

# Report



## Licensing Sub Committee Report.

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### Part 1

Date: 6<sup>th</sup> August 2019

**Subject** Review of Premises Licence under Section 51 Licensing Act 2003, Red Hot Goodies, 20 Cardiff Road, Newport, NP20 2ED.

**Purpose** The consideration and decision in respect of a review application under Licensing Act 2003.

**Author** Alastair Dearling (Licensing Manager)

**Ward** As indicated within the report

**Summary** An application for a review of the premises licence was made by Home Office Immigration Enforcement on 19<sup>th</sup> June 2019 on the basis that the premises is undermining the prevention of crime and disorder.

**Proposal** To make a decision on the application to review the Premises Licence issued in respect of the Red Hot Goodies, 20 Cardiff Road, Newport, NP20 2ED

**Action by** Head of Law and Regulation

**Timetable** Statutory Consultation Period

**Signed** Alastair Dearling

## 1. Review Application

- A review application under Section 51 of the Licensing Act 2003 was received on the 19<sup>th</sup> June 2019 from Home Office Immigration Enforcement department to review the Premises Licence issued in respect of Red Hot Goodies, 20 Cardiff Road, Newport, NP20 2ED.

The application for review relates to the following Licensing objective(s):

### **The prevention of crime and disorder**

A copy of the review paperwork and supporting documents can be found in **Appendix A** of this report.

The application was received by the Licensing Authority on 19<sup>th</sup> June 2019 and in accordance with section 51(3)(a) of the Licensing Act 2003 a copy of the application was served on the holder of the Premises Licence and on all Responsible Authorities.

On serving the application the Licensing Officer was informed that the premises Licence Holder Mr Chao Chen was currently in China. Following receipt of the application, the Licensing Authority advertised the application in accordance with the regulations of the Act, thereby inviting representations to be made by interested parties. Any representation in respect of this application made by a responsible authority or an interested party had to be received by the Licensing Authority by 17<sup>th</sup> July 2019.

## 2. Licensable Activities

The current premises licence holder is:

Mr Chao Chen of 20 Cardiff Road, Newport, NP20 2ED.

The Premises Licence relates **only** to the provision of Late Night Refreshment (LNR) (provision of Hot Food & Drink)

Sunday to Thursday 23:00hrs till Midnight

Friday to Saturday 23:00 till 00:30hrs

A copy of the premises licence can be found in **Appendix B** of this report

## 3. Representations

The Licensing Authority receive no further representation during the consultation period from either a Responsible Authority or "Other person"

## 4. Background/Premises Licence History

The Premises itself is a Chinese take away and is located on 20 Cardiff Road, Newport, NP20 2ED the premises is located next to number of shops and takeaways. The location of the premises can be found in **Appendix C** of this report; The Licensing Authority has received no complaints regarding the premises or has any outstanding issues.

## 5. Legal Considerations, Guidance, Policy Consideration.

- The 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

In each case the Sub-Committee may make the following determination

- To modify the conditions of the Premises licence
- To exclude a licensable activity from the scope of the premises licence
- To remove the designated premises supervisor from the licence
- To suspend the premises licence for a period not exceeding 3 months
- To revoke the premises licence
- Take No Action in respect of the Premises Licence.

## 6. Guidance

**Paragraph 9.5** of the Revised Guidance issued under section 182 of the Licensing Act 2003 states:

“The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State’s behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly”.

**Paragraph 2.6** of the guidance clearly stipulates:

“The prevention of crime includes the prevention of immigration crime including illegal working on licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises 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 are retained at the licensed premises”.

**Paragraph 11.19** of the guidance states:

“Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.”

**Paragraphs 11.25 to 11.28** of the guidance cover the review process in further depth:-

“11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 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.

11.27 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 employing a person who is disqualified from that work by reason of their immigration status in the UK;**

11.28 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. Issues for discussion

- The content of the application made by Home Office Immigration Enforcement for a review of the Premises Licence.
- Any evidence and mitigation provided by Licence Holder

## 8. Financial Summary

- The costs and financial implications: You must discuss financial implications with the Head of Finance and the report must identify from where your proposals will be funded, together with any impact on budgets or any opportunity costs

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
<b>Costs (Income)</b>					
<b>Net Costs (Savings)</b>					
<b>Net Impact on Budget</b>					

## 9. Risks

It is important to identify and manage any project or scheme's exposure to risk and have in place controls to deal with those risks.

In this section, you should consider the key risks facing the proposals in your report, particularly those which would impact on delivery or sustainability of the project or projected outcomes. You will need to include details of how risks will be managed. If your proposals rely on short or medium term grant aid or funding streams you will need to outline your exit or continuation policy here.

You will need to complete the following Risk table

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Making a unlawful decision	High	Low	The Committee will consult with the Legal Officer and Licensing Officer to determine if any decision is lawful and proportionate.  Members training.	Chairperson.  Legal Officer.

