

Bromsgrove District Council

Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Christopher Coxon

(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 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description UK Mini Market 38 Worcester Road	
Post town Bromsgrove	Post code (if known) B61 7AE
Name of premises licence holder or club holding club premises certificate (if known) Sozan Qadir TAHA	
Number of premises licence or club premises certificate (if known) 21/02404/PREMLI	

Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

yes

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

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

Please tick ✓ yes

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

Surname	First names
<input type="text"/>	<input type="text"/>

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address	<input type="text"/>
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Post town	<input type="text"/>	Post Code	<input type="text"/>
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Daytime contact telephone number	<input type="text"/>
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E-mail address (optional)	<input type="text"/>
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(B) DETAILS OF OTHER APPLICANT

Name and address
<input type="text"/>
Telephone number (if any)
<input type="text"/>
E-mail address (optional)
<input type="text"/>

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Worcestershire County Council Trading Standards Service Economy and Infrastructure Worcestershire County Council Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF
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
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

X

X

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

This review has been brought due to the licensed premise being found to be in possession of illicit tobacco products and for selling a nicotine inhaling product to a 15-year-old child.

On the 08/09/2021, the shop was visited following a report that the shop was selling alcohol, cigarettes and vaping products to children. During the visit, illicit tobacco was discovered behind the sales counter and the storeroom. The amount seized from these premises by Trading Standards were 5,080 cigarettes and 0.85kg of hand rolling tobacco (HRT) which represents a retail value of £2,940.

Illicit tobacco products are cigarettes and hand rolling tobacco (HRT) which are either counterfeit, duty evaded or fail to comply with the standardised packaging and health warning information regulations.

On 26th October 2021, Trading Standards carried out an age restricted test purchasing exercise using two 15-year-old volunteer children. Sozan Qadir TAHA, the Premise Licence Holder (PLH) and Designated Premises Supervisor (DPS) sold a nicotine inhaling product, known as an Elf Bar, which is a disposable vaping device to the 15 year old child., contrary to S 92 (2) of the Children and Families Act 2014 it being an offence to breach a prohibition in regulations, that is Regulation 3 of Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015.

The criminal offences associated with the possession and supply of illicit tobacco and the sale of a nicotine inhaling product to a person under 18 years of age from this licensed premise are as follows.

- Trade Marks Act 1994 – Section 92(1)(b) supply

Section 92(1)(c) possession, custody, or control

It is an offence to supply or have in possession, custody or control, goods or packaging bearing a registered trade mark that have not been produced with the consent of the trade mark holder, commonly referred to as counterfeits or fakes.

The seizure from the licensed premises included counterfeit tobacco products

Maximum sentence: 10 years imprisonment and/or an unlimited fine

- Licensing Act 2003 – Section 144

It is an offence to knowingly keep, or allow to be kept any goods on a licensed premises smuggled goods. That is goods which have been imported without payment of UK duty

The seizure from the licensed premises were found to have none of the HMRC “track and trace” unique identification codes, so they were all duty evaded products. That is smuggled goods for the purposes of section 144 of the Licensing Act 2003

Maximum sentence: £1000 fine

- Standardised Packaging of Tobacco Products Regulations 2015, Part 5 Regulation 15(1)

It is an offence to supply, expose or have in possession for supply, cigarettes and tobacco products which are not packaged in the regulated brown colour (Pantone 448c) and format. That is, bright colours, patterns, stylised fonts and logos are prohibited

The seizure made from the shop included non-standardised packaging, contrary to these regulations

Maximum sentence: 2 years imprisonment and/or an unlimited fine

- **Tobacco and Related Products Regulations 2016 Part 9 Regulation 48(a)(i)**
It is an offence to supply, expose or have in possession for supply, cigarettes and tobacco products which do not provide the statutory written and pictorial health warning. That is all packaging for cigarettes and hand rolling tobacco shall contain the regulated written and pictorial health warnings on both the front and back of the packs
The seizure made from the shop included packs of cigarettes and hand rolling tobacco that failed to comply with these regulations
Maximum sentence: 2 years imprisonment and/or an unlimited fine

- **Children and Families Act 2014 contrary S 92 (2)**
It is an offence to breach a prohibition in regulations, that is Regulation 3 of Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015. That is to sell nicotine inhaling products to anyone under 18 years of age
The sale of the Elf Bar to the 15-year-old child contravened this legislation
Maximum sentence: £2500 fine

Trading Standards are also pursuing a criminal investigation against the PLH, which is likely to be brought before the Courts.

