 3AH

TEL NO. Home: _____ **Business: 0191 478 4550**

This statement consisting of...1.. page(s) each signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the ...10th ..... day of ...March..... 2016

Signed ...[redacted]

I am employed as a Technical Officer for Gateshead Council. I am based at The Metrology Laboratory, and I am responsible for the testing of consumer products. On the 8th March 2016, the laboratory received a sample of Bond Street Filter Cigarettes from Ramesh Patel of Luton Trading Standards in a sealed evidence bag with the identification number S00105489. The cigarettes were tested against the provisions of BS EN ISO 12863:2010 for Reduced Ignition Propensity and the report LT910 was compiled of which I introduce as exhibit SJL-2. This report shows the sample failed the requirement of the standard. In my opinion this sample would not meet the General Product Safety Requirement in that a discarded cigarette would pose a risk of fire by not self-extinguishing as required by the standard. The packaging of the sample was placed into a sealed evidence bag with the identification number S00105483, and returned to Luton Trading Standards on March 10th 2016. X [redacted]

Signed: [redacted]

Gateshead Council

Exhibit Label

Exhibit SJL-2 Report LT910

Signed [redacted]

Dated 10/03/2016

Reduced Ignition Propensity – Screen Test for Cigarettes BS EN ISO 12863:2010

Bond Street 20 Filter Cigarettes

S00105489

Metrology Laboratory

Report Number LT910

TYNE AND WEAR TRADING STANDARDS JOINT COMMITTEE
Metrology Laboratory
Saltmeadows Road
Gateshead
Tyne and Wear NE8 3AH
Tel/Fax: (0191) 478 4550
Email: metrologylaboratory@gateshead.gov.uk
www.legalmetrology.info

Tyne & Wear

Report Number LT910

Submitted By: Luton Borough Council
Trading Standards
Town Hall
Luton
LU1 2BQ

Date Submitted: 8th March 2016

Date of Testing: 10th March 2016

Description and identification:

Two packs of Bond Street 20 Filter Cigarettes submitted in a sealed evidence bag with the identification number S0010589.

Methodology:

Samples boxes are opened and the contents removed and left for 24 hours to acclimatise to the environmental conditions of 20 degrees Celsius and a relative humidity of 50%. Whatman grade 2, 150 mm filter papers are previously conditioned for 8 hours in groups of 10.

The test chamber is to be placed centrally in the fume cupboard with the access door towards the opening. The substrate holder is placed into the test chamber on blocks raising it 20 mm from the floor. The 10 filter papers are to be placed in the holder and the weighting ring added. The appropriate wires are added to prevent the cigarette rolling during the test.

Take the first cigarette to be tested and from the non filter end mark a line 5 mm on the seam with a soft pencil. Mark another line 15 mm from the end. Ignite the cigarette and rotate until there is an even burn and when it has reached the 5 mm line transfer the holder into the test chamber.

When the cigarette burn has reached the 15 mm line remove from the holder and place onto the filter paper substrate with the filter end between the wires to prevent rolling and the seam facing up. Close the chamber door and open the chimney of the test chamber. There should be an undisturbed plume of smoke if the chamber is set up correctly.

The cigarette is left until it extinguishes, at the filter junction which is a fail or along the column before it reaches the filter junction which is a pass. A pass is defined if 75% of the 40 test pieces self extinguishes.

Reduced Ignition Propensity – Screen Test for Cigarettes BS EN ISO 12863:2010

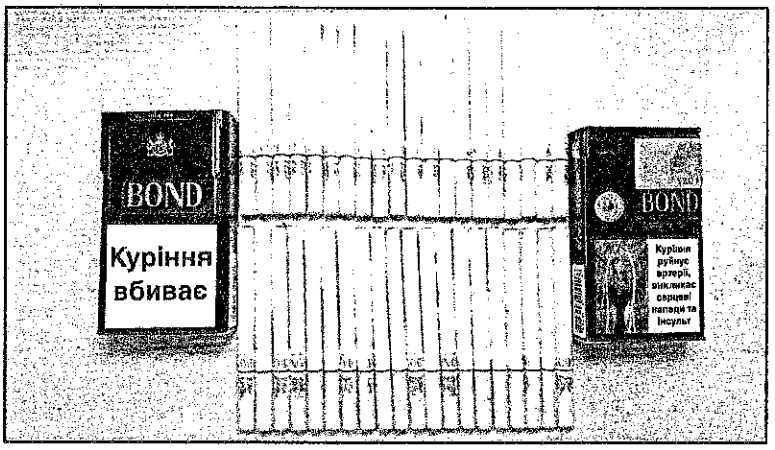
Sample Number	S00105489	Date	10th March 2016
Officer	SJ Littlewood	Test Report No.	LT910
Sample of...	2 x Bond Street 20 Filter Cigarettes		ID Tag S00105489

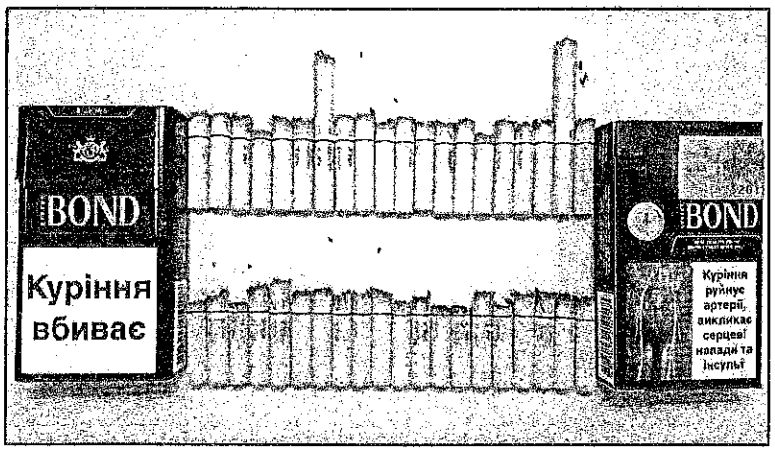
Test Piece	Pass	Fail	Test Piece	Pass	Fail
1		X	21		X
2		X	22		X
3		X	23		X
4		X	24		X
5		X	25		X
6		X	26		X
7	X		27		X
8		X	28		X
9		X	29		X
10		X	30		X
11		X	31		X
12		X	32		X
13		X	33		X
14		X	34		X
15		X	35		X
16		X	36		X
17		X	37		X
18		X	38		X
19	X		39		X
20		X	40		X

Number of Passes	2	Number of Failures	38
Percentage Pass	5.0%	Result of Test	FAIL

Reduced Ignition Propensity – Screen Test for Cigarettes BS EN ISO 12863:2010

Sample Number	S00105489	Date	10th March 2016
Officer	SJ Littlewood	Test Report No.	LT910
Sample of...	2 x Bond Street 20 Filter Cigarettes		ID Tag S00105489





Number of Passes	2	Number of Failures	38
Percentage FLB (Full Length Burn)	95.0%	Result of Test	FAIL
Notes			
Submitted by	Luton Borough Council		
Signature of Officer	[redacted]		

Appendix 1
1 page.

Statement of witness

(Criminal Procedure Rules, r 27.2);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF **Stephen Dibble**

Age of witness (if over [18] enter "over [18]"): Over 18

This statement (consisting of 1 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true. [redacted]

Signed ..... Date ....11/3/2014.....

