

**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 Russell Sharland on behalf of the Trading Standards Service of Oxfordshire  
County Council

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Gold Star Off Licence 256 Ock Street	
<b>Post town</b> Abingdon	<b>Post code (if known)</b> OX14 5DR

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Shop Smart Enterprise Ltd
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<b>Number of premises licence or club premises certificate (if known)</b> PL0003
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**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

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

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

Please tick

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

**Surname**

**First names**

I am 18 years old or over

Please tick yes

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

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

Name and address Russell Sharland Tobacco Control Officer Oxfordshire County Council Graham Hill House Electric Avenue Ferry Hinksey Road Oxford OX2 0BY
Telephone number (if any) [REDACTED]
E-mail address (optional) [REDACTED]

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

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

**Please state the ground(s) for review (please read guidance note 1)**

The grounds for review are as follows:

1. On 9th February 2024, an officer from Oxfordshire County Council Trading Standards conducted a covert test purchase visit to the premises and purchased a disposable electronic cigarette, which contained 18ml of nicotine liquid (against the legal limit of 2ml).
2. On 9th March 2024, an officer from Oxfordshire County Trading Standards observed a member of staff sell a unit pack of illegal hand-rolling tobacco to a member of the public.
3. On 15th March 2024, Oxfordshire County Council Trading Standards conducted a covert test purchase visit at the premises and a unit pack of illegal hand-rolling tobacco was sold to an officer
4. On 15th March 2024, Oxfordshire County Council Trading Standards conducted an announced inspection of the premises when illegal cigarettes, hand-rolling tobacco and electronic cigarettes were identified and seized
5. The designated premises supervisor, who is also the sole director of the limited company which operates as the premises licence holder, received detailed written and verbal advice following the seizure of 748 illegal electronic cigarettes from the premises on 4th July 2023
6. Four intelligence reports have been received between October 2021 – January 2024 alleging the sale of illegal electronic cigarettes and sales of these age-restricted products to people under 18.



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

1. This review is being brought due to evidence that the licensed premises has been used to sell and store illegal tobacco and illegal electronic cigarettes in breach of the licensing objectives.
2. Acting on intelligence received, on 9th February 2024 an enforcement assistant officer made an initial test purchase of a J&R Shisha Hookah disposable electronic cigarette. Upon completion of the sale, it was noted that the product was labelled as 0% nicotine content, and so the officer returned it to the shop and exchanged it for an R&M Tornado 9000 lemon & lime flavour disposable electronic cigarette, which contained 18ml of nicotine liquid, whereas the legal limit is 2ml.
3. The officer was taken to a rear storeroom and shown a selection to choose from that were contained in two bags. Upon exchanging, the member of staff said the 0% nicotine claim on the packaging was not correct and it did in fact contain nicotine but allowed the exchange in any case. This sale constitutes an alleged criminal offence. [See Annex ]
4. On 9th March 2024, a trainee trading standards officer was in the premises covertly when a customer asked for a pack of Golden Virginia hand rolling tobacco. The man behind the counter said that he had Golden Virginia cheaper if the customer wanted it. He pulled out a small tied-up, blue plastic bag from beside him behind the counter. He showed the customer a unit pack of Golden Virginia which was not in standardised plain packaging. He said to the customer "it's the same but cheaper, I can do it cheaper for you". The customer agreed and he made the sale. [See Annex]
5. On 15th March 2024, a trading standards officer made a test purchase of a 50g pouch of smuggled Golden Virginia Original hand rolling tobacco, for £25, that was not in standardised plain packaging. The warning labelling was in Spanish meaning this was smuggled product. The lawful version of this product currently retails in major supermarkets for over £38. This sale constitutes an alleged criminal offence [See Annex].
6. Later the same day, officers from trading standards conducted an announced visit at the premises in order to inspect it for tobacco and related products. They were assisted by a detection dog.
7. The sole person in charge of the premises identified himself as [REDACTED] who stated his position within the business was "trainee". When asked for his address, he said he was currently homeless.
8. Trading standards officer, [REDACTED] asked [REDACTED] if there were any other tobacco products other than in the gantry and drawers. [REDACTED] presented a plastic bag contained within another plastic bag containing 4 unit packs of illegal Amber Leaf hand-rolling tobacco and 1 unit pack of illegal Golden Virginia hand-rolling tobacco.
9. The inspection commenced and further illegal tobacco products were identified in the counter area consisting of a blue plastic bag containing 4 unit packs of illegal Marlboro Gold cigarettes. The inspection continued and further illegal tobacco products were identified in the storeroom, namely 15 unit packs of illegal Amber Leaf hand-rolling tobacco. Also identified were illegal electronic cigarettes also in the



counter area and store room. [See Annex].