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

On 08/09/2021 at 15:40 hours, Trading Standards Officers visit the licensed premise of UK Mini Market, 38 Worcester Road, Bromsgrove in response to community intelligence that the shop had been selling alcohol, cigarettes, vaping products and energy drinks to children. The purpose of the visit was twofold. Firstly, to provide advice and guidance on age verification measures the shop should take to avoid selling age restricted products to persons under 18 years of age. Secondly, to check that goods within the shop were legal to sell.

On approaching the shop, a group of children in school uniforms were observed leaving the shop carrying cans of energy drinks. However, it should be noted that energy drinks are not an age restricted product as far as the law is concerned, although some retailers impose a voluntary ban on the sale of energy drinks to under 18's.

On entering the shop, the husband of the PLH/DPS, Zerak RASWL was behind the counter. He was the only person present in the shop. He was notified about the allegation that the shop had been supplying alcohol, cigarettes, and vaping products to minors. He was given practical advice and guidance on age verification measures that could be taken to avoid the sale of alcohol and other age restricted products to persons under 18 years of age. This advice included the issuing of "Challenge 25" posters to displayed in the shop.

An inspection of the storeroom at immediately to the rear of the shop counter revealed that illicit tobacco products were found in various locations in three bags and one box. Photograph 1 shows the 3 bags and box after they had been removed from the storeroom. Behind the sales counter a box was discovered on the floor that also contained illicit tobacco products. Photograph 2 shows the location of this box. These items were subsequently seized as they were suspected of contravening the legislation stated in the section above.

Trading Standards Officers requested to Zerak RASWL to show the CCTV footage from earlier in the day, but the CCTV had not been recording any footage when he tried to access the system.

The seized illicit tobacco was subsequently catalogued, and it was established that 5,040 cigarettes (252 packs) and 0.8kg of HRT (16 packs) had been seized. This represented a retail value of £2,940. Trade Mark holders confirmed that the, Superkings, Benson & Hedges and Lambert & Butler brands of cigarettes and Amber Leaf brands of HRT were counterfeit. There were 175 counterfeit packs in total which contravened the Trade Marks Act 1994. There were 236 packs of cigarettes and hand rolling tobacco that failed to comply with the standardised packaging regulations. There were 236 packs of cigarettes and HRT that failed to comply with tobacco and related products regulations. None of the 252 packs seized had a unique HMRC "track and trace" information and were therefore all duty evaded, thereby contravening section 144 of the Licencing Act 2003

On 22/09/2021 at 15:30 hours a multi-agency enforcement visit was made to UK Mini Market, with WRS Licensing, Redditch and Bromsgrove District Council's Private Sector Housing, the Fire Service and West Mercia Police. Some issues relating to fire safety in the unoccupied residential flat above the shop were found. There were some issues found relating to licence conditions attached to the premise licence. No illicit tobacco found in the shop or storeroom.

On 26/10/2021 at 14:20 hours, Trading Standards carried out an age restricted test purchasing exercise using two 15-year-old test purchasing volunteers. Sozan Qadir TAHA, the Premise Licence Holder (PLH) and Designated Premises Supervisor (DPS) sold a nicotine inhaling product, known as an Elf Bar, which is a disposable vaping device to the 15 year old volunteer in contravention of the Children and Families Act 2014 and the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015. Photograph 3 shows the Elf Bar that was sold by the PLH

On 03/11/2021, Sozan Qadir TAHA, the PLH and DPS was formally interviewed by Trading Standards in respect of the seizure of illicit tobacco products and the sale of the nicotine inhaling vaping product to a 15-year-old child.