I am employed by Luton Borough Council as the Trading Standards Team Leader. I am an authorised officer under the Consumer Protection Act 1987.

On the 23rd September 2013, following receipt of information that Luton International Stores, 9 Wellington Street, Luton, was selling illicit tobacco products, I visited the shop accompanied by Dawn Massie in order to carry out an inspection of their store of tobacco products.

I entered the shop at around 11:45am and introduced myself to a person who gave his name as Mehmet DOGAN. Mr DOGAN stated he was the owner of the premises. On the floor in boxes behind the counter of the shop I found a large quantity of mixed tobacco products which had warning labelling in a language other than English.

I therefore believed that offences had been committed in respect of the labelling under the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, regulation 14 and Consumer Protection Act 1987 section 12 and I informed Mr DOGAN I would be seizing the products.

I cautioned Mr DOGAN and asked him to confirm he was the owner, which he did. I asked him where the tobacco came from and he responded that it was from people who came into his shop. I asked how much he paided and he responded less than £40 for 10 packs. I asked if he had any contact details for the sellers and he said no.

The tobacco was sealed in bags and Mr DOGAN was given a receipt which I produce as exhibit SJ[redacted]

Signed: ...[redacted]..... (witness)

Date: .....11/3/2014.....

Appendix 2.
8pages

Statement of witness

(Criminal Procedure Rules, r 27.2);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF **FIGEN OZTURK**

Age of witness (if over [18] enter "over [18]"):

This statement (consisting of 8 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

I am employed by Luton Borough Council Trading Standards Service as an Enforcement Officer and as such I am authorised to enforce the provisions of The Trade Marks Act 1994, The Consumer Protection Act 1987 and the regulations made under such as The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 as amended.

On the 11th February 2014 as part of a joint operation with the HMRC at around 10.10 am I visited a business on 9th Wellington Street in Luton. I was accompanied by Robert Henderson, Principal Trading Standards Officer for Luton Borough Council and Richard Eve and Matt Clark for HMRC.

I introduced myself to this person who was sitting behind the counter. There was no other person working in the shop. I informed him that we were going to check the tobacco products in the shop to ensure that they comply with the law. I also informed him that we previously visited this premises and found many illegal tobacco products. I asked for his business details. The person gave me his business name as Luton International Supermarket Limited and

his name as MEHMET DOGAN and I issued Code B.

Behind the counter area, downstairs, the shop floor were checked by HMRC and found tobacco products without fiscal marks. I and Mr Henderson assisted placing these products in evidence bags and sealing the bags with seals. The seal numbers of the bags were A003750 containing about 2,260 multi brand cigarettes, A003708 containing about 5,700 cigarettes, A003796 containing about 4.3 kg of Hand Rolling Tobacco and A003721 containing about 2,200 cigarettes.

A specialist dog and a dog handler from Wagtail also assisted us in searching for tobacco products.

I saw Mr Clark give Mr DOGAN a seizure information notice for these tobacco products. We removed the bags from the shop about 11 am and placed them in our departmental transit.

On the 6th March 2014 at around 14.30 pm I went to departmental store area to identify the tobacco products that was seized by the HMRC on the 11th February 2014. I was accompanied by Janis Green, Enforcement Officer for Luton Borough Council. I located the bags which were A003750, A003708, A003796 and A003721. Mrs Green assisted me in counting the tobacco products in the bags.

I opened the following bag with seal number A003750 and counted the

cigarettes. They were as follows;

560 cigarettes with the brand name of Marlboro,

180 cigarettes with the brand name of Kent,

320 cigarettes with the brand name of NZ (Gold),

140 cigarettes with the brand name of LD Violet,

260 cigarettes with the brand name of LD (Blue),

320 cigarettes with the brand name of LM (Blue),

280 cigarettes with the brand name of LM (Green),

80 cigarettes with the brand name of Camel,

20 cigarettes with the brand name of Marble (Gold) and

100 cigarettes with the brand name of Lifa.

The total number of cigarettes was 2,260. We placed them in a new bag including the old bag and the seal and resealed the bag with the seal number of A003782.

I opened bag number A003708 and counted the cigarettes. They were as follows;

2,000 cigarettes with the brand name of Marlboro,

200 cigarettes with the brand name of LD,

200 cigarettes with the brand name of Kent,

400 cigarettes with the brand name of Queen Menthol,

800 cigarettes with the brand name of Marlboro (Red),

400 cigarettes with the brand name of Lifa,

400 cigarettes with the brand name of Kent,

200 cigarettes with the brand name of LM Link,

200 cigarettes with the brand name of LD Violet,

400 cigarettes with the brand name of NZ (Gold) and

520 cigarettes with the brand name of LM Link.

The total number of cigarettes was 5,720. We placed them in a new bag including the old bag and the seal and resealed the bag with the seal number of A003711.

I opened the bag number A003796 and counted the hand rolling tobacco products and there were 4 kg 350 g of Golden Virginia products and we placed them in a new bag including the old bag and the seal. I resealed the bag with the seal number of A003789.

I counted the cigarettes in the bag with the seal number of A003721 without opening the bag. There were 2,200 cigarettes with the brand name of LD.

I logged them in the book kept in the store. At around 15.30 we left the store.

On the 10th March 2014 at around 12.20 pm I went to departmental store area to identify the tobacco products seized on the 23rd of September 2013 by Stephen Dibble, Trading Standards Service Team Leader for Luton Borough Council. I was accompanied by Dawn Massie, Investigation Support Officer and Ramesh Patel Enforcement Officer for Luton Borough Council. We located the bags which were with seal numbers of R00117677, R00117674, R00117676 and R00117644. Ms Massie and Mr Patel assisted me in counting the tobacco products in the bags.

We first opened the bag with seal number of R00117677 and the tobacco products were in a box. We emptied the box and counted the cigarettes. They were as follows;

400 cigarettes with the brand name of Lifa Menthol (Superslim),

200 cigarettes with the brand name of L&M Link Mint,

200 cigarettes with the brand name of L&M Link (Blue),

400 cigarettes with the brand name of West (Red),

400 cigarettes with the brand name of West (Silver),

200 cigarettes with the brand name of Regal King Size,

800 cigarettes with the brand name of L&M (Red),

380 cigarettes with the brand name of L&M (Blue),

400 cigarettes with the brand name of NZ (Gold Superslim),

200 cigarettes with the brand name of West (Black Plus) and

1,780 cigarettes with the brand name of Marlboro.

We placed the cigarettes and the bag into a new bag and resealed the bag with a seal number of A003792. We placed the box in another bag and sealed the bag with a seal number of A003784. The total numbers of cigarettes were 5,360.

We then opened bag with a seal number of R00117674. The cigarettes were in a box and we emptied the box and then counted the cigarettes. They were as follows;

400 cigarettes with the brand name of NZ (gold superslim),

400 cigarettes with the brand name of NZ (black superslim),

600 cigarettes with the brand name of Lifa Menthol (superslim),

400 cigarettes with the brand name of LD violet (superslim),

400 cigarettes with the brand name of Marlboro (red),

600 cigarettes with the brand name of Marlboro (gold),

800 cigarettes with the brand name of Regal (King size),

800 cigarettes with the brand name of West (Silver),

400 cigarettes with the brand name of West (red) and

800 cigarettes with the brand name of L&M (red).

The box and the old bag placed in a bag and sealed the bag with seal number of A003705. The total number of cigarettes was 5,600.