The licensing committee departing from the licensing policy.	Medium	Low	<p>If the Committee wishes to depart from the Councils policy they must give good reason for this and obtain advice from the Legal Officer when departing from the Policies to ensure the decision is lawful.</p> <p>Members training.</p>	<p>Chairperson. Legal Officer.</p>
The applicant does not have a fair hearing	High	Low	<p>A Licensing Committee procedure should be followed by the committee.</p> <p>The Legal Officer alongside the Democratic Service Officer will advise the committee if at any stage an unfair hearing is taking place.</p> <p>Members training.</p>	<p>Democratic Service Officer. Chairperson. Legal Officer.</p>

\* Taking account of proposed mitigation measures

### **10. Links to Council Policies and Priorities**

This report has been prepared in accordance with The Licensing Act 2003 and with regard to Newport City Council Statement of Licensing Policies 2015.

## **APPENDIX A**

Application for Review of a Premises Licence under the Licensing Act 2003  
From the Home Office Immigration.

Received 19/6/19 → End 17/7/19

Licensing Authority: Newport City Council

Reference: AL25444

**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 Home Office Immigration Enforcement**

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

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

Postal address of premises or, if none, ordnance survey map reference or description	
Red Hot Goodies 20 Cardiff Road	
Post town Newport	Post code (if known) NP20 2ED

Name of premises licence holder or club holding club premises certificate (if known)
Mr Chao Chen

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

**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**

**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**

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional) Alcoholreviews@homeoffice.gov.uk

**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 type="checkbox"/>            |

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

On Wednesday 6<sup>th</sup> March 2019, Immigration Enforcement conducted an intelligence-led Enforcement visit to Red Hot Goodies, 20 Cardiff Road, Newport, NP20 2ED. An allegation had been received that there were person(s) being employed illegally at the address.

The team entered the premises at approx 22:45 under Section 179 of 2016 Licensing Act, as Newport Licensing officers had confirmed the premises held a late night refreshment license. In addition the premises were advertising as being open from 17.00 to midnight.

One of the employees that was encountered working at the premises was found to be illegally present in the UK and did not have permission to work. They were arrested and conveyed to local custody.

The arrested subject made reference when questioned, to commencing work on 05/03/19 and was paid £40/£50 per day. He was not specific as to who paid him or employed him.

All occupants of the takeaway stated the boss was in China and nobody present was in charge of hiring employees and therefore were not in a position to answer any illegal working questions in relation to the arrested male.

A Referral notice for potential Civil Penalty action was left with an employee of the premises.

The premises has failed to meet the licensing objective of 'the prevention of crime and disorder' as they were employing one person illegally at the time of the visit.



Please tick ✓

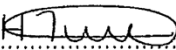
yes

- 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 19/06/2019 .....

Capacity **Responsible Authority**.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6) <b>Alcohol Licensing Team</b> <b>Lunar House</b> <b>40 Wellesley Road</b>	
<b>Post town</b> Croydon	<b>Post Code</b> CR9 2BY
<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> Alcoholreviews@homeoffice.gov.uk	

**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.

**APPENDIX B**

Premises Licence Red Hot Goodies, 20 Cardiff Road, Newport , NP20 2ED.

**Schedule 12  
Part A**

(THIS PART OF THE LICENCE  
MUST BE KEPT AT THE  
PREMISES AT ALL TIMES AND  
PRODUCED UPON REQUEST OF  
AN AUTHORISED OFFICER)

**Premises Licence  
City of Newport**



<b>Premises Licence Number</b>	19/02591/LAPREV
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**Part 1 – Premises Details**

<b>Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code</b>	
Red Hot Goodies 20 Cardiff Road Newport South Wales NP20 2ED	
<b>Telephone number</b>	Nil

<b>Where the licence is time limited the dates</b>
Not Applicable

<b>Licensable activities authorised by the licence</b>
Late Night Refreshment

<b>Times the licence authorises the carrying out of licensable activities</b>
Late Night Refreshment Sunday to Thursday inclusive 23:00 - Midnight Friday and Saturday 23:00 - 00:30

**The opening hours of the premises**

Sunday to Thursday inclusive 17:00 - 00:00  
Friday and Saturday 17:00 - 00:30

**Where non standard timings are authorised, the opening times shall be as those authorised for licensable activities with an additional 30 minutes on the terminal hour.**

**Where the licence authorises supplies of alcohol whether these are on and / or off supplies**

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Mr Chao Chen  
20 Cardiff Road  
Newport  
South Wales  
NP20 2ED

E Mail WENDY.WANG@F30LTD.COM Business Phone Number Nil

**Registered number of holder, for example company number, charity number (where applicable)**

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

**This Premises Licence is issued by Newport City Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.**

**Dated this**



Gareth Price  
Head of Law and Regulation

## **Mandatory conditions**

**1M03** Where at specified times one or more individuals may be at the premises to carry out a security activity, each individual must be licensed by the Security Industry Authority.

For the purposes of this section:

- i) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies; and
- ii) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## **Conditions consistent with the Operating Schedule**

1. The premises will operate a CCTV system that covers the whole of the licensed premises during the hours that the premises are trading; it will be capable of recording images to a suitable medium that allows replay. Such recordings shall be retained for a minimum of 28 days and made available to any authorised officer of the responsible authorities upon reasonable request.
2. A sign of A4 size stipulating that the premises closing time should be displayed at entrance of the premises.
3. Any incidents of crime / disorder at the premises will be immediately reported to Heddlu Gwent Police.

## **Conditions attached after a hearing by the licensing authority**

NIL.

## **Plans**

Please see attached plans (reference number P/15/01860/LAPRE)



## Appendix C

### Location of premises

