

Committee Agenda



Epping Forest District Council

Licensing Sub-Committee Monday, 18th March, 2019

You are invited to attend the next meeting of **Licensing Sub-Committee**, which will be held at:

Council Chamber - Civic Offices
on **Monday, 18th March, 2019**
at **10.00 am** .

Derek Macnab
Acting Chief Executive

**Democratic Services
Officer**

Jackie Leither (Direct Line 01992 564243)
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Members:

Councillors C P Pond (Chairman), S Heather, D Stocker and J M Whitehouse

PLEASE NOTE THE START TIME OF THE MEETING

**5. REVIEW OF THE PREMISES LICENCE FOR WO FAT, 270-272 HIGH ROAD
LOUGHTON (Pages 3 - 10)**

To consider the attached Submission.

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IN THE EPPING FOREST COUNCIL

SUBMISSIONS ON BEHALF OF VITAL EATS LIMITED

PREMISES LICENCE HOLDER OF "WO FAT RESTAURANT"

INTRODUCTION:

1. This is an application by the Essex Police to review the premises licence of the Wo Fat Restaurant, 270-272 High Street, Loughton.
2. The steps sought by the police are to revoke the premises licence.
3. The evidence submitted by the police relates to the employment of illegal workers at the premises and that these actions undermined the prevention of crime and disorder objective.
4. The evidence of the police clearly evidences the employment of illegal workers at the premises at the time of the visit in December 2018 and this is not disputed.
5. However, since the visit in December 2018, all workers have been employed legally with evidence of their right to work being checked and documentary evidence of this being kept at the premises.
6. The premises licence holder submits that the revocation of the premises licence is disproportionate and unnecessary. The premises licence holder would submit that by proposing additional conditions be added to the premises licence to include conditions regarding employer and right to work checks, would be sufficient to ensure that the premises now continue to be managed in such a way as to promote the licensing objectives.
7. The premises licence holder, accepting the seriousness of this offence, would also be willing to accept a period of suspension of the premises licence as a further penalty for their previous mistakes and would ask that the Committee consider all options available to them and not just the revocation of the premises licence as requested by the Police.

THE SUBJECT PREMISES:

1. Wo Fat Restaurant is a family restaurant which has been in the Wu family since 2008. It is now run by Mr Chi Kwong Wu. Mr Wu took over the premises from his brother Mr Chi Chiu Wu, although has been historically involved as part of the family business.
2. Mr Wu took over the premises from his brother, although his brother was still the Premises Licence and DPS.
3. However, we have since submitted applications to rectify the position and name his company 'Vital Eats Limited' as the Premises Licence Holder and him as DPS - he is

now solely responsible for the running of the business and is in day to day control of the restaurant.

THE REVIEW:

1. In considering this review application the Committee will of course have regard to the Police evidence which has been submitted surrounding the employing of illegal workers at the premises and this is not being disputed here. We are simply requesting that all of the facts of the individual case be considered here and that the decision is balanced between both the seriousness of the offence and what is appropriate and proportionate in the circumstances.
2. We appreciate that the S.182 Guidance states that revocation of the licence should be seriously considered here, but it also states that the remedial action taken should be no more than an appropriate and proportionate response to address the causes of concern that instigated the review and so we would ask you to use your discretion here in determining this case.
3. It is accepted that Mr Wu has been involved with the premises in some regard at both times the Home Office Visits have occurred, with this most recent being in December 2018 and he is remorseful of the fact that illegal workers had been employed at the premises as a result of inadequate procedures being in place to check the right to work of the employees in questions.
4. During the visit in December 2018 our client was served with a Notice of Potential Liability and a civil penalty for a potential sum of £105,000 for the employment of the 7 illegal workers is awaiting and outcome.
5. Again, this is accepted, and Mr Wu is fully aware that he will receive a financial penalty (likely to be to the sum mentioned above) and has accepted that this will have to be paid by the company as a punishment for employing illegal workers at the time of the visit.
6. However, at the time of the visit, this restaurant also legitimately employed 9 individuals and was also a means of support for Mr Wu's family due to the business it generated, as it continues to be for both his family and the workers currently employed there.
7. Further to the legal workers which were employed at the time of the visit there are currently 10 people employed by the business, including Mr Wu, who are legally employed to work there.
8. Evidence has been submitted with this statement which shows compliance with the Illegal Working Compliance Order – we have provided a list of the individuals currently working at the restaurant and the evidence which has been obtained as proof of their right to work. – this is labelled 'Appendix 1'
9. Mr Wu has realised the seriousness of these issues at the restaurant and would like to take this opportunity to reassure the parties and the Committee of his commitment to comply with the order and the legislation.

10. Mr Wu is willing to accept that should conditions be placed on the licence this could further address the issues and there are some suggested conditions below for your consideration, although you may consider others to be more appropriate.
11. Mr Wu, as a further financial penalty, and to show his regard for the seriousness of this matter, would also invite the Committee to consider a period of suspension for the premises licence, which is an alternative to the revocation of the licence, and we would argue is more proportionate and appropriate in these circumstances as all previous wrongdoings have now been rectified.
12. The restaurant does not have any issues from either a food safety or a statutory nuisance ground and the premises has a 4* hygiene rating from the local authority.
13. There are no suggestions that the licensing objectives are being undermined in any other way in the running of these premises, or indeed at all, now that the adequate checks are being undertaken at the time of employing individuals to ensure that they have the right to work.
14. Mr Wu has submitted the transfer and DPS applications to show that he is now undertaking the duties as Premises Licence Holder and DPS in a serious manner and is committed to working with the authorities to ensure the continued success of this, otherwise well run, family business.
15. It is appreciated that they do not serve as evidence to the promotion of the licensing objectives by Mr Wu, but feel that it also worth mentioning that there have been 6 positive representations, or letters of support, submitted by local residents who frequent the restaurant, do not have any concerns with the running of the business and would like to see it remain – they appreciate the likelihood of the premises closing if the licence is revoked and they do not want to see this happen.
16. We have also submitted a petition with this statement which has been signed by numerous local residents who are of the same view of those who have submitted positive representations and do not want to see their local restaurant close - this is labelled 'Appendix 2'
17. In contrast to this however, it is also worth mentioning, that no other responsible authorities have joined this review in support of the Police which would suggest that the business does not cause concern to the authorities and in the day to day running promotes the licensing objectives and trades without issue, other than the accepted administrative failings in respect of right to work checks which has now been resolved.

PROPOSED CONDITIONS:

1. That the Designated Premises Supervisor undertakes full responsibility for the recruitment of all workers employed at the premises on a full time or temporary basis;
2. The Designated Premises Supervisor undertake right to work checks on all staff employed at the licensed premises;

3. The copies of any document checked as part of a right to work are retained at the premises at all times the premises are open;
4. Those copies of the right to work documentation are made available to the Licensing Authority, the Home Office and the Police for inspection on the premises, without notice at any time; **OR**
5. Those copies of the right to work documentation are served to the Licensing Authority, the Home Office and Police for inspection each time the Designated Premises Supervisor employs a new worker at the premises.

FEBRUARY 2019

WO-FAT CHINESE RESTAURANT LOUGHTON
may lose its license and close down due to Immigration problems. I am only compiling a list of names of those who wish for it to stay open once they have met their legal requirements.

It goes without saying that all those in favour only want it to be open with legally employed workers .

This restaurant has been in Loughton for many years and it has been a favourite of many and we would be sad to see it close .

If you don't want to see it close down please put your name below .

Thank you .

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By virtue of paragraph(s) 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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