We then opened the bag with the seal number of R00117676. There were 3 bags; yellow, white and a black bag. We emptied the bags and counted the number of cigarettes.

The yellow bag contained the following cigarettes;

200 cigarettes with the brand name of L&M link,

400 cigarettes with the brand name of L&M Link (Blue),

200 cigarettes with the brand name of L&M Link Mint,

400 cigarettes with the brand name of L&M (Blue label),

200 cigarettes with the brand name of Lifa (strawberry superslim) and

400 cigarettes with the brand name of LD (violet superslim).

The white bag contained the following cigarettes;

40 cigarettes with the brand name of Regal King size,

20 cigarettes with the brand name of West (black),

450 g with the brand name of Amber leaf and

1300 g with the brand name of Golden Virginia.

The bags, cigarettes and the old bag placed in a bag and sealed the bag with a seal number of A003742. The total number of cigarettes was 1,860 and 1,750 g of hand rolling tobacco.

We then opened the bag number of R00117644. The cigarettes were in an orange bag. We emptied the bag and counted the cigarettes. They were as follows;

120 cigarettes with the brand name of NZ (Black superslim),

520 cigarettes with the brand name of NZ (Gold superslim),

40 cigarettes with the brand name of Queen Menthol,

20 cigarettes with the brand name of Karella (slims),

400 cigarettes with the brand name of Lifa (menthol superslim),

40 cigarettes with the brand name of West (Red),

160 cigarettes with the brand name of West (Black),

280 cigarettes with the brand name of West (Silver),

40 cigarettes with the brand name of L&M (Blue pocket),

360 cigarettes with the brand name of L&M (Red),

260 cigarettes with the brand name of Regal (King size),

340 cigarettes with the brand name of Marlboro (Red) and

780 cigarettes with the brand name of Marlboro (Gold).

We placed the cigarettes, the orange bag and the old bag in another bag and sealed the bag with the seal number of A003728. The total number of cigarettes was 3,360.

We left the store about 1.15 pm

Signed: [redacted] ..... (witness)

Date: .....17/3/2014.....

(To be completed if applicable: ..... being unable to read the above statement I, ... of ..... read it to him/her before he/she signed it.

Signed: ..... **Date:** .....

Appendix 3.
2 pages

RESTRICTED (when complete)

MG11
(HMRC)

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Matthew Clark

Age if under 18:Over 18 *(if over 18 insert 'over 18')*

Occupation:HM Revenue Customs and Excise

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: [redacted] Date: 13/03/2014

Tick if witness evidence is visually recorded ☐ *(supply witness details on rear)*

On 11th February 2014 at 10.15 hours I was on duty with Officer Eve, when I entered Luton International Supermarket, 9 Wellington Street, Luton, LU1 2QH. I identified myself as an Officer of HM Revenue and Customs to the owner of the shop, Mr Mehmet Dogan. The search was conducted in accordance with The Customs and Excise Management Act, 1979, section 112. A total of Two thousand, two hundred and sixty (2260), non UK duty paid cigarettes were found under the sales counter. Mehmet provided me with a till receipt. I noticed that the receipt showed the name of the shop to be Devran Food Limited. I then interviewed Mehmet.

Clark: How much do you sell the cigarettes for?

Dogan: Between £4.00 and £4.50

Clark: Are the cigarettes counterfeit or smuggled?

Dogan: Don't know.

Clark: How much did you pay for them?

Dogan: £25.00 for 200 box.

Clark: How many have you sold?

Date: 13/03/14
Signature: [redacted]
(signature of witness)

Signature:
(signature witnessed by)

2012

RESTRICTED (when complete)

Dogan: Fifteen (15) packets

I put the cigarettes into a Tamper Evidant Bag (TEB) displaying seal numbers A003750. I then warned the owner about selling non UK duty paid cigarettes. At 10.25 hours I seized the cigarettes and issued a Seizure Notice and Warning Letter. An additional search was conducted with a tobacco dog and more non UK duty paid excise goods were found, namely 7900 (KSF) cigarettes and 4.35 kilograms of tobacco. The cigarettes were placed in Temper Evidant Bags displaying seal numbers A003708, A003721, and the hand rolling tobacco was placed in TEB A003796. These excise goods were seized at 10.55 hours. I left the premises at 11.00 hours. The total quantity of cigarettes seized was Ten thousand one hundred sixty cigarettes (10,160) and 4.35 kilograms of hand rolling tobacco. The total excise duty for the seized goods is approximately £3301.00.

M.C.

Date: 13/3/[illegible]

Signatur[redacted]

(signature of witness)

Signature:

(signature witnessed by)

COMMITTEE: **LICENSING PANEL**

DATE: **16TH MAY 2014**

SUBJECT: **APPLICATION FOR REVIEW OF PREMISES LICENCE – LUTON INTERNATIONAL SUPERMARKET, 9 WELLINGTON STREET LUTON**

REPORT BY: **HEAD OF ENVIRONMENTAL AND CONSUMER SERVICES**

CONTACT OFFICER: **TONY IRELAND** **TEL:** **546040**

IMPLICATIONS:

LEGAL	☐	**COMMUNITY SAFETY**	☐
EQUALITIES	☐	**ENVIRONMENT**	☐
FINANCIAL	☐	**OTHER**	☐
STAFFING	☐		

WARDS AFFECTED: **SOUTH**

PURPOSE

1. The purpose of this report is to enable the Licensing Panel to consider the application received from Ramesh Patel of Trading Standards for the review of the Premises Licence in respect of Luton International Supermarket, 9 Wellington Street Luton

RECOMMENDATION

2. That the Licensing Panel determine the application of Ramesh Patel on behalf of Trading Standards for the review of a Premises Licence in respect of Luton International Supermarket.

BACKGROUND

3. An application for review of the premises licence was received on 1st April 2014 with regard to Luton International Supermarket, 9 Wellington Street Luton. The current licence allows supply of alcohol to take place off the premises. A copy of the licence is attached at Appendix A.

4. The Applicant states that they are a responsible authority.

5. The application for review relates to the following licensing objectives:

   The prevention of crime and disorder

   The tobacco products seized were non-compliant and were in breach of the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, regulation 14 and Consumer Protection Act 1987

   Public safety

   None

The prevention of public nuisance

None

The protection of children from harm

None

A copy of the review application is attached at Appendix B.

6. On Monday 28th April 2014 at Luton Magistrates Court a hearing was held in relation to the seized items. Mr Dogan pleaded guilty and was fined £200.00 for one offence and had no separate penalty imposed for the other. He was also ordered to pay £310.00 in costs together with a £20.00 victim surcharge.

7. Information to support the application is as follows:
Witness Statement from Trading Standards Officers Stephen Dibble and Figen Ozturk. Witness Statement from Matthew Clark of HM Revenue and Customs and Excise.

A copy of the supporting information is attached at Appendix B.

8. The applicant has made an application for review relating to this premise before, but it was deemed refused as they did not comply with the Licensing Act 2003 requirements.

9. The premises has not received any previous applications for review

RESPONSIBLE AUTHORITIES

10. Representations have been received from responsible authorities and are detailed as follows:

Police

None

Fire and Rescue Services

None

Environmental Health or Health and Safety Executive

None

Planning

None

Trading Standards

Trading Standards are the department that called for the Review of the Premises Licence at Luton International Supermarket, 9 Wellington Street Luton. The application was submitted on 1st April 2014.