10. A total of 20 unit packs of illegal hand-rolling tobacco, 4 unit packs of illegal cigarettes and 39 illegal electronic cigarettes were seized. A further 32 electronic cigarettes were labelled as 0% nicotine but it was noted that some showed a 2% nicotine label when the 0% one was peeled away and so these were also seized. These items are to be formally tested to determine the accuracy of the claim but at the time of the review application, the results had not been received. The illegal tobacco seizure included suspected counterfeit hand-rolling tobacco, a sample of which was confirmed as being so on examination by the trade mark holder's representative. The possession of illegal tobacco products and illegal electronic cigarettes constitute alleged criminal offences. [See Annex]

11. During the course of the inspection, trading standards officer [REDACTED] spoke on the phone to Mr John Reda, the designated premises supervisor and director of the Company that holds the premises licence. During this conversation Mr Reda made the unsolicited comment that the tobacco products were for personal use, which is contradicted by the evidence.

12. Mr Reda was interviewed under caution on 26th June 2024 by officer [REDACTED]. He stated:

- the cigarettes were purchased for his personal use
- the hand-rolling tobacco was purchased for a friend
- the items were purchased from a Romanian or Polish male who came to the shop 1-2 days before the seizure on 15<sup>th</sup> March 2024
- this person was not previously known to him and he did not have any contact details
- he purchased unit packets of Marlboro cigarettes
- he purchased unit packs of Amber Leaf hand-rolling tobacco and Golden Virginia hand-rolling tobacco (both were purchased for less than the rate of duty)
- he had trained [REDACTED] on age-restricted products but not on illegal electronic cigarettes and did not keep any record of this training in any case
- he acknowledged a previous seizure of 748 illegal vapes on 4<sup>th</sup> July 2023
- he explained that there had been further illegal vapes in the storeroom at that time in 2023 and so he had kept them there waiting for the supplier to return to collect them
- he repeated several times that these items were not for sale and they were in the storeroom as he waited for the supplier to return so that he could receive a refund
- he understood these products were illegal to sell
- the supplier had not returned since July 2023 and he did not have any contact details
- he acknowledged receipt of an advice letter dated 10<sup>th</sup> July 2023, confirmed he had read it and understood the requirements regarding maximum tank size of 2ml and nicotine content of 2%
- he was aware that the seized tobacco products could not be legally sold to consumers
- he had instructed [REDACTED] not to sell any of these products
- once details of the evidence of officer [REDACTED] was disclosed, he responded "I don't believe it" and reaffirmed that those items were never sold
- when challenged that officer [REDACTED] evidence was from 9<sup>th</sup> March 2024, contradicting his explanation that the items had been purchased 1-2 days before 15<sup>th</sup> March 2024, he again responded by saying "I don't believe it" and "I never sell it".
- when the details of the evidence of the test purchase made by officer [REDACTED] on 15<sup>th</sup> March was disclosed, he responded by saying it must have been a mistake by [REDACTED] due to language difficulties.
- when the evidence of officer [REDACTED] was disclosed regarding the test purchase of an illegal electronic cigarette on 9<sup>th</sup> February 2024, he responded by



saying that "We never sell those one" and that the sale "never happened".

13. This matter is aggravated by the recent previous history of the premises in that, as mentioned, on 4th July 2023, 748 illegal electronic cigarettes were identified and seized from the premises. On that occasion, it was dealt with by advice and final warning. A detailed letter was sent to Mr Reda dated 10th July 2023, which states:

"The non-compliances detected are likely to amount to criminal offences. If prosecuted and found guilty, you could face an unlimited fine and even imprisonment. However, on this occasion this Authority does not intend to take such formal action and is willing to work with you so that you understand the law on the strict proviso that no non-compliant products may be supplied, by you, at retail. In addition, your premises will be visited again in the future to assess compliance. If further breaches of the above legislation are detected, it is unlikely that a lenient approach will be taken again."

[See Annex]

14. Mr Reda signed and returned an acknowledgment form dated 12th August 2023. [See Annex]

15. Between 11th October 2021 and 5th January 2024 four anonymous relevant intelligence reports were received alleging the premises was selling illegal electronic cigarettes and selling them to persons under the age of 18.

16. For completion, the premises passed an underage sales test purchase attempt of electronic cigarettes which took place on 9th March 2024. Since the second seizure, the premises has also declined to sell illegal tobacco or electronic cigarettes at a further (adult) test purchase operation on 30th April 2024. The test purchaser was told "no brother, we stopped" in relation to the electronic cigarette request. There is an ongoing criminal investigation in relation to the test-purchased and seized items.

17. The revised Secretary of States Guidance to the Licensing Act 2003, to which the Licensing Authority must have regard, provides some assistance in determining the seriousness of the sale and storage of illegal tobacco in licensed premises.

At paragraph 11.27 it states:

"There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. The list includes the use of the licensed premises:

- for the sale or storage of smuggled tobacco (and alcohol)

And at paragraph 11.28 it states that:

"Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence - even in the first instance - should be seriously considered."

[See Annex]

18. There is also decided case law to assist. In R (Bassetlaw District Council) v Worksop Magistrates' Court (2008) EWHC 3530, MJ Slade found that deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable.

