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**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 Robert Cardew

(Insert name of applicant)

**apply for the review of a premises licence under section 51 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
WAG 3
38 Bristol Road

Post town Gloucester

Post code (if known) GL15SD

Name of premises licence holder or club holding club premises certificate (if known)
Asif JABARKHIL

Number of premises licence or club premises certificate (if known)
Unknown

Part 2 - Applicant details

I am

Please tick yes

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

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

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

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

Please tick yes

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

**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 Gloucestershire County Council Trading Standards Service Tri Service Centre Waterwells Drive Quedgeley GL22AX
Telephone number (if any) 01452887655 / 07733308251
E-mail address (optional) rob.cardew@gloucestershire.gov.uk

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

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

Section 51 of the Licensing Act 2003 makes provision for a responsible authority or any other person to apply to the Licensing Authority for a review of the premises licence.

Gloucestershire County Council Trading Standards Service (Trading Standards Service) is such a responsible authority.

As one of its functions, The Trading Standards Service enforces criminal legislation applicable to the possession for sale and sale of “illegal tobacco” products. This term “illegal tobacco” is given to tobacco products (cigarettes and loose tobacco) that cannot lawfully be sold because it breaches certain legislation:

1. The Tobacco and Related Products Regulations 2016 (TaRP) states that tobacco products must carry a combined health warning which consists of a specified text warning with a corresponding colour photograph together with the following smoking cessation information “Get help to stop smoking at www.nhs.uk/quit”. This must be in English and presented in the specified manner. The maximum sentence for an offence under these regulations is 3 months imprisonment and / or a fine on summary conviction or 2 years imprisonment and / or a fine on conviction in indictment.
2. The Standardised Packaging of Tobacco Products Regulations 2015 (SPoT) requires that cigarettes and hand rolling tobacco are presented for sale in standardised packaging where the typeface and colour of packaging is the same across all brands of cigarettes and hand rolling tobacco. In particular, the colour of the packaging of any hand rolling tobacco and cigarettes must be pantone 448C in matt. The purpose of these requirements is to remove any eye catching features from tobacco packaging and to make tobacco less visually appealing. The only difference between manufacturers will be the brand name and variant. The maximum sentence for an offence under these regulations is 3 months imprisonment and / or a fine on summary conviction or 2 years imprisonment and / or a fine on conviction in indictment.
3. The Trade Marks Act prevents the sale of goods with an unauthorised Trade Mark attached. Goods bearing an unauthorised trade mark are commonly referred to as counterfeit. The use of a trade mark without authority can mislead consumers as to the origins of a product e.g. a consumer purchasing a packets of cigarettes marked “Richmond” is entitled to assume that the product was made by, or under licence of the trade mark holder, Imperial Tobacco Ltd. The maximum sentence for an offence

under this Act is 6 months imprisonment and / or a fine on summary conviction or 10 years imprisonment and / or a fine on conviction in indictment.

4. The General Product Safety Regulations 2005 require that consumer goods be safe and in the case of cigarettes, these should meet reduced ignition propensity requirements which means they should self extinguish if not actively smoked to reduce fire risk. Some examples of illegal cigarettes fail to meet this requirement. The maximum sentence for an offence under this Act is 12 months imprisonment and / or a fine.

Illegal tobacco is typically sold for around half the cost of legal tobacco. A packet of 20 illegal cigarettes typically sells for between £5 and £7. The cheapest available pack of 20 legal cigarettes is around £9.25 although Richmond cost £11.25 . The excise duty payable on 20 cigarettes is currently £6.42. Illegal tobacco often makes its way onto the UK market as a result of smuggling.

There are a number of reasons why the Trading Standards Service enforces legislation relating to the sale of illegal tobacco.

1. Illegal tobacco sells for around half of the price of legal tobacco. This makes smoking affordable for those who might otherwise quit. It also makes smoking affordable for young people. Government health policy is designed to reduce smoking prevalence through taxation.
2. The sale of illegal tobacco damages honest business. A person purchasing their illegal tobacco from a shop takes trade away from shops lawfully selling tobacco products. Additionally, the purchaser of illegal tobacco may also purchase other grocery items, including alcohol, from that same shop thereby taking non tobacco sales from honest businesses which are the backbone of Gloucester.
3. No UK Duty is paid on illegal tobacco therefore taking revenue from the Government. £1.6 billion is lost per year to illegal tobacco nationally.
4. In the case of counterfeit tobacco, the consumer is being misled about the provenance and quality of the product they are purchasing.
5. In the case of both “cheap white” cigarettes (an unrecognised brand specifically made for smuggling) and counterfeit cigarettes, there is a danger that they will not meet reduced ignition propensity requirements and therefore pose a greater fire risk.

For a representation of a legal tobacco packaging, see RC1. Illegal tobacco is a serious problem in Gloucester. Over the past 10 years, there have been many prosecutions brought by the Trading Standards Service against the owners of shops and their employees who have sold illegal tobacco from their shops. Those prosecutions in some instances have led to prison sentences which indicates the gravity of these offences.

Trading Standards submits this application for the review of the premise licence held at WAG 3, 38 Bristol Road, Gloucester. The Trading Standards Service submits that WAG 3 is failing to comply with the licensing objective of the prevention of crime and disorder by reason of the premises being a shop that sells illegal tobacco.

The “Revised Guidance issued under section 182 of the Licensing Act 2003” states at paragraph 11.27 in a section of the Guidance concerned with Reviews arising in connection with crime:

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 or storage of smuggled tobacco and alcohol.

