

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>Licensing Sub Committee C</b>
<b>Report of:</b>	<b>Interim Assistant Director of Regulation &amp; Enforcement</b>
<b>Date of Meeting:</b>	<b>Wednesday 4<sup>th</sup> August 2021</b>
<b>Subject:</b>	<b>Licensing Act 2003 Premises Licence – Review</b>
<b>Premises:</b>	<b>DC Minimarket, 138 Church Road, Yardley, Birmingham, B25 8UT</b>
<b>Ward affected:</b>	<b>Yardley East</b>
<b>Contact Officer:</b>	<b>Bhapinder Nandhra, Senior Licensing Officer, <a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a></b>

### **1. Purpose of report:**

To consider an application to review a Premises Licence.

### **2. Recommendation:**

To consider and determine the review application.

### **3. Brief Summary of Report:**

Review application received on 14<sup>th</sup> June 2021 from the Chief Inspector of Weights & Measures in respect of DC Minimarket, 138 Church Road, Yardley, Birmingham, B25 8UT.

Representations have been received from 2 responsible authorities and from other persons.

### **4. Compliance Issues:**

#### **4.1 Consistency with relevant Council Policies, Plans or Strategies:**

The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

<p><b>5. Relevant background/chronology of key events:</b></p> <p>The Chief Inspector of Weights &amp; Measures applied on 14<sup>th</sup> June 2021 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for DC Minimarket, 138 Church Road, Yardley, Birmingham, B25 8UT.</p> <p>A representation has been received from West Midlands Police, as responsible authority, which is attached at Appendix 1.</p> <p>A representation has been received from Birmingham City Council Licensing Enforcement, as responsible authority, which is attached at Appendix 2.</p> <p>A representation has been received from other persons, which is attached at Appendix 3.</p> <p>Review application is attached. See Appendix 4.</p> <p>The Premises Licence is attached at Appendix 5.</p> <p>Site location plans are attached at Appendix 6.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> <li>a. The prevention of crime and disorder;</li> <li>b. Public safety;</li> <li>c. The prevention of public nuisance; and</li> <li>d. The protection of children from harm.</li> </ul>
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<p><b>6. List of background documents:</b></p> <p>Copy of the representations as detailed in Appendices 1 – 3</p> <p>Review Application Form, Appendix 4</p> <p>Copy of Premises Licence, Appendix 5</p> <p>Site location plans, Appendix 6</p>
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<p><b>7. Options available</b></p> <p>Modify the conditions of Licence</p> <p>Exclude a Licensable activity from the scope of the Licence</p> <p>Remove the Designated Premises Supervisor</p> <p>Suspend the Licence for a period not exceeding 3 months</p> <p>Revoke the Licence</p> <p>No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>
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**From:** bw licensing

**Sent:** 16 June 2021 07:41

**To:** Licensing

**Subject:** Licence 4810 - DC Mini Market 138 Church Road, Yardley, Birmingham. B25 8UT

Good Morning Licensing,

West Midlands Police support the representation by Birmingham Trading Standards regarding DC Mini Market 138 Church Road. Yardley. Birmingham B25 8UT – premises licence number 4810.

The representation is supported under the public safety and prevention of crime & disorder licensing objectives.

The evidence submitted by Trading Standards quite clearly shows that the premises is supplying counterfeit and illicit tobacco products to the public, passing the counterfeit tobacco off as legitimate brands.

On 12<sup>th</sup> March 2021 Trading Standards Officers recovered a large quantity of various brands of either illicit or counterfeit tobacco products hidden inside a display unit.

The recognised 'branded' products have since been confirmed, by the brand owners, as counterfeit.

More often than not the illegitimate purchase and sale of illicit and counterfeit tobacco is made by cash transactions with no traceability and therefore no UK duty being paid. Such transactions are unlikely to be shown on the company's accounts avoiding the payment of taxes.