Child Protection

None

INTERESTED PARTIES

11. Representations have not been received from interested parties.

POLICY CONSIDERATIONS

12. The following provisions of the Licensing Act 2003 apply to this application:

Section 51	Application for review of premises licence
Section 52	Determination of application for review

OBSERVATIONS

13. In determining this application, the Licensing Panel must, having regard to the representations received, and take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:

    (a) Decide that no action is necessary to promote the licensing objectives
    (b) Modify or add conditions to the licence
    (c) Exclude a licensable activity from the licence
    (d) Remove the designated premises supervisor
    (e) Suspend the licence for a period (not exceeding 3 months)
    (f) Revoke the licence

14. The licensing objectives are:

    - The Prevention of Crime and Disorder
    - The Prevention of Public Nuisance
    - The Protection of Children from Harm
    - Public Safety

    All the representations received in respect of this application relate to these licensing objectives.

15. The following paragraphs of the licensing authority's statement of licensing policy applies to this application

    Section 7 (Prevention of Crime & Disorder)

APPENDICES

The following Appendices are attached to this report:-

Appendix A: Premises Licence

Appendix B: Review Application & Supporting Information

LIST OF BACKGROUND PAPERS
LICENSING ACT 2003

Guidance issued under s182 of the Licensing Act 2003
Luton Borough Council's Statement of Licensing Policy

LUTON BOROUGH COUNCIL

Premises Licence Register

Premises Licence Number 113502

This revision (reference number): 113502
Effective from: 02/9/2011

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
International Supermarket 9 Wellington Street	
Post town Luton	**Post code** LU1 2QH
Telephone number:	

Where the licence is time limited the dates

Start Date 02/09/2011 End Date

Licensable activities authorised by the licence

Supply of alcohol for consumption off the premises

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday – Sunday 07:00 to 24:00

The opening hours of the premises

Monday	07:00 to 24:00
Tuesday	07:00 to 24:00
Wednesday	07:00 to 24:00
Thursday	07:00 to 24:00
Friday	07:00 to 24:00
Saturday	07:00 to 24:00
Sunday	07:00 to 24:00

Seasonal Variations None
Non-standard Timings: None

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Alcohol for consumption off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence
Mehmet Dogan 38 Heacham Close Luton LU4 0YJ

Registered number of holder, for example company number, charity number (where applicable)
Not Applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol
Mehmet Dogan

Annex 1 - Mandatory conditions

1. Where a premises licence authorises the supply of alcohol:
   a) No supply of alcohol may be made under the premises licence-
      i. at a time when there is no designated premises supervisor in respect of the premises licence, or
      ii. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
   b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 - Conditions consistent with the Operating Schedule

Conditions agreed with applicant and Police Licensing Officer under section 18 to confirm hearing is not necessary 19/09/2011.

1. An incident log shall be kept at the premises and made available on request to an authorised officer of the Town council or the police at all times whilst the premises is open. It will include the date, time and the name of the member of staff making each entry, and which will record the following:

    a. Any refusal of the sale of alcohol
    b. Any complaints received from the public
    c. Any incidents of disorder
    d. Any faults In the CCTV system
    e. All crimes reported by the premises
    f. Any visit by a relevant authority or emergency service.

2. A sign must be displayed asking customer to leave quietly.

3. A CCTV system which is fit for purpose with recording facilities will be in place at site and maintained in good working order. The system will produce images of evidential quality in all light conditions and will have constant, accurate time and date generation. Images will be kept for 31 days and will be made available to the police upon reasonable request.

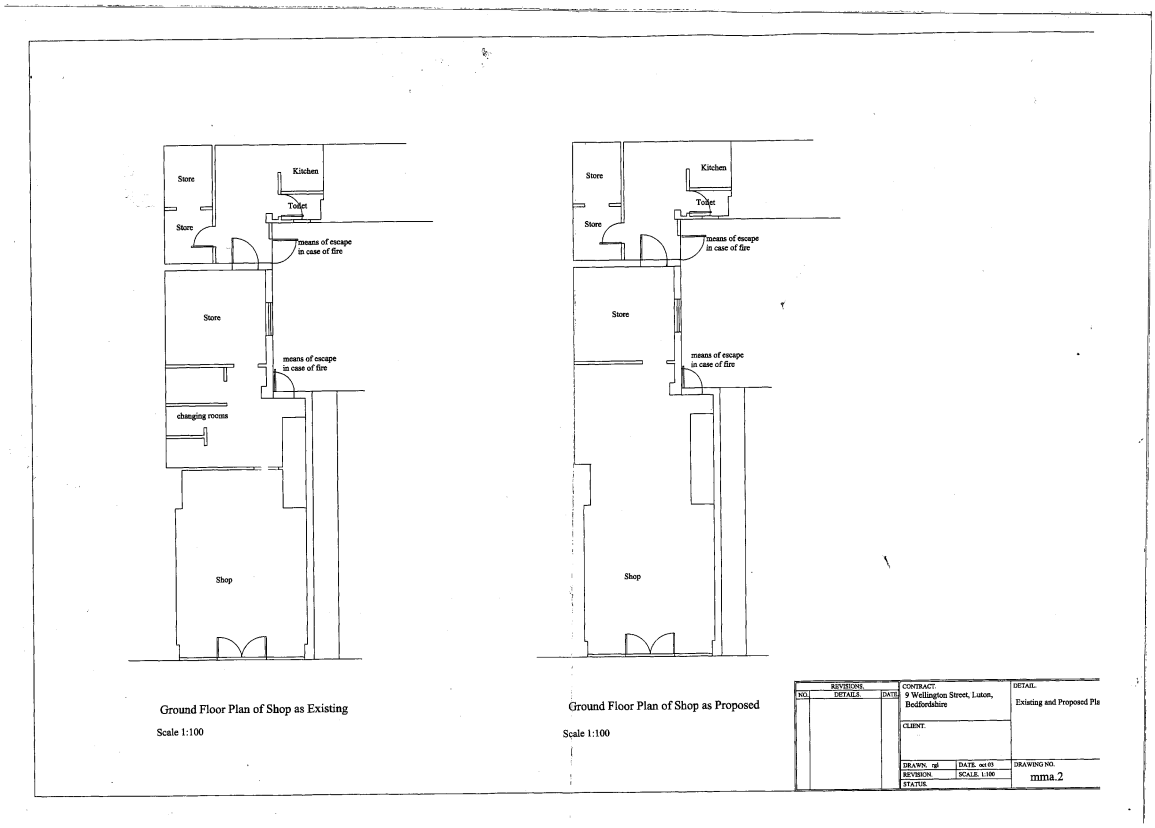
    a. There will be a colour camera covering the entrance/exit door which will be capable of providing a good quality head and shoulder image of persons leaving the premises.

Annex 3 - Conditions attached after a hearing by the licensing authority

Not Applicable

Annex 4 - Plans

Note: Plans may not be shown to any scale that may be specified in the drawing.



