



**Melton
Borough
Council**

Licensing Sub-Committee

Date 24 January 2020

Report of: **Director for Governance &
Regulatory Services**

LICENSING ACT 2003: APPLICATION FOR REVIEW OF PREMISES LICENCE - GOLDEN CHOICE, 17 WINDSOR STREET, MELTON MOWBRAY, LE13 1BU

1.0 Summary

1.1 The purpose of this report is for members to consider this report and any evidence produced or representations made following receipt of an application to Review a Premises License in respect of the premises Licence held by Mr Xia Ming WONG trading as Golden Choice Cantonese and Thai cuisine, 17 Windsor Street, Melton Mowbray and to determine the application by taking such of the steps set out below as the Sub-Committee considers it necessary for the promotion of the licensing objectives.

2.0 Recommendations

2.1 **It is recommended that the Sub-Committee have regard to the application and any relevant representations and determine which of the following steps they consider appropriate for the promotion of the licensing objectives and:**

- (1) Take no action;**
- (2) Modify the conditions of the Premises Licence, by altering, omitting and or adding to them where relevant;**
- (3) Exclude a licensable activity from the scope of the Premises Licence;**
- (4) Suspend the Premises Licence for a period not exceeding three months;**
- (5) Revoke the Premises Licence.**

The application should be considered on its merits and any decision should be reasonable and proportionate.

3.0 Report Detail

3.1 The Licensing Act 2003 came in to force in September 2005. It passed the powers to the Local Authority to licence premises for any of the following licensable activities:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club or to the order of a member of the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

The licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each objective is of equal importance.

There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times. However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

3.2 Section 51 of the 2003 Act, allows interested persons, and responsible authorities, to make representations in favour or against the review of a premises licence. All review applications must be determined by a Licensing Committee or Sub-Committee Hearing.

3.3 Background:

Mr Xia Ming WONG T/A Golden Choice has held a Premises Licence MME0004 since 2014.

The License Holder is permitted by the premises licence to provide the following:

Late night refreshment (Indoors & Outdoors)

Sunday	11:00pm	Midnight
Monday	11:00pm	Midnight
Tuesday	11:00pm	Midnight
Wednesday	11:00pm	Midnight
Thursday	11:00pm	Midnight
Friday	11:00pm	1:00am
Saturday	11:00pm	1:00am

A copy of the current premises licence is attached at **Appendix A**.

A plan of the premises is attached at **Appendix B**.

3.4 Summary of the Application:

On 9th December 2019, the Licensing Authority received an application from Leicestershire Police to review the Premises Licence for Mr Xia Ming WONG T/A Golden Choice Cantonese and Thai cuisine following a joint pre-planned enforcement visit with the Home office Immigration service.

A warrant had been obtained to enter the premises and during the visit, four staff were detained and the licence holder Mr Xia Ming WONG was questioned by immigration officers. During the visit the following was established:

4 x persons were found within the venue who had no right to work in the UK. These individuals were detained and removed from the premises. The premises licence holder, when questioned was of the view that it was not for him to carry immigration checks.

In light of the above the Police have grave concerns about how the premises is run and what is occurring there.

Following the visit it was established that all four persons were over stayers in the UK and had no right to work. As a result of the offences that were discovered on the date of the visit the Immigration Department are now in the process of issuing the company with a £30,000.

The application and supporting evidence is attached at **Appendix C**.

A statement from the immigration officer Kelly including an interview of the licence holder Mr Xia Ming Wong is attached at **Appendix D**

A statement from Police Sergeant Thorley is attached at **Appendix E**

In addition there are concerns about the failure to uphold the licensing objectives as follows:

- Public Safety; and
- The Prevention of Crime & Disorder

3.5 Relevant Representations:

The application for review was advertised on the premises as required by legislation. The required consultation period commenced on Tuesday 10 December 2019 for 28 days ending on Tuesday 7th January 2020.

During the 28 day representation period, no representations were received by the Licensing Authority.

3.6 Other information:

Since the joint immigration & Police visit Mr Xia Ming WONG has left the business leaving no forwarding address and it has been taken over by HHL 17 Limited, Ms Yan LUO.

The company was considering transferring the licence but at the time of writing no such application has been received.

Leicestershire Police have been contacted and if the new owners did apply to transfer they would require conditions to be attached to the licence Attached at **Appendix F**.

3.7 Policy & Guidance Considerations:

Members must consider all evidence / representations offered at the Sub-Committee Hearing. Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives.

When considering any representations, only those issues relating to the four licensing objectives should be considered and appropriate weight given to the importance and relevance of each representation.

The application should be considered on its merits and any decision should be reasonable and proportionate.