Traders acting unscrupulously purchasing illicit or counterfeit tobacco probably 'off the back of a lorry' cannot have any idea where the tobacco has originated from or even if it is fit for human consumption. The likelihood of these products not complying with British regulations and having even more harmful levels of toxins are extremely high, seriously putting the health of the customer at risk and potentially putting more strain on the NHS.

The only intention in supplying counterfeit or illicit tobacco is to maximise profit, seemingly without a thought of the consequences and impact on the victims, with making money being the driving factor.

The victim in the sale of counterfeit and illicit tobacco is not only the consumer but the brand itself. This underground practise would cause damage to the company brand, destroying customer confidence in their product.

These products are normally sold at greatly reduced prices, (as there is no taxes or duty paid) compared to the legitimate product which puts legitimate businesses at a disadvantage as they cannot compete on price, which in these uncertain times may be enough to close a business which traded within the law.

This type offence, the manufacture and distribution of counterfeit tobacco, is normally committed by organised criminal gangs selling it on 'the black market'. The money generated by this type of crime normally goes on to fund further criminal activity which has a further negative impact on the victims and wider community.

West Midlands Police have no confidence in the management of these premises.

The fact that Trading Standards received intelligence on 5<sup>th</sup> February 2021 that this shop was selling counterfeit and illicit tobacco would indicate that these premises have for some time been involved in this criminal activity.

A letter was sent to the premises on 15<sup>th</sup> February 2021 by Trading Standards officers regarding the sale of illicit tobacco and counterfeit tobacco which has seemingly been ignored by the premises holder and DPS indicating that the management of these premises have no intention to trade in a manner which upholds or promotes the licensing objectives.

The counterfeit and illicit tobacco was concealed on the premises in such a way that it would have not been discovered without the use of a specialist dog trained in tobacco recognition shows preplanning and deception by the premises in order to cover their actions and illicit activity, which strengthens West Midlands Police stance of having no confidence in the management of the premises.

Regards

Chris Jones 55410

Birmingham Central Licensing Team West Midlands Police

**Birmingham City Council Licensing Service**  
**Representation as a responsible authority in respect of Premises Licence no. 4810/3**  
**granted under the Licensing Act in respect of premises known as**  
**DC Minimarket, 138 Church Road, Yardley, Birmingham, B25 8UT**

**Introduction**

The current Premises Licence Holder - Mr Mohammad Sheikhehpour  
Designated Premises Supervisor – Mr Mohammad Sheikhehpour, 138 Church Road,  
Yardley, Birmingham, B25 8UT (Personal Licence no. 11967 issued by Birmingham City  
Council)

The licence currently authorises the following licensable activities:-

M2 Sale of alcohol by retail (off the premises)

And permits this licensable activity to take place between

Monday – Sunday 09:00 - 23:00

Opening hours of the premises

Monday – Sunday 09:00 - 23:00

Annex 2 – Conditions consistent with operating schedule

**2a) General conditions consistent with the operating schedule**

All staff will be trained regarding their responsibilities under the Licensing Act 2003,  
records of staff training will be maintained and updated accordingly every 12 months.

**2b) Conditions consistent with, and to promote the prevention of crime and disorder**

The premises shall operate a CCTV system with 6 cameras covering all licensed areas  
with one camera focused on the entrance / exit. The system shall record continuously  
while the premises is open for licensable activities. Recordings shall be stored for a  
minimum of 31 days and can be accessed on site. Viewings of any recordings shall be  
made available immediately upon the request of police or any authorised officer. The  
Premise Licence Holder will undertake to ensure the system is maintained at regular  
intervals to ensure the system is working correctly.

A record shall be kept detailing all refused sales of alcohol. The record should include the  
date and time of any refusals, detailing the member of staff who refused the sale. This  
record shall be made available to the police or an authorised officer at all times that the  
premises are open

**2c) Conditions consistent with, and to promote public safety**

All exits will be clear of hazards.

All staff will be trained in emergency procedures and records maintained.