When asked to account for the presence of the illicit tobacco in her shop on 08/09/2021, the PLH stated that the tobacco products did not belong to the shop and had had been left there the week before by an unknown person from a local car wash who had asked if they could look after the tobacco for him for a few days. The PLH/DPS stated the unknown male, who she had no contact details for, has never returned to collect his goods.

When asked to explain why she sold the nicotine inhaling product to a 15 year old child, she stated she normally asked for proof of age but on this occasion she was busy and stressed and did not ask for proof of age. The PLH showed the CCTV footage of the sale on her phone during the interview. Trading Standards Officers requested that the footage be emailed to them however, no email containing the footage was received.

The sale of illicit/counterfeit and non-duty paid tobacco products are having a very serious impact on the local economy. Legitimate retailers struggle to compete with dishonest traders who operate within the shadow economy.

Nationally, HMRC estimates that £1.9 billion per year is lost from UK Treasury due to illicit tobacco sales.

The availability of cheap tobacco undermines government and Public Health policies aimed at reducing the cost to the NHS of treating diseases caused by smoking. Legitimate tobacco products are highly priced through the taxation system to reduce their attractiveness and availability to reduce demand. Areas with a higher level of deprivation commonly have a higher than average proportion of smokers and associated smoking related diseases. Illicit cigarettes are sold at half the price of legitimate cigarettes and the cheap prices make it affordable to those on low income or children, enabling them to continue smoking or become hooked at a young age

The sale of the nicotine inhaling product to a 15-year-old child by the PLH demonstrated that the licensed premises has failed to heed the age verification advice provided by Trading Standards. This sale would also tend to validate the accuracy of the initial community report that shop, which stated alcohol and tobacco products were being sold to children from the shop in September 2021

Illicit tobacco traders are making large profits by selling cheap and potentially dangerous counterfeit products without any regards to public safety in respect of the counterfeit tobacco. Although all tobacco is harmful, with counterfeit tobacco it's even more dangerous as there are no health warnings, no quality or safety control on the content and self-extinguishing requirements of an ignited, discarded cigarette.

National intelligence suggests that the trade in illegal tobacco is often linked to more serious crime such as terrorism, human trafficking, prostitution and modern day slavery. The trade in illegal tobacco is believed to be seen as a low risk way of making money to help fund more serious crime. Local shopkeepers who sell illegal tobacco encourage the supply of further illegal products and help to provide funding for more serious crimes.

The section 182 guidance states that the Licensing Authorities sole role is to 'determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective'. In addition, it is the Licensing Authority's duty to take such steps which are in the interests of the wider community and not those of the individual licence holder. The guidance identifies certain criminal activity which should be treated as being particularly serious. The criminal activity listed in that paragraph includes the use of licensed premises for the sale of smuggled tobacco. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined it is expected that revocation of the licence-even in the first instance should be seriously considered.

In the case of Crown (Bassetlaw District Council) v Worksop Magistrates' Court 2008, it was held that the powers under section 52 of the Licensing Act 2003 to revoke an alcohol licence can be used as a deterrent when criminal offences have been committed.

Trading Standards are of the opinion that the PLH/DPS, Sozan Qadir TAHA is involved in the supply of illicit tobacco products from the licensed premises of UK Mini Market, 38 Worcester Road, Bromsgrove. Given that she has ignored the previous advice and guidance to not sell age-restricted products and still sold a nicotine inhaling vaping product to a 15-year-old child, the Service concludes that she has a disregard for the licence objectives.

Trading Standards recommends a revocation of the alcohol licence to act as a deterrent to others.

Please tick ✓ yes

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

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date

19/01/2022

.....

Capacity Trading Standards Officer

.....

