



**Report of the Licensing Manager
To the Statutory Licensing Sub Committee
25th March 2019**

**Licensing Act 2003
Section 51 Application for a Review of a Premises
Licence**

**1. Premises: Yangtze River Chinese Takeaway, 106 High Street,
Swansea, SA1 1LZ**

1.1 The premises is currently licensed for the following activity

Late Night Refreshment

Monday to Thursday – 2300 hours to 0000 hours

Friday & Saturday – 2300 hours to 0100 hours

Sunday – 2300 hours to 0000 hours

**1.2 The Premises Licence Holder is Xiang Liu, Yangtze River,
106 High Street, Swansea, SA1 1LZ**

A Location plan is attached at Appendix A

2. Application For A Review of a Premises Licence

**2.1 An application for a review of a premises licence was received by this
authority on the 29th January 2019.**

**2.2 A Responsible Authority or other persons may apply to the Licensing
Authority for a review of a premises licence, on the basis that they
consider that one or more of the Licensing Objectives are not being
promoted.**

**2.3 Immigration Enforcement, acting as a Responsible Authority,
consider that the following Licensing Objective is not being promoted:**

The Prevention of Crime and Disorder

Full details of the grounds for a review are contained in the application
form which is attached at Appendix B

3. Procedure

- 3.1 When an application for a review is submitted to a Licensing Authority, copies must also be served, by the applicant, on the premises licence holder and the responsible authorities.
- 3.2 The Licensing Authority must then advertise the application by placing a notice at, or near, the premises together with a copy conspicuously placed at the offices of the Authority, for 28 days following the date of the application.
- 3.3 This statutory period allows for representations to be made by the responsible authorities and other persons.

4. Promotion Of The Licensing Objectives

- 4.1 The Licensing Act 2003 defines four licensing objectives, namely:-
- (i) Prevention of Crime and Disorder
 - (ii) Public Safety
 - (iii) Prevention of Public Nuisance
 - (iv) Protection of Children from Harm
- 4.2 Each of these objectives is of equal importance and premises licence holders must demonstrate that they are promoting these objectives by adhering to the licence conditions and requirements of the Act.

5. Relevant Representations

5.1 Responsible Authorities

- a) **South Wales Police**
No representations.
- b) **Trading Standards**
No representations.
- c) **Mid and West Wales Fire Authority**
No representations.
- d) **Health and Safety**
No representations.
- e) **Planning Authority**
No representations.
- f) **Pollution Division**
No representations.

- g) Child Protection**
No representations.
- h) Primary Care Trust/Local Health Board**
No representations.
- i) Licensing Authority**
No representations.
- j) Immigration**
The applicant in this case.
- k) Other Persons**
No representations.

6. Policy Considerations

6.1 In considering this application Members should have regard to the Council's current statement of Licensing Policy in July 2018. Specifically in relation to this application;

- (i) Section 15 Application for Licences, Certificates, Authorisations and Reviews
15.17 In respect of the review process, responsible authorities will aim to give licence holders early warning of any concerns identified at a premises. However in cases where the prevention of crime and disorder objective is being undermined it is expected that revocation of the licence, even in the first instance, will be seriously considered.

6.2 A copy of the Policy has previously been circulated to Members.

7. Guidance Issued By The Home Secretary

7.1 Members should also have regard to the relevant parts of the current guidance issued by the Home Secretary in April 2018, in particular;

- (i) Introduction – Chapter 1
- (ii) Licensing Objectives – Chapter 2
- (iii) Conditions – Chapter 10
- (iv) Reviews – Chapter 11
- (v) Promotion of Equality – Chapter 14 paragraphs 14.66 -14.67

Paragraphs 2.1 to 2.6 of the Guidance refers to Crime and Disorder, in particular

Paragraph 2.3 states: *“Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of*

closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.”

Chapter 10 refers to Conditions attached to premises licences and club premises certificates, in particular

Proportionality

Paragraph 10.10 states: *“The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.”*

Paragraphs 11.24 to 11.28 of the Guidance refers to Reviews arising in connection with crime, in particular

Paragraph 11.26 states: *“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 the 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 and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.”

Paragraph 11.27 states: *“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 the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*
- *for prostitution or the sale of unlawful pornography;*
- *by organised groups of paedophiles to groom children;*
- *as the base for the organisation of criminal activity, particularly by gangs;*
- *for the organisation of racist activity or the promotion of racist attacks;*
- ***for employing a person who is disqualified from that work by reason of their immigration status in the UK;***
- *for unlawful gambling; and*
- *for the sale or storage of smuggled tobacco and alcohol.”*

Paragraph 11.28 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.”*

7.2 A copy of the Home Secretary’s Guidance has previously been circulated to Members.

8. Determination Of The Application

8.1 The decision must be based on the individual merits of the Review application and Members must have regard to the application and any relevant representations received, when taking steps to promote the licensing objectives outlined in paragraph 4 above.

8.2 In addition in arriving at the decision Members should have regard to the relevant provisions of the Council’s Statement of Licensing Policy and the Secretary of State’s Guidance as previously provided. Reasons must be provided for any departures from the Policy or Guidance.

- 8.3 In reaching the decision the Committee must, having regard to the representations, take such of the steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives:-

The steps are -

- (a) to modify the conditions of the licence; (conditions of the licence are modified if any of them is altered or omitted or any new condition is added)
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;(not applicable in this application)
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

The Licensing Sub Committee's instructions are requested.

Background Papers:	Licence Application
Contact Officer:	Rachel Loosemore
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