Licensing Service, Luton Borough Council, Town Hall, Luton, LU1 2BQ

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 Ramesh Patel
(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 *(indicate as applicable)*

Part 1 – Premises or Club Premises details	
Postal address of premises or, if none, ordnance survey map reference or description Luton International Supermarket, "Ground Floor Shop", 9 Wellington Street	
Post town Luton	**Post code** LU1 2QH
Name of premises licence holder or club holding premises certificate (if known) **Mehmet Dohan**	
Number of premises licence or club premises certificate (if known) 113502	

Part 2 – Applicant details	
I am:	*Please tick*
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)***	☐

Licensing Service, Luton Borough Council, Town Hall, Luton, LU1 2BQ

A – Details of individual applicant (fill in as applicable)			
TITLE *(tick as appropriate)*: Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other (please state)			
Surname **Forenames**			
I am 18 years old or over.	*Please tick*	Yes ☐	No ☐
Current address			
Post town		**Post code**	
Daytime contact telephone number	**Email address (optional)**		

B – Details of other applicant	
Name and address	
Telephone number (if any)	**Email address (optional)**

C – Details of responsible authority applicant	
Name and address Ramesh Patel Trading Standards Service 2nd Floor Clemitson House 44-48 Gordon Street Luton LU1 2QP	
Telephone number (if any) 01582 547115	**Email address (optional)** ramesh.patel@luton.gov.uk

This application to review relates to the following licensing objective(s):	Please tick
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)

The tobacco products seized were non compliant and were in breach of the the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, regulation 14 and Consumer Protection Act 1987 section 12.

Please provide as much information as possible to support the application:
(please read guidance note 2) (use additional sheets if necessary)

On 23rd September 2013 an inspection by the Trading Standards Service was carried out to clamp down on illicit tobacco.

The Trading Standards Service, seized : 16180 cigarettes and 1.75kg hand rolling tobacco

The evaded duty on 16180 cigarettes is £4611.30 and on 1.75kg hand rolling tobacco is £395.50

On 11th February 2014 the HM Revenue and Customs (HMRC) were satisfied that United Kingdom Excise Duty had not been paid on the said goods.

10160 cigarettes and 4.35kg hand rolling tobacco

The evaded cuty on 10160 cigarettes is £2095.60 and 4.35kg hand rolling tobacco is £971.80

The goods were seized in accordance with section 139 of the Customs & Excise Management Act 1979.

No notice of claim against forfeiture was received within the statutory time limit therefore the tobacco is condemed as forteited in accordance with paragraph 5 schedule 3 to the above legislation.

A witness statement from Stephen Dibble Trading Standards Service is attached as Appendix 1
A witness statement from Figen Ozturk Trading Standards Service is attached as Appendix 2
A witness statement from HMRC is attached as Appendix 3

Recomemendations:

A revocation of the alcohol licence.

Reason for the above recommendation;

Trading Standards as aresponsible authority recommends revocation due to the seriousness of the illicit trade..

This is supported by guidance issued under section 182 of the Licensing Act 2003

11.27 There is a certian criminal activity that may arise in connection with lecensed premises, which the Secretary of State considers should be treated particularly Seriously.

One of them being ; - for the sale of smuggled tobacco and alcohol.

11.28 Guidance states- It is envisaged that licensing authorities, the Police and other Law Enforcement Agencies, which are responsible authorites will use the review procedures to effectively deter such activities in 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.

Please tick yes

Have you made an application for review relating to this premises before? ☐

If yes, please state the date of that application

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 *(please read guidance note 4)*. **If signing on behalf of the applicant please state in what capacity.**

Signature ..... [redacted] .....

Date .....01/04/14.....

Capacity ...ENFORCEMENT OFFICER TRADING STANDARDS

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

Post town	**Post Code**
Telephone number (if any)	**Email 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.

Appendix 1
1 page.

Statement of witness

(Criminal Procedure Rules, r 27.2);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF **Stephen Dibble**

Age of witness (if over [18] enter "over [18]"): Over 18

This statement (consisting of 1 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed .....[redacted]..... Date .....11/3/2014.....

I am employed by Luton Borough Council as the Trading Standards Team Leader. I am an authorised officer under the Consumer Protection Act 1987.

On the 23rd September 2013, following receipt of information that Luton International Stores, 9 Wellington Street, Luton, was selling illicit tobacco products, I visited the shop accompanied by Dawn Massie in order to carry out an inspection of their store of tobacco products.

I entered the shop at around 11:45am and introduced myself to a person who gave his name as Mehmet DOGAN. Mr DOGAN stated he was the owner of the premises. On the floor in boxes behind the counter of the shop I found a large quantity of mixed tobacco products which had warning labelling in a language other than English.

I therefore believed that offences had been committed in respect of the labelling under the Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002, regulation 14 and Consumer Protection Act 1987 section 12 and I informed Mr DOGAN I would be seizing the products.

I cautioned Mr DOGAN and asked him to confirm he was the owner, which he did. I asked him where the tobacco came from and he responded that it was from people who came into his shop. I asked how much he paided and he responded less than £40 for 10 packs. I asked if he had any contact details for the sellers and he said no.

The tobacco was sealed in bags and Mr DOGAN was given a receipt which I produce as exhibit SJ[redacted]

Signed: ....[redacted]..... (witness)

Date: .....11/3/2014.....

Appendix 2.
8pages

Statement of witness

(Criminal Procedure Rules, r 27.2);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF **FIGEN OZTURK**

Age of witness (if over [18] enter "over [18]"):

This statement (consisting of 8 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

I am employed by Luton Borough Council Trading Standards Service as an Enforcement Officer and as such I am authorised to enforce the provisions of The Trade Marks Act 1994, The Consumer Protection Act 1987 and the regulations made under such as The Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 as amended.

On the 11th February 2014 as part of a joint operation with the HMRC at around 10.10 am I visited a business on 9th Wellington Street in Luton. I was accompanied by Robert Henderson, Principal Trading Standards Officer for Luton Borough Council and Richard Eve and Matt Clark for HMRC.

I introduced myself to this person who was sitting behind the counter. There was no other person working in the shop. I informed him that we were going to check the tobacco products in the shop to ensure that they comply with the law. I also informed him that we previously visited this premises and found many illegal tobacco products. I asked for his business details. The person gave me his business name as Luton International Supermarket Limited and

his name as MEHMET DOGAN and I issued Code B.

Behind the counter area, downstairs, the shop floor were checked by HMRC and found tobacco products without fiscal marks. I and Mr Henderson assisted placing these products in evidence bags and sealing the bags with seals. The seal numbers of the bags were A003750 containing about 2,260 multi brand cigarettes, A003708 containing about 5,700 cigarettes, A003796 containing about 4.3 kg of Hand Rolling Tobacco and A003721 containing about 2,200 cigarettes.

A specialist dog and a dog handler from Wagtail also assisted us in searching for tobacco products.

I saw Mr Clark give Mr DOGAN a seizure information notice for these tobacco products. We removed the bags from the shop about 11 am and placed them in our departmental transit.

On the 6th March 2014 at around 14.30 pm I went to departmental store area to identify the tobacco products that was seized by the HMRC on the 11th February 2014. I was accompanied by Janis Green, Enforcement Officer for Luton Borough Council. I located the bags which were A003750, A003708, A003796 and A003721. Mrs Green assisted me in counting the tobacco products in the bags.

I opened the following bag with seal number A003750 and counted the

cigarettes. They were as follows;

560 cigarettes with the brand name of Marlboro,

180 cigarettes with the brand name of Kent,

320 cigarettes with the brand name of NZ (Gold),

140 cigarettes with the brand name of LD Violet,

260 cigarettes with the brand name of LD (Blue),

320 cigarettes with the brand name of LM (Blue),

280 cigarettes with the brand name of LM (Green),

80 cigarettes with the brand name of Camel,

20 cigarettes with the brand name of Marble (Gold) and

100 cigarettes with the brand name of Lifa.

