

# CHESHIRE EAST COUNCIL

## LICENSING ACT SUB-COMMITTEE

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<b>Date of Meeting:</b>	Wednesday 11 <sup>th</sup> July 2012 at 11.30am
<b>Report of:</b>	Mrs N Cadman, Licensing Officer
<b>Subject/Title:</b>	Application for a Premises Licence Disley Service Station, 159 Buxton Road, Disley, SK12 2HG.

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### **1.0 Report Summary**

- 1.1 The report provides details of an application for the variation of a premises licence together with information as to representations received in relation to the application.

### **2.0 Recommendations**

- 2.1 The Licensing Act Sub-Committee is requested to determine the application for the variation of a Premises Licence made by Rontec Watford Limited, in respect of Disley Service Station, 159 Buxton Road, Disley, SK12 2HG

### **3.0 Reasons for Recommendations**

- 3.1 The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003.

### **4.0 Wards Affected**

- 4.1 Disley

### **5.0 Local Ward Members**

- 5.1 Councillor Harold Davenport

### **6.0 Policy Implications**

- 6.1 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 and Guidance issued under section 182 of the Act.

### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 Not applicable.

### **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 In accordance with the provisions of section 35 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. Section 35(4) provides that the authority may (a) modify the conditions of the licence; or (b) reject the whole or part of the application.

8.2 Section 176 of the Licensing Act 2003 provides that no premises licence has effect to authorise the sale by retail or supply of alcohol on or from excluded premises. "Excluded premises" for these purposes includes 'premises used primarily as a garage or which forms part of premises which are primarily so used.' Section 176(4)(c) provides that premises are used as a garage if they are used for one or more of the following – (i) the retailing of petrol; (ii) the retailing of derv; (iii) the sale of motor vehicles; (iv) the maintenance of motor vehicles. Paragraph 5.23 of the section 182 Guidance provides that the accepted approach in determining whether premises are used primarily as a garage is "based on 'intensity of use' to establish 'primary use.'"

## **9.0 Risk Management**

9.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

## **10.0 Background and Options**

10.1 The application is for the variation of a Premises Licence under section 34 of the Licensing Act 2003.

10.2 The operating schedule indicates that the relevant licensable activities applied for are:

**Late Night Refreshment  
Sale and Supply of Alcohol**

10.3 The hours applied for are as follows:

**Late Night Refreshment (to take place both indoors and outdoors)**  
Monday to Sunday 23.00 to 05.00

**Sale and Supply of Alcohol (for consumption off the premises only)**  
Monday to Sunday 24 hours a day

The hours the premises shall be open to the public  
Monday to Sunday 24 hours a day

10.4 Designated Premises Supervisor: Miss Joanne Louise Bradley

10.5 The operating schedule includes the following steps to promote the licensing objectives:

### **(a) Prevention of crime and disorder**

A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.

The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will be recorded or digitally onto CD/DVD or other equivalent media.

Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.

The CCTV system will incorporate a camera covering the entrance door and the alcohol display areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.

The system will display, on any recording, the correct time and date of the recording.

A system will be in place to maintain the quality of the recorded image.

The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.

**(b) Public safety**

The applicant will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police.

**(c) Prevention of public nuisance**

Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

**(d) Protection of children from harm**

The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photo card driving licence bearing a holographic mark or other form of identification bearing the customer's photograph, date of birth and the Proof of Age Standards Scheme (or similarly accredited scheme) hologram.

As part of the variation, the applicant also seeks to remove the embedded conditions set out in Annex 2 of the existing Premises Licence conditions.

10.6 Relevant Representations:

Responsible Authorities

10.6.1 The Police state in their response: Application received 23rd May 2012 from Rontec Watford Limited for a variation of the current Premises Licence at Disley Service Station.

The application is for the sale and supply of alcohol and late night refreshments.

I visited the premises on 15th June 2012 and observed the Blue Notices were correctly displayed. I took pictures which I can produce if required.

The premises are situated on the outskirts of the village and currently operate until 23.00 hours; this application is to increase the hours of business to make the premises a 24 hour outlet and add late night refreshments to the licence.

There are a number of residential properties across from the premises which will no doubt be affected by the extension of the opening hours.

Late night refreshment establishments are frequently associated with Crime and Disorder and Anti-Social Behaviour and there are some concerns that such an outlet in the location will be a magnet for this type of activity.

Having visited the site I have concerns in relation to the Prevention of Crime and Disorder, as it stands at the moment the premises are double manned at all times, hot refreshments and sale of alcohol is byway of the main shop area, whilst this is acceptable at the moment there are no conditions offered by the applicant to protect staff who will be responsible for the running of the business throughout the late evening and early morning.

Police would request:

If the business is to operate beyond 23.00 hours all service is done from a night service hatch (one is already fitted).

There is no admittance to the main shop between 23.00 and 07.00 hours daily.

Providing these conditions are met there are no other Police representations.

10.6.2 The Environmental Health Department - No response.

10.6.3 The Cheshire Fire Service – No response.

10.6.4 Local Planning Authority – No response.

10.6.5 Local Safeguarding Children Board – As Police response.

10.6.5 Health and Safety Officer – No response.

10.6.6 Trading Standards – No response.

#### Interested Parties

10.6.7 The Licensing Authority has received a letter of representation from Disley Parish Council and 6 letters of representation from neighbour objectors, as appended to this report.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## **APPENDICES**

Appendices 1 – 6 Letters from Neighbour Objectors.  
Appendix 7 – Representation from Disley Parish Council.  
Appendix 8 – Existing Premises Licence Summary and Conditions.  
Appendix 9 – Map of area.