## **2d) Conditions consistent with, and promote the prevention of public nuisance**

All refuse will be disposed of in an appropriate manner. Staff will be instructed to maintain all external areas in a clean and presentable manner at all times.

## **2e) Conditions consistent with, and to promote the protection of children from harm**

The Premises Licence Holder shall operate a challenge 25 policy where the only acceptable forms of identification are recognised photographic identification cards such as driving licence, forces ID cards, passport or any proof of age card that carries the PASS logo.

### **Background**

Mr Mohammad Sheikhehpour has been the Premises Licence Holder and Designated Premises Supervisor at DC Minimarket, 138 Church Road, Yardley, Birmingham, B25 8UT since 16<sup>th</sup> February 2021.

On 15<sup>th</sup> June 2021 Birmingham Trading Standards Service submitted to the Licensing Service a request to review the premises licence following an inspection carried out by them on 12<sup>th</sup> March 2021 whereby a large quantity of illicit / counterfeit tobacco had been found and subsequently seized at the premises.

As a result of this a Licensing Act inspection was conducted at 138 Church Road, Yardley, B25 8UT by Licensing Enforcement Officer Sharon Watts in order to assess their compliance with conditions attached to the Premises Licence No. 4810/3. The inspection being conducted on 1<sup>st</sup> July 2021.

On arrival at the premises two male members of staff were behind the counter, a Mr Matm Ali and Mr Aso Ahmadpour. Officer Watts introduced herself and explained that she intended to carry out a Licensing Act inspection to assess compliance with conditions of licence. Mr Ali stated that he would call Mr Mohammad Sheikhehpour (Premises Licence Holder and Designated Premises Supervisor (DPS)) and request for him to attend. Mr Sheikhehpour arrived shortly after and the inspection began. The inspection identified that certain conditions on the Premises Licence were not being complied with in respect of the following:-

Condition 2a) All staff will be trained regarding their responsibilities under the Licensing Act 2003. Records of staff training will be maintained and updated accordingly every 12 months.

This condition was not being complied with. No training records could be produced. Mr Sheikhehpour stated that he had trained his staff verbally but had not recorded this.

Condition 2b) The premises shall operate a CCTV system with 6 cameras covering all licensed areas with one camera focused on the entrance/exit. The system shall record continuously while the premises is open for licensable activities. Recordings shall be stored for a minimum of 31 days and can be accessed on site. Viewings of any recordings shall be made available immediately upon the request of police or any authorised officer. The premises licence holder will undertake to ensure the system is maintained at regular intervals to ensure the system is working correctly.

This condition was not being complied with. Officer Watts requested to see CCTV footage for 31/5/21. Mr Sheikhehpour stated that the system records for 1 month but wipes any footage when recordings go into the next month. The condition was not being complied with. Mr Sheikhehpour was also unable to show any CCTV recordings to Officer Watts for the month of June 2021.

A record shall be kept detailing all refused sales of alcohol.

This condition was checked. Whilst a refusal book was produced, it was noted that the last entry was 8/3/21 which had been made by Mr Sheikhehpour. No entries were recorded for the following 3 months.

Condition 2c) Conditions consistent with, and to promote public safety

All staff will be trained in emergency procedures and records maintained.

This condition was not being complied with and no records could be produced to Officer Watts when requested.

### **Licensing Matters identified**

It is apparent from the Licensing Act inspection carried out on 1<sup>st</sup> July 2021 that conditions of licence are being breached and offences being committed by the Premises Licence Holder, Mr Sheikhehpour. It is quite possible that these breaches have been happening since Mr Sheikhehpour took over the licence in February 2021. He appeared to not be aware of the conditions on his Premises Licence, stating that no one had told him and he doesn't read. Advice has been given to Mr Sheikhehpour in respect of these breaches and a further inspection will be needed to see if matters have been addressed.

### **Guidance issued under Section 182 of the Licensing Act 2003 – Reviews arising in connection with crime states:-**

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drug problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing Authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need to be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interest of the wider community and not those of the individual licence holder.