Paragraph 11.27 states:

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

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

As a result of information received by the Trading Standards Service and as part of a wider project aimed at identifying shop premises selling illegal tobacco, a test purchase was undertaken at WAG 3 on 30 March 2021. This test purchase involved a test purchaser acting on behalf of the Trading Standards Service, entering WAG 3 and asking for “cheap Polish cigarettes” from the male behind the counter. The male responded that they had “cheap Richmond” available and the test purchaser agreed to purchasing those. The cigarettes handed to the test purchaser did not come from the tobacco gantry behind the counter. The test purchaser paid £6 for the cigarettes. Having examined these, I believe they are a counterfeit copy. In addition, they do not bear the warnings required by TaRP nor are they plain packaged as required by SPoT. These cigarettes are illegal to sell. See RC2 for an image of these cigarettes.

On 14 April 2021, a further test purchase was undertaken by a different test purchaser acting on behalf of the Trading Standards Service. The test purchaser asked for “cheap Richmond” and was sold a packet of Richmond cigarettes. Again, the cigarettes were not taken from the tobacco gantry behind the counter and the test purchaser paid £6. Having examined these, I believe they are a counterfeit copy. In addition, they do not bear the warnings required by TaRP nor are they plain packaged as required by SPoT. These cigarettes are illegal to sell. See RC3 for an image of these cigarettes.

On 20 April 2021, the test purchaser from 14 April 2021 attempted a test purchase from WAG 3. When they asked for cheap Richmond, the test purchaser was told by the male behind the counter that he didn't have any but might have some the following day.

On 21 April 2021, a Trading Standards inspection was carried out at WAG 3 for the purpose of identifying and seizing any illegal tobacco suspected of being in possession for sale. On entering the premises, Asif JABARKHIL was alone behind the counter and no one else was working in the shop. The inspection identified 2 packets of illegal cigarettes under the counter – 1 packet of Richmond and 1 packet of Marlboro Gold. Both packets were illegal to sell. They were seized. See RC4 for an image of these cigarettes. Mr JABARKHIL claimed that these cigarettes were not for sale and that he didn't sell illegal cigarettes. To assist with the investigation, Mr JABARKHIL was asked about CCTV. He said the shop had CCTV but he was unable to access it. I took the decision to seize the CCTV system and told Mr JABARKHIL that he had until Friday 23 April 2021 to provide the password to the CCTV. He said he business partner had the password and that he was in Pakistan for several weeks.

As well as the inspection identifying illegal tobacco, the following issues were noted.

1. There was no refusals log available for me to review. A refusals log is a record kept to establish that age checks are being carried out on age restricted products. The log records refusals, the product that was asked for and the reason for refusal with a description of the purchaser.
2. The Challenge 25 poster in the premises was obscured by a product display. When Mr JABARKHIL was asked what challenge 25 meant, he was unclear in his answer and I was not sure that he was properly applying the policy.
3. The statutory tobacco notice required under and the Children and Young Persons (Protection from Tobacco) Act 1991 stating "It is illegal to sell tobacco products to anyone under the age of 18" was not on display.

That day, I attempted to access the CCTV but could not because it required a password. Later that day, I hand delivered a letter to WAG 3 and handed it to Mr JABARKHIL. As well as pointing out the issues found during the inspection, the letter required Mr JABARKHIL to provide the password to the CCTV system by 4pm on 23 April 2021.

On 23 April 2021, I visited WAG 3 and Mr JABARKHIL was alone in the shop. I asked him if he had obtained the password to the CCTV and he said that he had not been able to contact his business partner. He also reiterated that he did not sell illegal tobacco.

On 6 May 2021, I visited WAG 3 and Mr JABARKHIL was alone in the shop. I asked him if he had obtained the password to the CCTV and he said that he had still not been able to contact his business partner. I advised him that his licence conditions required that he be able to access the CCTV system. I advised him that I would consider making an application to review his licence.

On 11 May 2021, after several hours of work, I obtained a password reset code from the manufacturer of the CCTV system. This enabled me to access the CCTV system and to review the recorded footage.

Firstly, I located the CCTV footage of the test purchase on the 30 March 2021. This footage confirms the test purchase of illegal tobacco sold by Mr JABARKHIL. The cigarettes come from a shelf below the tobacco gantry and Mr JABARKHIL places them on the counter. The test purchaser hands Mr JABARKHIL a £10 and he places this in the till. The test purchaser is given change from the till and then takes the cigarettes from the counter and leaves. As stated

above, the Richmond cigarettes are believed to be counterfeit and are illegal to sell. I produce a still image from the CCTV recording showing the cigarettes on the counter placed there by Mr JABARKHIL as exhibit RC5. I have redacted the identity of the test purchaser.

Secondly, I located the CCTV footage of the test purchase on 14 April 2021. This footage confirms the test purchase of illegal tobacco sold by Mr JABARKHIL. The test purchaser hands Mr JABARKHIL a £5 note and £1 coin and he places this in the till. The cigarettes come from underneath the counter and Mr JABARKHIL places them on the counter. The test purchaser takes the cigarettes from the counter and leaves. As stated above, the Richmond cigarettes are believed to be counterfeit and are illegal to sell. I produce a still image from the CCTV recording showing the cigarettes on the counter placed there by Mr JABARKHIL as exhibit RC6. I have redacted the identity of the test purchaser.

Thirdly, I decided to review a whole day's footage and I selected 14 April 2021. A summary of that day follows:

At 08:23:51, Asif JABARKHIL opens the shop premises. He is carrying a small JD Sports bag. He places this in a basket by the fridge at the entrance to the shop.