The total number of cigarettes was 2,260. We placed them in a new bag including the old bag and the seal and resealed the bag with the seal number of A003782.

I opened bag number A003708 and counted the cigarettes. They were as follows;

2,000 cigarettes with the brand name of Marlboro,

200 cigarettes with the brand name of LD,

200 cigarettes with the brand name of Kent,

400 cigarettes with the brand name of Queen Menthol,

800 cigarettes with the brand name of Marlboro (Red),

400 cigarettes with the brand name of Lifa,

400 cigarettes with the brand name of Kent,

200 cigarettes with the brand name of LM Link,

200 cigarettes with the brand name of LD Violet,

400 cigarettes with the brand name of NZ (Gold) and

520 cigarettes with the brand name of LM Link.

The total number of cigarettes was 5,720. We placed them in a new bag including the old bag and the seal and resealed the bag with the seal number of A003711.

I opened the bag number A003796 and counted the hand rolling tobacco products and there were 4 kg 350 g of Golden Virginia products and we placed them in a new bag including the old bag and the seal. I resealed the bag with the seal number of A003789.

I counted the cigarettes in the bag with the seal number of A003721 without opening the bag. There were 2,200 cigarettes with the brand name of LD.

I logged them in the book kept in the store. At around 15.30 we left the store.

On the 10th March 2014 at around 12.20 pm I went to departmental store area to identify the tobacco products seized on the 23rd of September 2013 by Stephen Dibble, Trading Standards Service Team Leader for Luton Borough Council. I was accompanied by Dawn Massie, Investigation Support Officer and Ramesh Patel Enforcement Officer for Luton Borough Council. We located the bags which were with seal numbers of R00117677, R00117674, R00117676 and R00117644. Ms Massie and Mr Patel assisted me in counting the tobacco products in the bags.

We first opened the bag with seal number of R00117677 and the tobacco products were in a box. We emptied the box and counted the cigarettes. They were as follows;

400 cigarettes with the brand name of Lifa Menthol (Superslim),

200 cigarettes with the brand name of L&M Link Mint,

200 cigarettes with the brand name of L&M Link (Blue),

400 cigarettes with the brand name of West (Red),

400 cigarettes with the brand name of West (Silver),

200 cigarettes with the brand name of Regal King Size,

800 cigarettes with the brand name of L&M (Red),

380 cigarettes with the brand name of L&M (Blue),

400 cigarettes with the brand name of NZ (Gold Superslim),

200 cigarettes with the brand name of West (Black Plus) and

1,780 cigarettes with the brand name of Marlboro.

We placed the cigarettes and the bag into a new bag and resealed the bag with a seal number of A003792. We placed the box in another bag and sealed the bag with a seal number of A003784. The total numbers of cigarettes were 5,360.

We then opened bag with a seal number of R00117674. The cigarettes were in a box and we emptied the box and then counted the cigarettes. They were as follows;

400 cigarettes with the brand name of NZ (gold superslim),

400 cigarettes with the brand name of NZ (black superslim),

600 cigarettes with the brand name of Lifa Menthol (superslim),

400 cigarettes with the brand name of LD violet (superslim),

400 cigarettes with the brand name of Marlboro (red),

600 cigarettes with the brand name of Marlboro (gold),

800 cigarettes with the brand name of Regal (King size),

800 cigarettes with the brand name of West (Silver),

400 cigarettes with the brand name of West (red) and

800 cigarettes with the brand name of L&M (red).

The box and the old bag placed in a bag and sealed the bag with seal number of A003705. The total number of cigarettes was 5,600.

We then opened the bag with the seal number of R00117676. There were 3 bags; yellow, white and a black bag. We emptied the bags and counted the number of cigarettes.

The yellow bag contained the following cigarettes;

200 cigarettes with the brand name of L&M link,

400 cigarettes with the brand name of L&M Link (Blue),

200 cigarettes with the brand name of L&M Link Mint,

400 cigarettes with the brand name of L&M (Blue label),

200 cigarettes with the brand name of Lifa (strawberry superslim) and

400 cigarettes with the brand name of LD (violet superslim).

The white bag contained the following cigarettes;

40 cigarettes with the brand name of Regal King size,

20 cigarettes with the brand name of West (black),

450 g with the brand name of Amber leaf and

1300 g with the brand name of Golden Virginia.

The bags, cigarettes and the old bag placed in a bag and sealed the bag with a seal number of A003742. The total number of cigarettes was 1,860 and 1,750 g of hand rolling tobacco.

We then opened the bag number of R00117644. The cigarettes were in an orange bag. We emptied the bag and counted the cigarettes. They were as follows;

120 cigarettes with the brand name of NZ (Black superslim),

520 cigarettes with the brand name of NZ (Gold superslim),

40 cigarettes with the brand name of Queen Menthol,

20 cigarettes with the brand name of Karelia (slims),

400 cigarettes with the brand name of Lifa (menthol superslim),

40 cigarettes with the brand name of West (Red),

160 cigarettes with the brand name of West (Black),

280 cigarettes with the brand name of West (Silver),

40 cigarettes with the brand name of L&M (Blue pocket),

360 cigarettes with the brand name of L&M (Red),

260 cigarettes with the brand name of Regal (King size),

340 cigarettes with the brand name of Marlboro (Red) and

780 cigarettes with the brand name of Marlboro (Gold).

We placed the cigarettes, the orange bag and the old bag in another bag and sealed the bag with the seal number of A003728. The total number of cigarettes was 3,360.

We left the store about 1.15 pm.

Signed: [redacted] ..... (witness)

Date: .....17/3/2014.....

(To be completed if applicable: ..... being unable to read the above statement I, ... of ..... read it to him/her before he/she signed it.

Signed: ..... **Date:** .....

Appendix 3.
2 pages

RESTRICTED (when complete)

MG11
(HMRC)

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Matthew Clark

Age if under 18:Over 18 *(if over 18 insert 'over 18')*

Occupation:HM Revenue Customs and Excise

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: [redacted] Date: 13/03/2014

Tick if witness evidence is visually recorded ☐ *(supply witness details on rear)*

On 11th February 2014 at 10.15 hours I was on duty with Officer Eve, when I entered Luton International Supermarket, 9 Wellington Street, Luton, LU1 2QH. I identified myself as an Officer of HM Revenue and Customs to the owner of the shop, Mr Mehmet Dogan. The search was conducted in accordance with The Customs and Excise Management Act, 1979, section 112. A total of Two thousand, two hundred and sixty (2260), non UK duty paid cigarettes were found under the sales counter. Mehmet provided me with a till receipt. I noticed that the receipt showed the name of the shop to be Devran Food Limited. I then interviewed Mehmet.

Clark: How much do you sell the cigarettes for?

Dogan: Between £4.00 and £4.50

Clark: Are the cigarettes counterfeit or smuggled?

Dogan: Don't know.

Clark: How much did you pay for them?

Dogan: £25.00 for 200 box.

Clark: How many have you sold?