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

- For the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime.
- For the sale and distribution of illegal firearms
- For the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected.
- For prostitution or the sale of unlawful pornography.
- By organised groups of paedophiles to groom children.
- As a base for the organisation of criminal activity; particularly by gangs.
- For the organisation of racist activity or the promotion of racist attacks.
- For knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter, for unlawful gambling; and
- For the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other enforcement agencies, which are responsible authorities, will use the review procedure effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

### **Premises Licence Holder**

Section 136 of the Licensing Act 2003 – A person commits an offence if they carry on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with a relevant authorisation.

Mr Sheikhehpour has been the Premises Licence Holder throughout this investigation by Trading Standards and is also the Designated Premises Supervisor. He would have been required to undertake training in order to obtain his Personal Licence and therefore should be fully aware of any obligations under to Licensing Act to ensure licence objectives are being met and conditions complied with.



### **Licensing Enforcement Team Recommendations to the Licensing Committee**

As a Licensing Authority Birmingham City Council must carry out its licensing functions with a view to promoting the licensing objectives contained in the Act. The Act is clearly intended to prevent crime and disorder in relation to premises, as well as deter and prevent unscrupulous persons from operating illegally under the authorisation of a premises licence.

Birmingham City Council Licensing Enforcement support Birmingham Trading Standards in their request for a review of the Premises Licence.

### **Relevant case law – East Lindsey District Council v Abu Hanif**

Mr Justice Jay certified this case as appropriate for citation in future cases under the relevant Practice Direction. In his decision Mr Justice Jay cited it is not necessary for a crime to have been reported, prosecuted or establish in a court of law in order for the crime prevention objective to be engaged.



## REVIEW OF PREMISES LICENCE

17 June 2021

Ahead of the review of the premises licence for **DC Minimarket, 138 Church Road, Yardley, Birmingham, B25 8UT** (the "Store"), Gallaher Limited, trading as JTI, offers the following observations.

The activities reported to have taken place at the Store clearly undermine one of the objectives of the Licensing Act 2003, namely "The prevention of crime and disorder".

We very much welcome the enforcement action taken by Birmingham Council's Trading Standards Service. The valuable work they do in tackling the sale of illegal tobacco, despite the financial and resource pressures they face, is vital in safeguarding legitimate businesses and consumers. The Intellectual Property Office's latest report<sup>i</sup> on the enforcement activity undertaken by Trading Standards departments shows that cigarettes and tobacco remain their most investigated product group.

HM Revenue & Customs (HMRC) estimate that the sale of illegal tobacco products in the UK has resulted in a tax revenue loss of more than £47 billion since 2000<sup>ii</sup>. HMRC also acknowledges that the sale of illegal tobacco "*damages legitimate business, undermines public health and facilitates the supply of tobacco to young people*".<sup>iii</sup>

It has been widely reported that illegal tobacco is linked to other forms of criminality. For example, an article in the Chartered Trading Standards Institute's journal<sup>iv</sup> stated that "*the illegal tobacco trade has strong links with organised crime and criminal gangs; many of the people smuggling, distributing and selling illegal tobacco are involved in drug dealing, money laundering, people trafficking and even terrorism.*"

Therefore, sales of illegal tobacco products through this Store, and other seemingly legitimate retail outlets, are a contributing factor to this revenue loss, they damage legitimate businesses and encourage wider criminality.

Therefore, in light of the fiscal scale of the crime and the wider links it has to more serious offences, we hope that the Committee will issue the most severe penalty it can by revoking the premises licence at this Store and refusing to issue a new licence at the address until a true change of ownership can be demonstrated. We also urge the Committee to review any other premises licences held by the owners of the business and revoke these also. Preventing the sale of alcohol will ensure the business loses a valuable revenue stream and footfall driver.

We also hope that Trading Standards prosecute the retailer under The Tobacco and Related Products Regulations 2016 and The Standardised Packaging of Tobacco Products Regulations 2015 for selling products that did not have the requisite labelling prescribed in the UK.