In making any decision, Members must also have regard to the Council's own Statement of Licensing Policy and the Home Office statutory guidance issued under section 182 of the Licensing Act 2003 both of which can be found online at:

Policy:

http://www.melton.gov.uk/downloads/file/3903/statement_of_licensing_policy_-_licensing_act_2003

Guidance:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

3.8 Other Relevant Considerations:

The Sub-Committee is reminded of its responsibilities under the Crime and Disorder Act 1998 (to co-operate in the reduction of crime and disorder in the Melton Borough) and the Human Rights Act (which guarantees the right to a fair hearing for all parties in the determination of their civil rights, and also provides for the protection of property, which may include licences in existence, and the protection of private and family life) when considering the fair balance between the interests of the all parties to this Hearing. Any decision taken by the Sub-Committee must be necessary and proportionate to the objectives being pursued.

Members are reminded that whenever they make a decision under the Licensing Act 2003, they have a duty to act with a view to promoting the licensing objectives. When considering any representations, only those issues relating to the four licensing objectives should be considered and appropriate weight given to the importance and relevance of each representation.

Members should note that the applicant or persons making representations have the right of appeal against the decision made by the Sub-Committee.

3.9 Options available:

It is recommended that the Sub-Committee have regard to the application and any relevant representations and determine which of the following steps they consider appropriate for the promotion of the licensing objectives. On considering the merits of the application before them, the options available to the Sub-Committee are:

- (a) Take no action;
- (b) Modify the conditions of the Premises Licence, by altering, omitting and or adding to them where relevant;
- (c) Exclude a licensable activity from the scope of the Premises Licence;
- (d) Suspend the Premises Licence for a period not exceeding three months;
- (e) Revoke the Premises Licence.

Where the Sub-Committee decides to take a step mentioned in (a) or (b) above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Otherwise the modification of conditions or the exclusion of a licensable activity will be permanent.

4.0 Consultation and Feedback

4.1 The consultation period commenced on Tuesday 10th December 2019 for 28 days ending on Tuesday 7th January 2020.

4.2 During this period, no representations were made to the Licensing Authority.

5.0 Next Steps

5.1 Once a decision is made by the Sub-Committee, all parties will be notified of the decision within 5 working days.

6.0 Financial Implications

6.1 There are no financial or other resource implications.

7.0 Legal and Governance Implications

7.1 Sections 51 – 53 of the Licensing 2003 Act contain the requirements for review of licences.

7.2 All review applications must be determined by a Licensing Committee or Sub-Committee Hearing.

7.3 The Council is responsible for carrying out the licensing function under the Licensing Act 2003. The Act regulates the sale of alcohol, the provision of entertainment, the showing of film and late night refreshment

7.4 The Council has delegated its licensing function to its Licensing Committee, Sub Committees and Licensing Officers referred collectively to as the “Licensing Authority”.

7.5 Any decision must be taken following consideration of the representations received with a view to promoting the licensing objectives which are:

- Prevention of crime and disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

7.6 Any of the parties involved may, if they are unhappy with the outcome of this hearing, appeal to the Magistrates’ Court within 21 days of being notified of the decision.

8.0 Equality and Safeguarding Implications

8.1 There are no equality implications arising from this report.

8.2 The safeguarding implications are outlined in the body of this report.

9.0 Community Safety Implications

9.1 The Community Safety implications are detailed in the body of the report and associated appendices.

10.0 Other Implications

10.1 The Statement of Licensing Policy was prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued by the Secretary of State under section 182 of the Act. The Council's Policy was adopted by Council on the 12th December 2017. The Statement of the Licensing Policy is a live document, subject to review to meet the changing needs of the community, business circumstances and legislation.

11.0 Risk & Mitigation

11.1

L I K E L I H O O D	A	Very High				
	B	High		1		
	C	Significant			2, 3, 4	
	D	Low				
	E	Very Low				
	F	Almost Impossible				
			Negligible 1	Marginal 2	Critical 3	Catastrophic 4

IMPACT

Risk No	Risk Description
1	Local business who pay their staff through the correct payroll system affected by undercut pricing
2	Risk to public health if products are not produced under regulated conditions
3	Other licence conditions not being adhered to
4	It is important that due process is followed in considering this application to ensure that the correct decision is reached which could not be challenged on the grounds that the specified procedures have not been followed.

Background Papers

None

Appendices

Appendix A – Premises Licence MME0004 Effective 26.06.2014

Appendix B – Plan of Premises

Appendix C – Police Licensing Review Application

Appendix D – Statement from IO James

Appendix E – Statement from PS Thorley

Appendix F – Proposed Police Conditions

Report Timeline

Director Approval :	16.01.20 AW
Legal Approval :	14.01.20 KS

Report Author & Job Title

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