Date: 13/03/14
Signature: [redacted]
(signature of witness)

Signature:
(signature witnessed by)

Dogan: Fifteen (15) packets

I put the cigarettes into a Tamper Evidant Bag (TEB) displaying seal numbers A003750. I then warned the owner about selling non UK duty paid cigarettes. At 10.25 hours I seized the cigarettes and issued a Seizure Notice and Warning Letter. An additional search was conducted with a tobacco dog and more non UK duty paid excise goods were found, namely 7900 (KSF) cigarettes and 4.35 kilograms of tobacco. The cigarettes were placed in Temper Evidant Bags displaying seal numbers A003708, A003721, and the hand rolling tobacco was placed in TEB A003796. These excise goods were seized at 10.55 hours. I left the premises at 11.00 hours. The total quantity of cigarettes seized was Ten thousand one hundred sixty cigarettes (10,160) and 4.35 kilograms of hand rolling tobacco. The total excise duty for the seized goods is approximately £3301.00.

M.C.

Date: 13/3/14

Signature: [redacted]

(signature of witness)

Signature:

(signature witnessed by)

AGENDA ITEM
2.1

LICENSING PANEL (335)

16TH MAY 2014 at 10.00 a.m.

PRESENT: Councillors Davis, Lewis and Mead

OFFICERS: Amy Bacon - Licensing Manager's Representative
Clive Tobin – Clerk to the Panel (Solicitor)
Bert Siong – Democracy & Scrutiny Officer
Rochelle White – Trainee Solicitor

55. ELECTION OF CHAIR (REF: 1)

Resolved: That Councillor Lewis be elected Chair of Panel Number 335.

56. MINUTES (REF: 2.1)

Withdrawn as meeting of 9th May 2014 was cancelled.

57. APPLICATION FOR REVIEW OF PREMISES LICENCE - LUTON INTERNATIONAL SUPERMARKET, 9 WELLINGTON STREET, LUTON (REF: 6)

PRESENT:

APPLICANT: Ramesh Patel, Trading Standard Services

OTHER PARTIES: Mehmet Dogan, Licence Holder
Philip Worral, Licence Holder's Representative

ALSO PRESENT Dawn Massie, Trading Standard Services

The Chair introduced the Panel.

The Clerk to the Panel explained the procedure at oral hearings before the Council's Licensing Panel to those parties present.

The Licensing Manager's representative reported on an application received from Ramesh Patel of Trading Standards for the review of the premises licence in respect of Luton International Supermarket, 9 Wellington Street Luton.

The Licence Holder and his representative were in attendance as listed above. The Licensing Manager's representative reported that no representations had been received from other persons or Responsible Authorities, relating to the Licensing Objectives.

There were no questions from the Panel or the Licence Holder for the Licensing Manager's representative.

The Applicant spoke in support of his application, presenting key aspects of the evidence as submitted in Appendix B to the report of the Licensing Manager's representative (Ref: 6). He further requested that additional documentary evidence, which had been served on the Licence Holder, be considered by the Panel. The document, an additional statement from Figen Ozturk, with photographic evidence of tobacco products seized on 11th February, was accepted and examined by the Panel.

The Applicant re-iterated the Guidance issued under the Licensing Act 2003, which stated crime including the sale of smuggled tobacco and alcohol should be treated seriously and in an application to review the premises licence, revocation of the licence should be seriously considered, even in the first instance. On that basis he requested that the Panel consider revoking the premises licence. He added the applicant had said at Magistrates' Court that the cigarettes and tobacco seized were for personal use and use by friends and family.

The Applicant was questioned by the Panel and responded in compliance with the approved procedure, providing further clarification as follows:

- There were 2 visits to the premises, on 21st September 2013 and 11th February 2014, when illegal tobacco products were seized;
- The Licence holder was informed why the seizures were made;
- No test purchase had been carried out;
- The cigarettes were found under the counter and hidden under other produce;
- The visits were as a result of intelligence received;
- The licence holder had admitted when questioned to selling the cigarettes for £4.00 to £4.50 a packet.

The applicant was then questioned by Mr Worral, the Licence Holder's representative and responded in compliance with the approved procedure, providing further clarifications as follows:

- The charges and conviction of the Licensee was for failing to display health warnings on the cigarette packets, not for evading duty;
- There were two charges for the whole amount of cigarettes seized;
- The Licensee had admitted to Mr Clarke of Her Majesty's Revenue and Customs (HMRC), that he only sold 15 packets of cigarettes;
- The tobacco products were hidden under the counter and under other produce;
- His source of intelligence could not be revealed;
- HMRC only prosecute for evasion of duty of over £10,000;
- He could not provide any evidence other than what was in the statements about whether the tobacco products were smuggled or not.

Mr Worral then spoke in support of the Licence Holder making the following key points:

- Mr Dogan, the Licensee had been at the Wellington Street Store for some time and this was the only offence against him;
- The premises had been well run, with no complaints in respect of drunkenness and alcohol sale;
- The current premises had played a part in re-vitalising Wellington Street and Mr Dogan wished to keep standards up;
- He had pleaded guilty and been fined;
- Friends had brought in the cigarettes from abroad, not smuggled;
- Mr Dogan was a good citizen and the licensed premises was the sole source of income for him and his family;
- Mr Dogan accepted there would be a penalty, but requested that the Panel did not revoke his licence, as this would remove his livelihood.

The Licence Holder was questioned by the Panel and his representative responded in compliance with the approved procedure, providing further information as follows:

- It was not Mr Dogan's intention to evade duty, but he accepted duty was payable on the 15 packs of cigarettes he had sold;
- Mr Dogan accepted HMRC had penalised him by the seizure of the cigarettes and tobacco, although he was not prosecuted due to HMRC's threshold for prosecution;
- The cigarettes and tobacco were not intended for sale to the general public, only to those who understood the language;
- The cigarettes and tobacco were brought in by friends and family through their normal allowance, not smuggled;
- Although he had done it again after the first seizure because people had deposited goods with him, he did not wish to lose his licence and will not do it again;

The Licence Holder was questioned by the Applicant and his representative responded in compliance with the approved procedure, providing further information as follows:

- The cigarettes and tobacco had been found under the counter;
- Mr Dogan had pleaded guilty at Magistrates' Court.

The Licence Holder was questioned by the Licensing Officer and he responded in compliance with the approved procedure, providing further information as follows:

- He stated he had been told by Trading Standards on the first occasion that he could not sell the cigarettes and tobacco;
- The letter sent by Trading Standards went to his old address.

The Applicant summed up as follows:

- Illegal cigarettes and tobacco had been on sale and were seized when the premises had been visited on two occasions after receiving intelligence;
- He requested the premises licence be revoked.

Mr Worral for the Licence Holder, summed up as follows:

- Mr Dogan accepted he had done wrong and pleaded guilty;
- The cigarettes and tobacco were not on display and were for family and friends;
- Mr Dogan was of good character, was very sorry and would not do it again;
- He opposed the application for revocation;
- He accepted there would be some form of penalty, but hoped it would not significantly affect his income.

Both the Applicant and the Licence Holder were given the opportunity to add anything else they wished before the Panel considered its decision, but had nothing further to say.

Members considered whether the public interest in retiring to make their decision in private outweighed the public interest in holding their deliberations in public, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

Following discussion by Members, the Panel determined that the public interest of retiring to make their decision in private outweighed the public interest in holding their deliberations in public.

58. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press be excluded from the meeting during consideration of the decision in relation to the report of the Head of Environmental and Consumer Services (Ref: 6) as referred to at Minute No. 57/14 above.

59. LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

Resolved: That the public and press be no longer excluded from the meeting.