Finally, if the Store has a National Lottery terminal the Committee might wish to consider writing to Camelot to ask them to suspend or remove it. Camelot have previously taken a

JTI UK  
Members Hill, Brooklands Road  
Weybridge KT13 0QU  
[jti.com/uk](http://jti.com/uk)

dim view of its products being available in a store where illegal tobacco and/or alcohol has been on sale.<sup>v</sup>

Taken together, these measures will act as a deterrent to other retailers in the town that are trading, or might be tempted to trade, illegally. Test purchasing undertaken for JTI in Birmingham during 2020 (which did not include this Store) identified 9 out of 22 stores visited were selling illegal tobacco products.

This shows that the illegal sales taking place at the DC Minimarket are clearly not an isolated case and the Committee reviewing the Premises Licence should take actions to demonstrate they are firmly on the side of legitimate businesses.

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<sup>i</sup> [Trading standards successes. IP crime and enforcement report 2019 to 2020](#). Intellectual Property Office, September 2020

<sup>ii</sup> [Measuring tax gaps tables](#). HM Revenue & Customs, July 2020

<sup>iii</sup> [Tackling illicit tobacco: From leaf to light. The HMRC and Border Force strategy to tackle tobacco smuggling](#). HM Revenue & Customs / Border Force, March 2015

<sup>iv</sup> [Elite sniffer dog threatened by gangs](#). Journal of Trading Standards, January 2019

<sup>v</sup> [Camelot turns off terminal of illicit booze-busted retailer](#). betterRetailing.com, 20 January 2017

**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 Dawn Bunsie (on behalf of Donna Bensley Chief Inspector of Weights & Measures)**

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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>  <b>DC Mini Market</b> <b>138 Church Road</b> <b>Yardley</b>	
<b>Post town</b> <b>Birmingham</b>	<b>Post code (if known)</b> <b>B25 8UT</b>
<b>Name of premises licence holder or club holding club premises certificate (if known)</b> <b>Mr Mohammed SHEIKEHPOUR</b>	
<b>Number of premises licence or club premises certificate (if known)</b> <b>4810</b>	

**Part 2 - Applicant details**

Dawn Bunsie

Please tick ✓ yes

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

☐

2) a responsible authority (please complete (C) below)

**YES**

3) a member of the club to which this application relates (please complete (A) below)

☐

Premises licence review DC Mini Market-9961377

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**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes  
☐

**Current postal  
address if  
different from  
premises  
address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address;  Dawn Bunsie Birmingham Trading Standards 1-3 Ashted Lock Way Birmingham B7 4AZ  Our Ref: 9961377
Telephone number (if any)
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

- |   |                                 |
|---|---------------------------------|
| 1) the prevention of crime and disorder | Please tick one or more boxes ✓ |
| 2) public safety                        | Yes                             |
| 3) the prevention of public nuisance    | Yes                             |
| 4) the protection of children from harm | <input type="checkbox"/><br>Yes |

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

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

On 12<sup>th</sup> March 2020 officers from Trading Standards were involved in an intelligence led operation which targeted businesses suspected of selling illicit tobacco products, referred to as Operation Ce Ce.

The operation was carried out with the assistance of a Dog handler and his tobacco sniffer dogs.

The officers involved were Trading Standards Officer Sukhdev SINGH, Enforcement Officers Paul ELLSON, Rabinder MANDER and Officers from West Midlands Police.

A visit was made to the premises of DC Mini Market – 138 Church Road, Yardley B25 8UT at approximately 12.50 hours. Officer SINGH spoke to a male behind the till, who gave his name as Mr Abdullah ELYASI, he was asked if he was the owner or manager. Mr ELYASI replied that he was a shop assistant. Another male walked in who said he was the licensee and owner.