At 08:35:12, Asif JABARKHIL picks the JD Sport bag up from the basket and takes it behind the counter. See exhibit RC7. Only his feet are then visible on CCTV.

At 08:35:29, Asif JABARKHIL places a number of packets, believed to be illegal cigarettes which he is holding in his hand, under the counter. See RC8. He then places further packets under the cigarette gantry. See RC9. I believe the cigarettes visible in RC8 and RC9 are Richmond cigarettes which are illegal cigarettes. After doing this, only his feet are then visible on CCTV.

At 08:36:10, Asif JABARKHIL has a number of packets, believed to be illegal cigarettes, in his hand which he places under the cigarette gantry. See RC10. I suspect these cigarettes are Benson and Hedges Gold.

At 08:36:48, Asif JABARKHIL returns the JD Sport bag back to the basket by the fridge at the entrance to the shop.

At 08:44:25, Asif JABARKHIL sells a packet of illegal cigarettes to a customer which he had retrieved from under the counter. See RC11. I suspect these cigarettes are Benson and Hedges Gold.

At 12:36:43, Asif JABARKHIL hands a gold colour packet of illegal cigarettes to a customer

which he has retrieved from under the tobacco gantry – See RC12. The customer looks at them and hands them back. At 12:37:06, Asif JABARKHIL places a pack of Richmond cigarettes on the counter which he has retrieved from the other end of a shelf under the tobacco gantry. See RC13. The customer then takes these cigarettes and hands over payment. Asif JABARKHIL places payment in the till.

At 13:09:28, the Trading Standards test purchaser purchases illegal Richmond cigarettes as detailed above. See RC5.

At 15:57:43, Asif JABARKHIL hand a blue colour packet of illegal cigarettes to a customer which he retrieved from under the counter. See RC14. The customer takes the cigarettes and payment is placed in the till.

At 18:41:55, a customer enters the shop and approaches the till. Asif looks under the counter before leaving and retrieving the JD Sports bag from the basket. Asif JABARKHIL returns to the counter with the bag and reaches in and then places a blue colour pack of illegal cigarettes on the counter. See RC15. The customer pays by card. Asif JABARKHIL then takes further packs out of the JD Sport bag. See RC16. He places those packets under the counter and under the tobacco gantry.

At 20:56:46, Asif JABARKHIL takes a single cigarettes from a gold colour packet next to the till and places this on the counter. See RC17. The customer takes this cigarettes and places it behind his ear. See RC18.

At 23:10:46, Asif JABARKHIL takes 4 single cigarettes from a gold colour packet and places them on the counter – See RC19. The customer takes the cigarettes.

Lastly, I reviewed footage from 21 April 2021, the day of the Trading Standards inspection. The shop was open for just over 1 hour before Trading Standards Officers entered. That period of time contained two events of note:

1. At 08:25:47, a male enters the shop and puts coins on the counter. As he does so, Asif JABARKHIL takes cigarettes from a gold colour packet of illegal cigarettes by the till and puts three cigarettes on the counter. The male takes those three cigarettes and the coins are put in the till. I have doubts as to whether the purchaser is over 18 years and they are certainly under 25 years. See RC20.
2. At 08:43:43, male enters the shop and goes to the counter. Asif JABARKHIL reaches under the cigarettes gantry and retrieves a gold colour pack of cigarettes and puts

these on the counter. The customer pays by contactless payment. The cigarettes and believed to be illegal cigarettes. See RC21.

To summarise, the reasons for making this application for a review are:

1. A test purchase of illegal tobacco was made from the premises on 30 March 2021.
2. This was followed up two weeks later by a further test purchase on 14 April 2021.
3. On 21 April 2021, a Trading Standards inspection identified 2 packs of illegal cigarettes believed to be in possession for sale as demonstrated by earlier test purchases.
4. Mr JABARKHIL has attempted to frustrate the Trading Standard's investigation by failing to provide access to the CCTV system.
5. Mr JABARKHIL continues to deny that he has sold illegal tobacco from the premises despite 2 test purchases and CCTV footage proving otherwise. In failing to accept that he has sold illegal tobacco and to take responsibility for this, he has not demonstrated that he can be trusted to uphold the licensing objectives.
6. It is clear from CCTV that the sale of illegal tobacco from the shop is deliberate and pre-meditated. Mr JABARKJHIL brought illegal tobacco into the shop in a bag and then hid quantities under the counter and under the tobacco gantry. Whilst CCTV only shows a small number of sales of illegal tobacco, the two test purchases shows this is not a one off or isolated incident. It is entirely plausible that Mr JABARKHIL would have continued to sell illegal tobacco without the intervention of Trading Standards.

Gloucestershire Trading Standards Service, as a responsible authority, respectfully submits that the Premises Licence for WAG 3, 38 Bristol Road, Gloucester should be revoked or suspended by the Licensing Committee on the grounds of preventing crime and disorder.

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 | | | |

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

Please tick yes

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE

A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

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

Signature

R Cardew.

Date

19/05/2021

Capacity **Senior 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.