60. APPLICATION FOR REVIEW OF PREMISES LICENCE - LUTON INTERNATIONAL SUPERMARKET, 9 WELLINGTON STREET, LUTON (REF: 6)

The Panel had considered the papers before it including the oral representations made by the Applicant and Mr Worrall on behalf of Mr Dogan, the Licence Holder. In addition the Panel had regard to the licensing objectives set out in the Licensing Act 2003 (the Act), the Council's Statement of Licensing Policy and the Guidance issued under the Act.

Resolved: That the application from Ramesh Patel of Trading Standards for the review of the Premises Licence in respect of Luton International Supermarket, 9 Wellington Street Luton be determined as follows:

(i) That the Premises Licence be suspended for a period of 28 days, the Panel being satisfied that Mr Dogan:

a. Had pleaded guilty to two offences of possessing tobacco products for sale at the premises which failed to display the appropriate health warnings, therefore accepting that he was not permitted to sell those cigarettes in the United Kingdom;

b. Had received a sanction from H.M. Revenue and Customs (HMRC) in relation to the evasion of duty, not amounting to a prosecution, but resulting in the forfeiture of the tobacco and its condemnation in accordance with the Customs and Excise Management Act 1979, having made no representations to HMRC that duty had been paid;

c. Had admitted paying money for the cigarettes and had received money for selling 15 packets on which UK duty had not been paid;

d. Had been visited in September 2013 when tobacco products were seized and he was advised of the fact that he could not sell them, then he went on to do it again and was once more the subject of similar action in February 2014. The Panel found that to be an aggravating factor, demonstrating his knowledge that his actions were unlawful.

In making their decision the Panel considered the content of Paragraphs 11.26 to 11.28 of the guidance issued under Section 182 of the Act and expressed their view that, should Mr Dogan appear before them again in relation to similar matters, it might be appropriate to take further action which could include revocation of his licence.

Mr Dogan was advised the 28 days suspension would begin 21 days after the date on which the decision letter is delivered to him, or if he chose to appeal, then the period of suspension would commence from the date on which that appeal was finally dealt with by the Court, unless the Court found in his favour.

(Note: The meeting ended at 11.45am)

151005

APPENDIX - E

Luton Borough Council, Licensing Service, Town Hall, Gordon Street, Luton, Beds, LU1 2BQ

Premises Licences
Applying for the Transfer of a licence

General Information
Every Premises Licences states the name and address of the individual(s) or organisation which holds that licence Should control of the licensed premises change to a different individual(s) or organisation, it will be necessary to notify the licensing authority by applying for the transfer of the licence

Criteria
The criteria for a licence-holder are as follows

A licence-holder can be an individual (or individuals), a limited company, a partnership, unincorporated association or a similar organisation (e g a statutory corporation), a members club, a charity, the proprieter of an educational establishment or another person carrying out statutory functions

Any individual holding a Premises licence must be over the age of 18 years

If an individual, company, corporation or partnership wishes to hold a Premises licence, they must be engaged in a business involving the use of the premises for licensable activities, or proposing to do so Proof of this status can be requested by the licensing authority – for example, by showing a business lease A person without the legal right to occupy and utilise a premises may not hold a licence for that premises

Applying to Transfer the Premises Licence
To apply for the transfer of your premises licence, the new licence-holder will need to complete the prescribed form (which can be obtained from the addresses below) Additionally, the previous licence-holder should sign a form showing that they consent to the transfer of the licence

The application should be made as follows

- The completed application form, together with the prescribed fee of £23, should be posted to the Licensing Service at the address below Electronic or faxed copies are not acceptable
- A copy of the completed application form should be sent to the Licensing Officer, Bedfordshire Police, Buxton Road, Luton, LU1 1SD at the same time

Should the Police raise objections to your application within 14 days from the date of application, based around issues relating to Crime & Disorder, the application will be referred to the Councils' Licensing Panel for determination No other body may object to this type of application

Contacts
For information on the process or assistance in making your application, contact us
By Post Licensing Service Luton Borough Council, Town Hall Extension, Gordon Street, Luton, LU1 2BQ
In Person At the above address – we are open 9 00am - 4 30pm Monday – Friday
By Phone 01582 546040 **Website** www luton gov uk **By Fax** 01582 546581
Email lbcerlicensing@luton gov uk

Application to transfer premises licence to be granted 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/~~We~~ ALARENGIN LTD
(Insert name of applicant)
apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number 113502

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description
9 WELLINGTON STREET

Post town Luton LUTON	**Post code** LU1 2QH
Telephone number at premises (if any)	

Please give a brief description of the premises
Licence to authorise activities at Luton Carnival

Name of current premises licence holder MR MEHMET DOGAN

Part 2 - Applicant details
In what capacity are you applying for the premises licence to be transferred to you?

	Please tick ☑ yes
a) an individual or individuals*	☐ please complete section (A)
b) a person other than an individual *	
i as a limited company	☑ please complete section (B)
ii as a partnership	☐ please complete section (B)
iii as an unincorporated association or	☐ please complete section (B)

iv other (for example a statutory corporation)	☐ please complete section (B)
c) a recognised club	☐ please complete section (B)
d) a charity	☐ please complete section (B)
e) the proprietor of an educational establishment	☐ please complete section (B)
f) a health service body	☐ please complete section (B)
g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales	☐ please complete section (B)
ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England	☐ please complete section (B)
h) the chief officer of police of a police force in England and Wales	☐ please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm

Please tick ☑ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities, or ☐
- I am making the application pursuant to a
  - statutory function or ☐
  - a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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) ☐

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

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) OTHER APPLICANTS

Please provide name and registered address of applicant in full Where appropriate please give any registered number In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned

Name	ALARENGIN LTD
Address	9 WELLINGTON STREET LUTON LU1 2QH
Registered number (where applicable)	10475450
Description of applicant (for example partnership, company, unincorporated association etc)	company
Telephone number (if any)	[redacted]
E-mail address (optional)	N/A

Part 3

Please tick ☑ yes

Are you the holder of the premises licence under an interim authority notice? ☐

Do you wish the transfer to have immediate effect? ☑

If not when would you like the transfer to take effect?

Day Month Year

Please tick ☑ yes

I have enclosed the consent form signed by the existing premises licence holder ☑

If you have not enclosed the consent form referred to above please give the reasons why not What steps have you taken to try and obtain the consent?

Please tick ☑ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003) ☑

Please tick ☑ yes

I have enclosed the premises licence ☑

If you have not enclosed premises licence referred to above please give the reasons why not

- I have made or enclosed payment of the fee ☑
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed ☑
- I have enclosed the premises licence or relevant part of it or explanation ☑
- I have sent a copy of this application to the chief officer of police today ☑
- 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 4 – Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 3) **If signing on behalf of the applicant please state in what capacity**

Signature [redacted]

Date 11/11/2016

Capacity DRECTOR (company owner)

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 4) **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

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 by e-mail your e-mail address (optional)	

Notes for Guidance

1. Describe the premises For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives
2. The application form must be signed
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form
5. This is the address which we shall use to correspond with you about this application

Consent of premises licence holder to transfer

I/relating to
~~we~~ MR MEHMET DOGAN

[full name of premises licence holder(s)]

the premises licence holder of premises licence number 113502
[insert premises licence number]

Relating to

INTERNATIONAL SUPERMARKET, 9 WELLINGTON STREET, LUTON LU1 2QH
[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

113502
[insert premises licence number]

to

~~MRS DOGAN DOGAN~~ ALARENGIN LTD
[full name of transferee]

Signed [redacted]

Name MR MEHMET DOGAN
(please print name)

Dated 11/11/2016