He gave his name as Mohammed SHEIKEHPOUR. Officer SINGH issued to Mr SHEIKEHPOUR a Notice of Powers and Rights from Premise Search Book number 417. The Dog Handler/dog indicated that there may be tobacco concealed on the bottom shelf of a central display island which was near the back of the shop. Access was gained to the inside enclosure of the shelf unit by dismantling it, a quantity of illicit tobacco was found, it was counted and seized.

A total of 107 packs of illicit tobacco products as follows:-

- 13 packs of Marlborough cigarettes
- 5 packs of GMB Exclusive cigarettes
- 7 packs of Mayfair cigarettes
- 21 packs of Benson & Hedges cigarettes
- 4 packs of Lambert & Butler cigarettes
- 8 packs of L & M Blue cigarettes
- 6 packs of Winston cigarettes
- 7 packs of Platinum Cool cigarettes
- 10 packs of NZ Gold cigarettes
- 5 packs of Queen Menthol cigarettes
- 13 pouches of Amber Leaf hand rolling tobacco
- 4 pouches of Virginia Eastenders hand rolling tobacco
- 2 packs of Rothmans cigarettes
- 1 pack of Jin Ling cigarettes
- 1 pack of Richmond cigarettes

This illicit tobacco included hand rolling tobacco, there were packs of foreign cigarettes non-duty paid, cigarettes which breached the standardised packaging regulations and also cigarettes and pouches of hand rolling tobacco suspected of being counterfeit. I sent some samples off to the Brand Representatives to be examined.

On 19 May 2021 samples were received back from the Brands owned by JT International Group, specifically Benson & Hedges and Amber leaf. Also, brands owned by Imperial tobacco specifically, Lambert & Butler and Richmond. Examinations of these samples confirmed that they were all counterfeit.

Enquiries are ongoing into the potential criminal offences in this matter



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

The sale of Counterfeit goods is a serious problem for trademark holders, legitimate traders, consumers and it damages the economy. Consumers often believe that they are getting a bargain, but the likelihood is the goods will be of poor quality and may have serious safety issues. Selling counterfeit and illicit tobacco may result in consumers losing confidence in genuine goods and this affects other businesses by taking away legitimate trade. The counterfeiters benefit by selling the tobacco at drastically reduced prices compared to the wholesale prices from genuine sources and then sell it on to consumers at a profit.

In addition, the trade in counterfeit goods often supports serious organised crime such as drug dealing and human trafficking.

It is implicit that any licences issued by local authorities requires the holder to be a fit and proper person to hold the licence and have a responsibility towards consumers to trade legally and as a business to trade fairly.

The supply of illicit tobacco products also undermines the efforts to reduce smoking prevalence.

#### **Previous history of this shop.**

As at 20 May 2021 Companies house records show that DC Mini market is a limited company, DC OFF LICENCE LTD, Company no: 13017143 with the registered office address being 138 Church Road, Yardley, B25 8UT. Incorporated 13 November 2020. There is one director listed as Abdullah ELYASI. This would appear to be the same Abdullah ELYASI observed behind the till on 12 March 2021.

The current licence holder for this premises Mr SHEIKEHPOUR has advised that he purchased the business in November 2020. The current licence was granted on 16 February 2021.

On 25 November 2020 Trading Standards received a report from a member of the public claiming that alcohol had been sold to a 13year old. Consequently, on 8 December 2020 Enforcement officer Paul ELLSON carried out an advisory visit relating to alcohol and tobacco. He issued a Traders Notice no:14240 detailing issues found and he handed Mr Mohammed SHEIKEHPOUR various advice leaflets relating to alcohol and tobacco. On 16 December 2020 Officer Elson sent a letter to Mr SHEIKEHPOUR at the premises enclosing a selection of posters, which included NO ID/NO SALE and CHALLENGE 25 posters.

On 5 February 2021 Trading Standards received a further report alleging that counterfeit tobacco and non-duty paid tobacco was being sold. On 15 February 2021 Enforcement officer Geary WARMINGTON sent a warning

letter regarding tobacco and related products and Trademarks, to Mr M BALASHAHRI at the premises.