Gloucester City Council provides Licensing Services to you. We will use your personal information to provide those services to you and may need to share your information with Statutory Bodies to enable us to do this. For further information about how the council uses information it holds about you please go to <http://www.gloucester.gov.uk/council/data-protection-and-foia/Pages/data-protection-GDPR.aspx>

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RC1 - Example of compliant cigarettes packaging

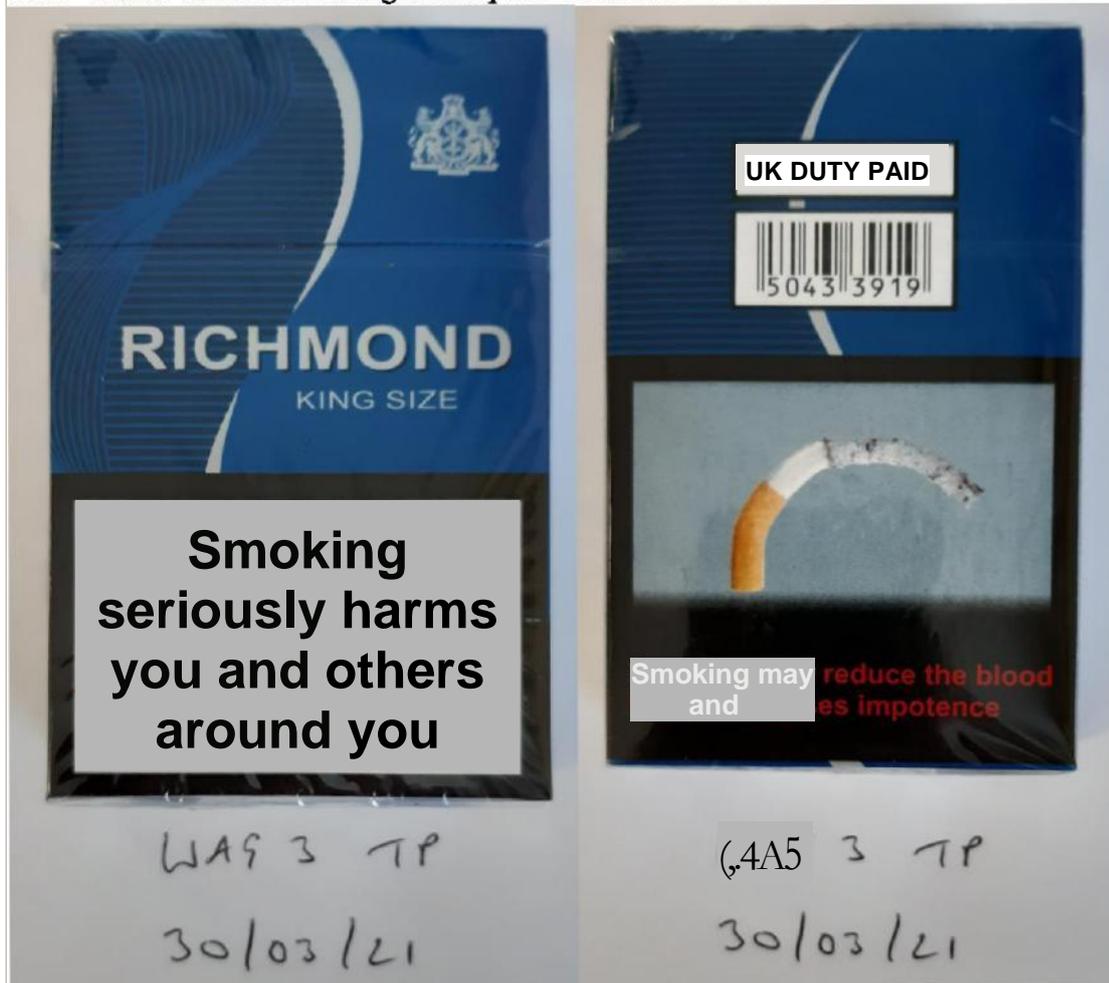
Example of cigarette packaging compliant under the Standardised Packaging of Tobacco Products Regulations 2015 and the Tobacco and Related Products Regulations 2016

Combined health warning — appears front and back.



Packaging in Pantone 448C — brand and variant must be printed in standard font.