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

Notes for Guidance

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

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Smoking kills
Smoking kills
Smoking kills
Smoking kills

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Visit us on our website
or call our phone line
for more information
1-800-878-2222

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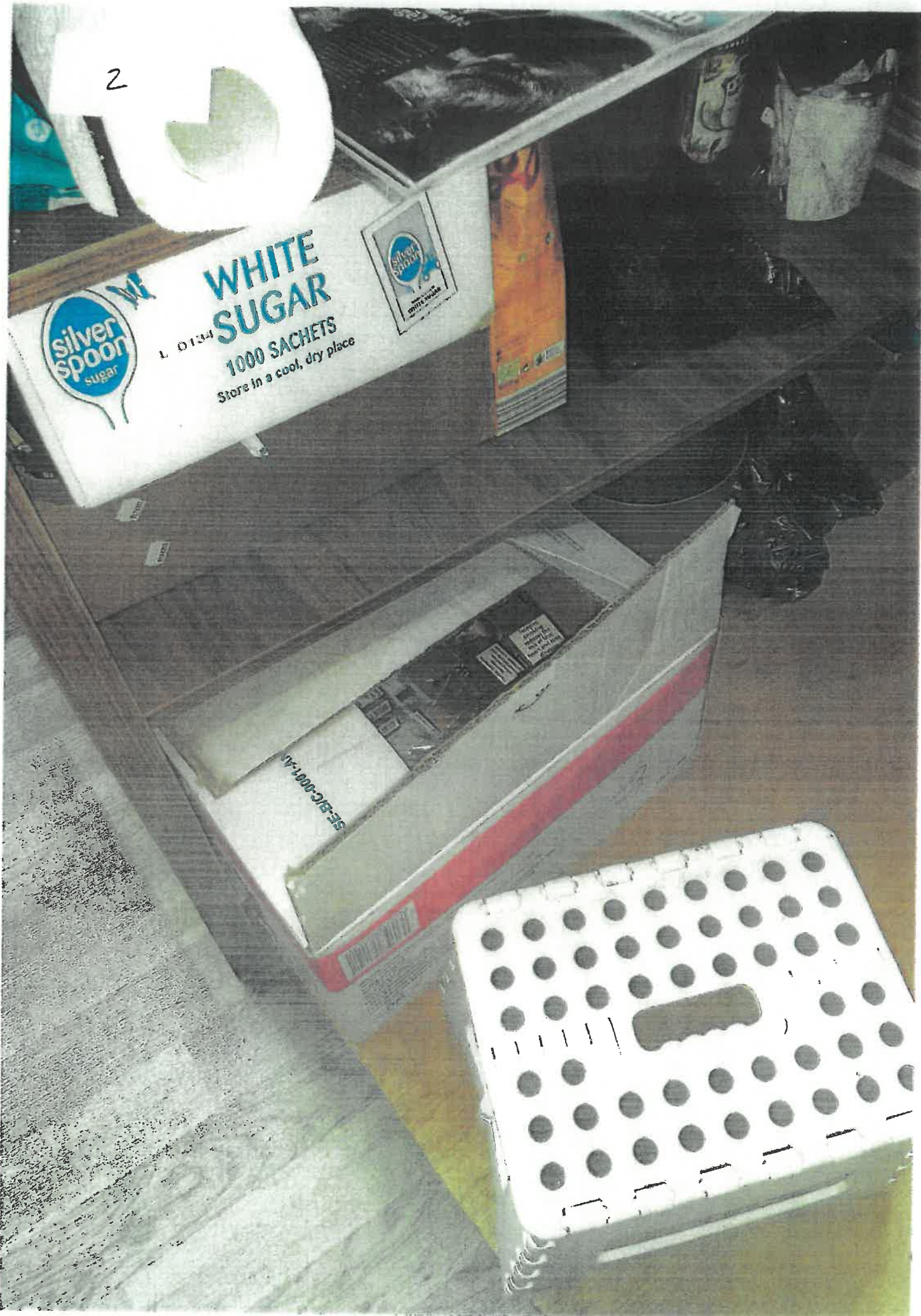
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silver spoon sugar

WHITE SUGAR

L. 0134

1000 SACHETS

Store in a cool, dry place

SE-BIC-0001-A4

3

ELI BAR

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IN SABLE FOR



This product contains nicotine which is a highly addictive substance

REFERENCE NUMBER	T1106 (G-13)	BAG NUMBER	2107468 / A25
DEFENDANT:	UN KNOWN	OFFICER:	Simon Coupe
DATE SEIZED:	original seal	NOTES:	original seal : 09751
			vape