[See Annex]



19. The sale of illegal tobacco products are regarded as serious criminal offences and are given particular prominence within the guidance. They are sold at prices well below the legally compliant versions, giving premises doing so a commercial advantage over their competitors that trade legally.

20. The severe health risks associated with smoking are widely reported and accepted. Smoking costs the National Health Service in England approximately £2 billion a year for treating diseases caused by smoking. The availability of cheap, illegal tobacco may undermine the efforts of a current smoker to quit as price is often a key driver and, in fact, may encourage some smokers to smoke more. In addition, whilst there is no such thing as a safe tobacco, counterfeit versions are unregulated and, unlike the legal product, their true content is unknown.

21. Following consultation, the UK, Welsh and Scottish Governments announced in February 2024, their intention to introduce legislation to ban the sale and supply of all disposable electronic cigarettes, with the UK Government explaining that they "have been a key driver behind the alarming rise in youth vaping, with the proportion of 11 to 17 year old vapers using disposables increasing almost ninefold in the last 2 years". The sale of electronic cigarettes that are already illegal is of concern due to their greater capacities and/or nicotine content.

22. The trading standards service regards the failure to heed detailed previous advice as an aggravating factor of particular concern. Given the statutory guidance and supporting precedent, it is the recommendation of this service that revoking the premises licence should be strongly considered.

23. If revocation is strongly considered but not deemed appropriate on this occasion, it is recommended that a period of suspension of up to 12 weeks, the removal of the designated premises supervisor and the addition of appropriate conditions would act as a necessary deterrent to promote the crime prevention objective and to protect the needs of the wider community, including law-abiding businesses as well as adults and young people.

Those conditions are proposed as follows:

#### 1. Tobacco and Electronic Cigarette Products

1.1 All staff who are authorised to buy tobacco and electronic cigarette products must take all reasonable precautions and exercise due diligence in order to avoid buying illegal goods. This will include but not limited to the following:

a) All authorised staff responsible for the purchase of such products must only purchase such goods from legitimate and established wholesalers who provide full receipts at the time of the delivery

b) The authorised buyers shall ensure that all receipts for tobacco and electronic cigarette products bought include the following details:

- i. Seller's name and address
- ii. Seller's company details, if applicable
- iii. Seller's VAT details, if applicable
- iv. Seller's vehicle registration details, if applicable

1.2 Legible copies of invoices/receipts shall be retained on the premises and made available for inspection by trading standards officers on request.

1.3 Where anyone working within the premises becomes aware that any illegal

tobacco or electronic cigarette products may have been offered for purchase, they shall inform the Police or trading standards immediately and keep a written record of such action.

1.4 Smuggled or counterfeit tobacco products or non-compliant electronic cigarettes for personal use must not be stored on the premises.

## 2. Signage

A3 Illegal Tobacco Keep It Out posters including the illegal tobacco hotline reporting number shall be displayed prominently at the entrance and sales area of the licensed premises at all times (to be supplied by trading standards)

## 3. Challenge 25

The premises shall operate in accordance with the "Challenge 25" scheme. This scheme operates on the basis that whilst tobacco or electronic cigarette products may be sold to persons aged 18 years and over, anyone who appears under 25 years of age will be asked for proof of age. Notices to this effect shall be displayed in a clear and prominent position at the entrance to the premises and at the point of sale.

## 4. Refusals Book

A refusals book shall be kept at the premises in which must be recorded forthwith the date, time and circumstances under which any attempted purchase of tobacco or electronic cigarette products by a customer has been refused. This book must be made available for inspection by any duly authorised officer of trading standards or licensing (including Police licensing) upon request.

## 5. Training

All staff working at the premises (whether paid or unpaid) who sell tobacco or electronic cigarette products shall receive training in the responsible retail of such products and this training will be repeated on at least an annual basis. The premises licence holder will consult with trading standards regarding the nature of that training. Such training shall be recorded and these records shall be made available upon the request of a duly authorised officer of trading standards or licensing (including Police licensing).

## ANNEX

1. Statement of [REDACTED]
2. Photograph of test-purchased R&M Tornado 9000 electronic cigarette
3. Statement of [REDACTED]
4. Golden Virginia hand-rolling tobacco labelled in Spanish
5. Photographs of the labelling of the seized electronic cigarettes
6. Photographs of the labelling of the seized tobacco products
7. Breakdown of tobacco seizure
8. Photograph of storeroom locations
9. Letter from [REDACTED]
10. Signed Acknowledgement Form
11. Excerpt from statutory guidance
12. R (Bassetlaw District Council) v Worksop Magistrates' Court (2008) EWHC 3530



**Please tick yes**

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

If yes please state the date of that application

Day Month Year

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

Please tick yes

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

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**


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

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date 5<sup>th</sup> August 2024

Capacity Tobacco Control Officer

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5) See section C above	
<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. 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.