RC2 - Photo of Richmond cigarettes purchased on 30 March 2021



RC3 - Photo of Richmond cigarettes purchased on 14 April 2021



RC4 - Photos of illegal tobacco seized on 21 April 2021



WAS 3 SEIZURE 21/04/21



WAS 3 SEIZURE 21/04/21

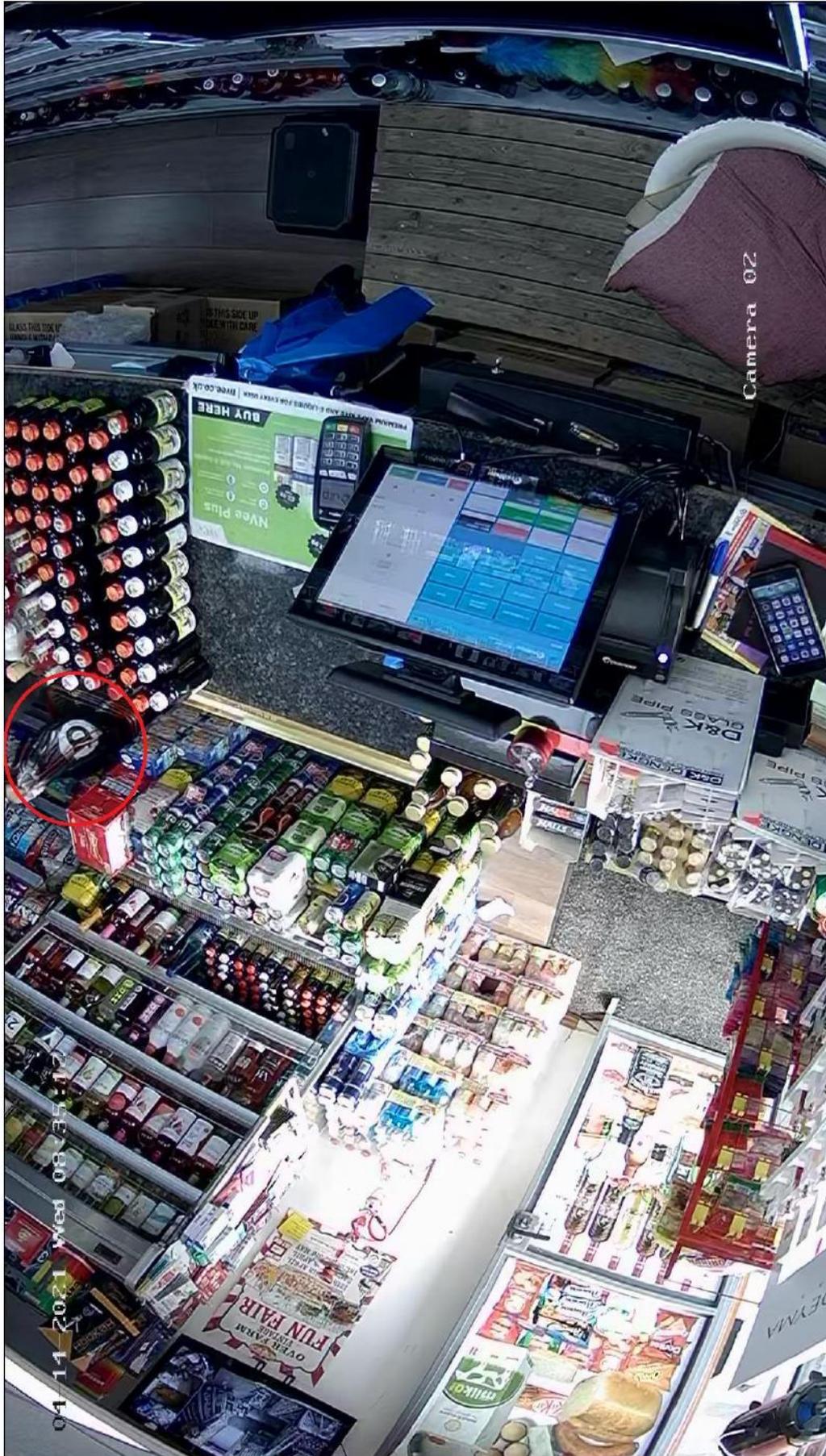
RC5 - Still image from CCTV confirming the test purchase on 30 March 2021



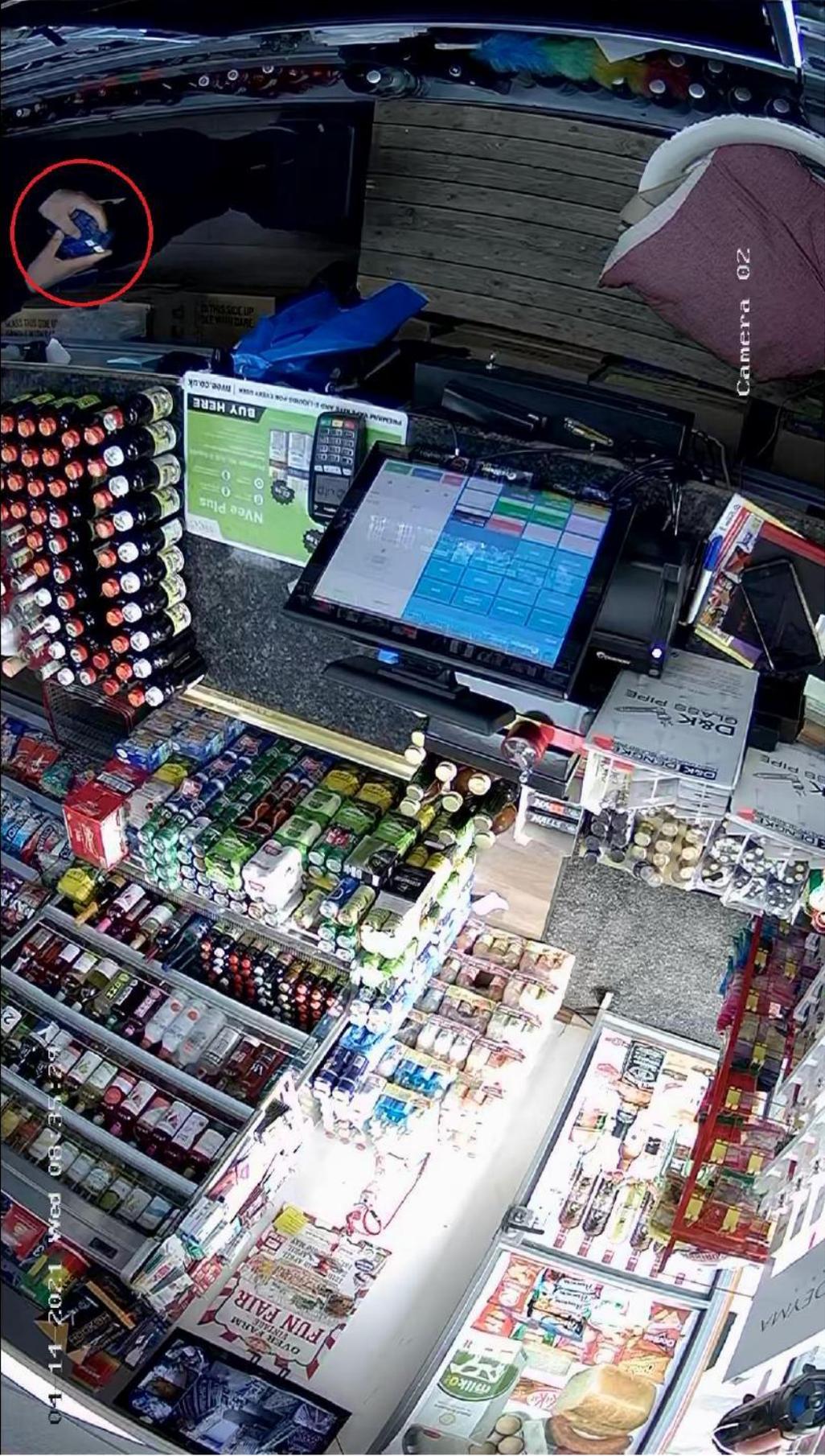
RC6 - Still image from CCTV confirming the test purchase on 14 April 2021