**Recommendations.**

As shown above, the licence holder Mr SHEIKEHPOUR and the DPS Mr BALASHAHRI have been advised in the past. They have breached three of the licensing objectives and appear to have little regard for these objectives.

I would ask that the Committee consider all outcomes at their disposal.

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

No

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

N/A

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 **YES**
- I understand that if I do not comply with the above requirements my application will be rejected **YES**

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

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

Signature

.....

Date **03/06/2021**

.....

Capacity **Trading standards Enforcement Officer**

.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

#### **Notes for Guidance**

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

**LICENSING ACT 2003****PREMISES LICENCE****Premises Licence Number:**

4810 / 3

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> DC Minimarket 138 Church Road Yardley	
<b>Post town:</b> Birmingham	<b>Post Code:</b> B25 8UT
<b>Telephone Number:</b> Not Specified	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by the licence</b> M2          Sale of alcohol by retail (off the premises)
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<b>The times the licence authorises the carrying out of licensable activities</b> Monday - Sunday          09:00          -          23:00          M2
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<b>The opening hours of the premises</b> Monday - Sunday          09:00          -          23:00
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<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b> Off Supplies
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**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b> Mr Mohammad Sheikhehpour	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> Not Specified	
<b>Email</b> N/A	

<b>Registered number of holder for example company number or charity number (where applicable)</b> N/A
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<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Mr Mohammad Sheikhehpour	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> Not Specified	

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol</b>	
<b>Licence Number</b> 11967	<b>Issuing Authority</b> BIRMINGHAM CITY COUNCIL

*Dated 16/02/2021*

SHAID YASSER  
Senior Licensing Officer  
For Director of Regulation and Enforcement



## Annex 1 – Mandatory Conditions

No supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either— (a) a holographic mark, or (b) an ultraviolet feature.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:— (a) “permitted price” is the price found by applying the formula  $P = D + (D \times V)$ , where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.



## **Annex 2 – Conditions consistent with operating schedule**

### **2a) General conditions consistent with the operating schedule**

All staff will be trained regarding their responsibilities under the Licensing Act 2003, records of staff training will be maintained and updated accordingly every 12 months.

### **2b) Conditions consistent with, and to promote the prevention of crime and disorder**

The premises shall operate a CCTV system with 6 cameras covering all licensed areas with one camera focused on the entrance/exit. The system shall record continuously while the premises is open for licensable activities. Recordings shall be stored for a minimum of 31 days and can be accessed on site. Viewings of any recordings shall be made available immediately upon the request of police or any authorised officer. The premises licence holder will undertake to ensure the system is maintained at regular intervals to ensure the system is working correctly.

A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of any refusals, detailing the member of staff who refused the sale. This record shall be made available to the police or an authorised officer at all times that the premises are open.

### **2c) Conditions consistent with, and to promote, public safety**

All exits will be clear of hazards.

All staff will be trained in emergency procedures and records maintained.

### **2d) Conditions consistent with, and to promote the prevention of public nuisance**

All refuse will be disposed of in an appropriate manner. Staff will be instructed to maintain all external areas in a clean and presentable manner at all times.

### **2e) Conditions consistent with, and to promote the protection of children from harm**

The Premises Licence holder shall operate a challenge 25 policy where the only acceptable forms of identification are recognised photographic identification cards such as driving licence, forces ID cards, passport or any proof of age card that carries the PASS logo.

### **Annex 3 – Conditions attached after hearing by licensing authority**

#### **3a) General committee conditions**

N/A

#### **3b) Committee conditions to promote the prevention of crime and disorder**

N/A

#### **3c) Committee conditions to promote public safety**

N/A

#### **3d) Committee conditions to promote the prevention of public nuisance**

N/A

#### **3e) Committee conditions to promote the protection of children from harm**

N/A

#### **Annex 4 – Plans**

The plan of the premises with reference number **118480-4810/3** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.