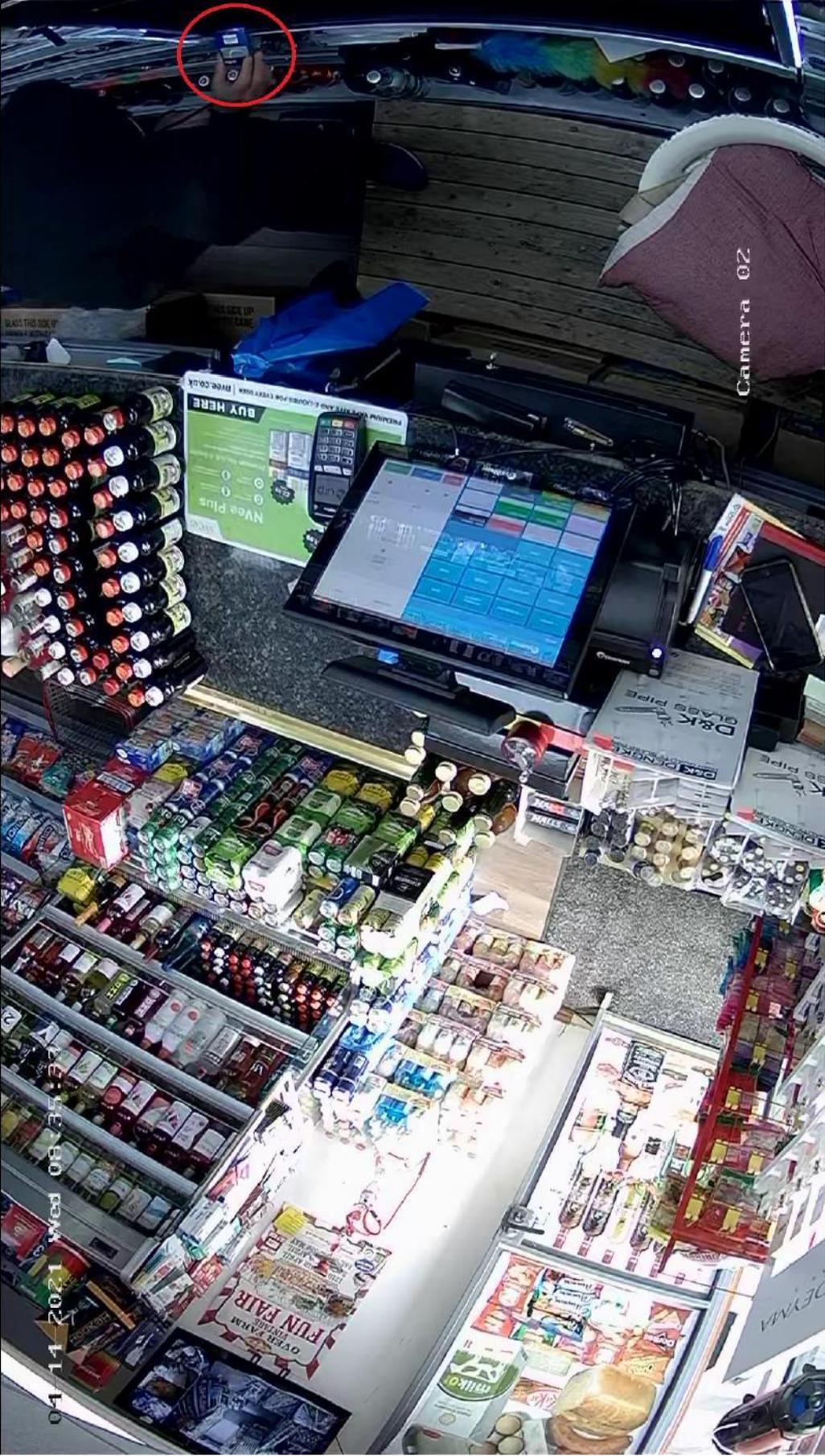
RC7



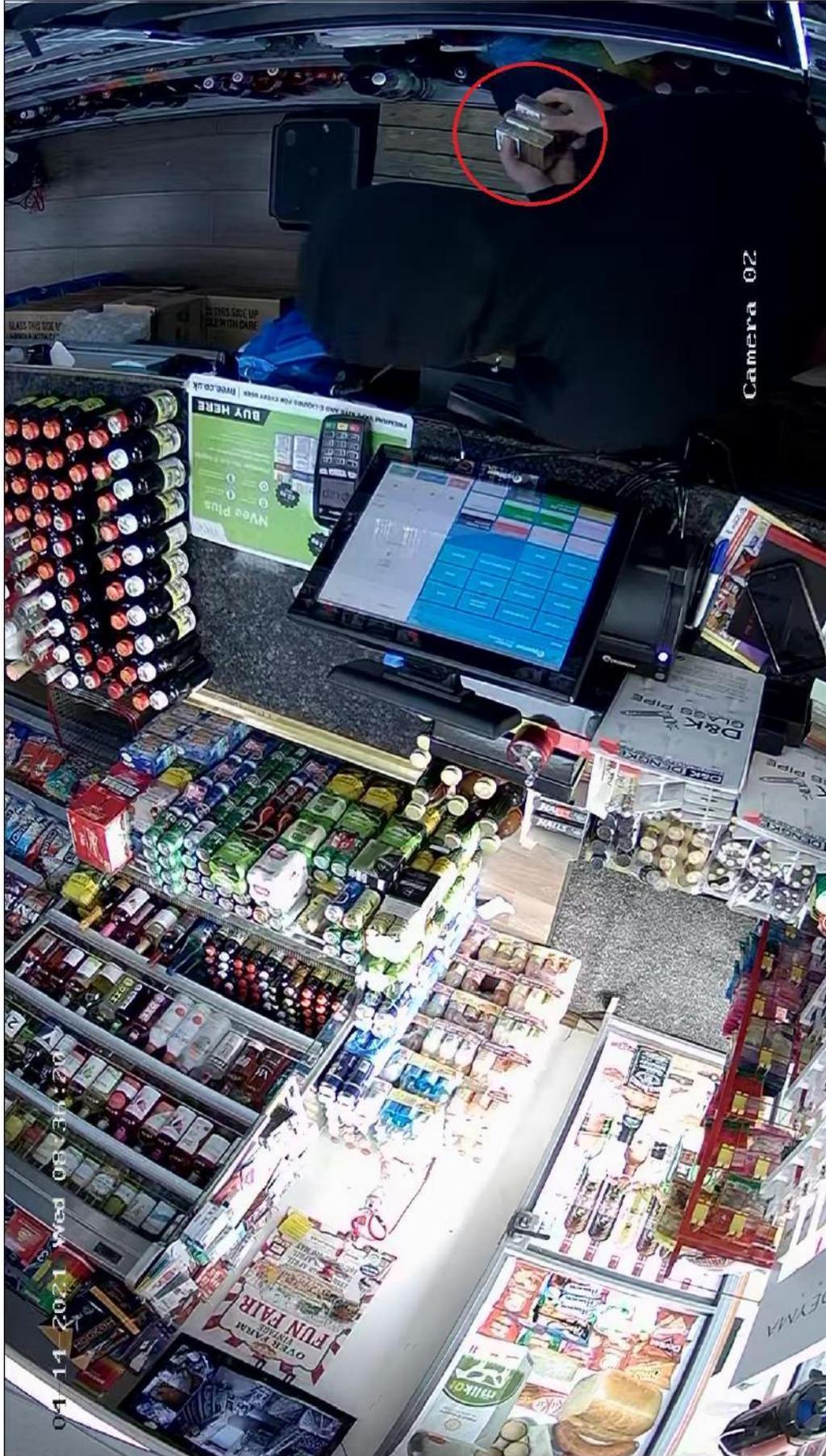
RC8



RC9



RC10



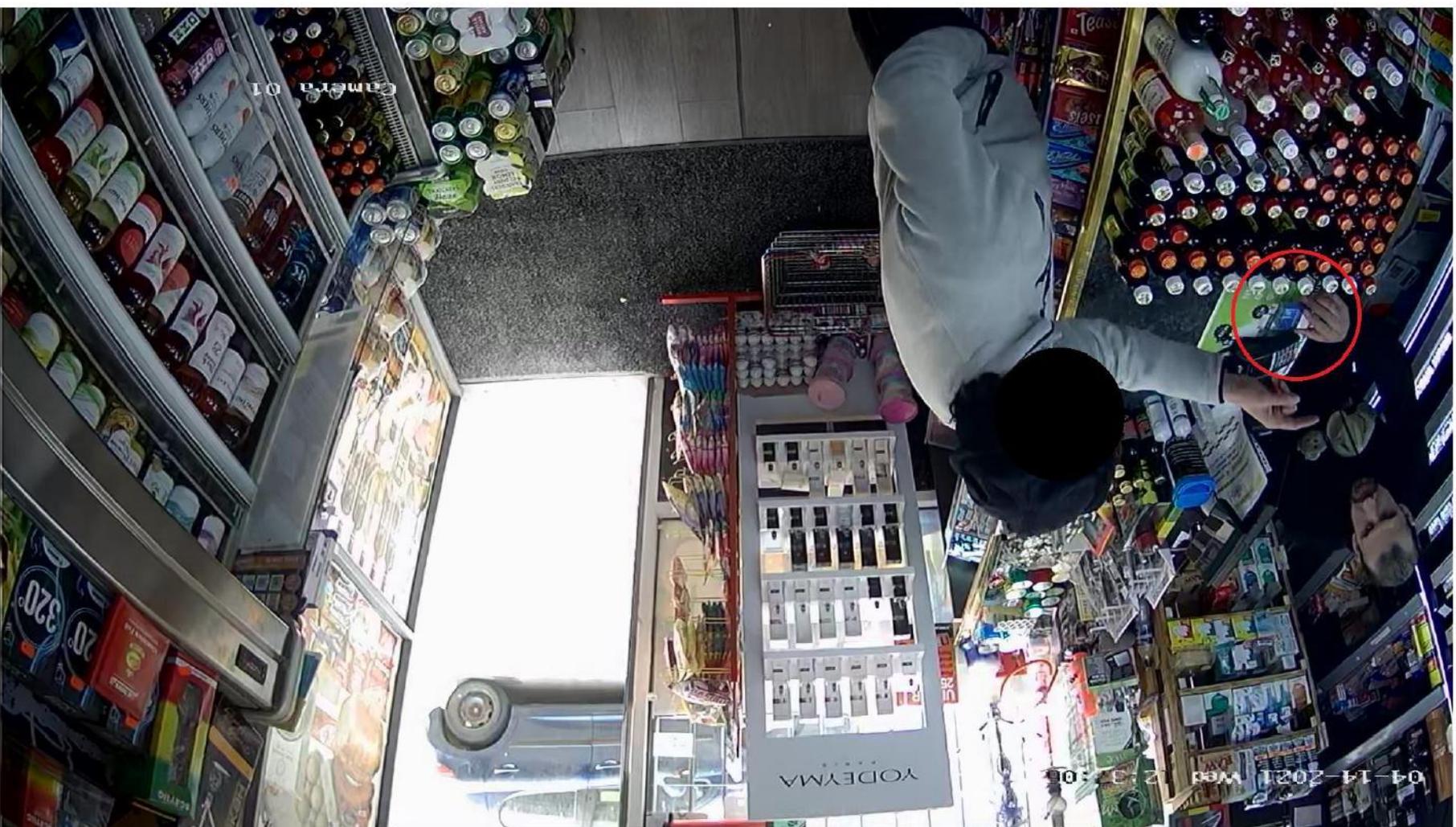
RC11



04-11-2021 Wed 13:22

RC12





RC13



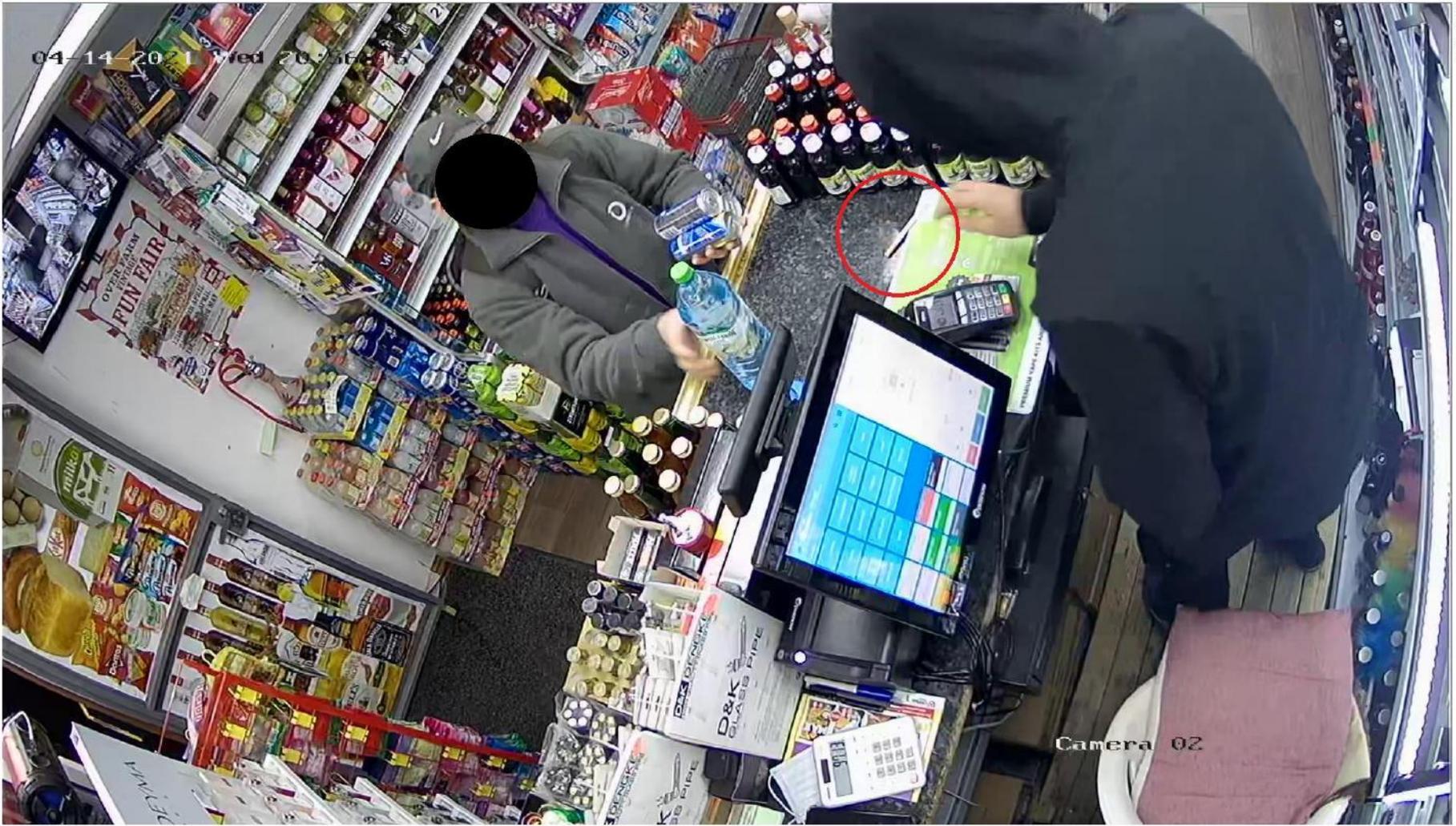
RC14

RC15



RC16





04-14-2021 Wed 20:56:55

OVER 20 YEARS
OF SERVICE
FUN FAIR

milko

D&K
GRASS PIPE

Camera 02

RC17



RC19





Camera 02

04-21-2021 Wed 08:25:57

RC20

RC21

