

Licensing Act Sub-Committee

Agenda

Date: Tuesday 24th November 2020

Time: 10.00 am

Venue: Virtual Meeting

How to Watch the Meeting

For anybody wishing to view the meeting live please click in the link below:

[Click here to view the meeting](#)

or dial in via telephone on 141 020 3321 5200 and enter Conference ID 632813970# when prompted.

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and in the report.

It should be noted that Part 1 items of Cheshire East Council decision-making meetings are recorded and the recordings are uploaded to the Council's website.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda and for Members to declare if they have pre-determined any item on the agenda.

For requests for further information

Contact: Helen Davies

Tel: 01270 685705

E-Mail: helen.davies@cheshireeast.gov.uk

3. **Application for Transfer a Premises Licence under Section 42 of the Licensing Act 2003, Rosanero Restaurant, 83 Mill Street, Macclesfield SK11 6NN**
(Pages 9 - 34)

To consider the application for the transfer of a premises licence under Section 42 of the Licensing Act 2003 for Rosanero Restaurant, 83 Mill Street, Macclesfield.

Membership: Councillors L Gilbert, M Goldsmith and L Smetham

CHESHIRE EAST COUNCIL**Procedure for Hearings – Licensing Act 2003
COVID-19**

This procedure has been drawn up to take account of the restrictions placed on the Country by the Government in its response to the COVID-19 pandemic and the Council's move towards the holding of virtual meetings.

As a Licensing Authority we are conscious that all Hearings of this nature must be run in accordance with the rules of natural justice and that any modifications to the format of the hearing should not undermine the requirements to hold a fair hearing.

It is the Council's intention to run the Hearing as close a possible to our procedure for Hearings set out in our Statement of Licensing Policy. However, it will be necessary to make a number of specific alterations.

The Council does not intend to hold any Hearings just on the pre Hearing papers (eg applications and written representations). The Council considers that a Licensing determination based solely on written material and without the opportunity for amplification, clarification, and questions does not best serve the decision-making process.

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Platform

The Council will use Microsoft Teams for all Hearings. This platform can be accessed on a landline, mobile, laptop or tablet. The Democratic Services Officers will ensure that the meeting is set up within the Microsoft Teams platform. All parties to the Hearing will received the Notice of Hearing required by the regulations and an email invitation with specific joining instructions for Microsoft Teams.

Web Casting

All Council meetings are web cast through the Council's website. This will continue to be the case during any lockdown period and will allow members of the public to listen to proceedings from their own home.

Connectivity Test

The Council will require Members, officers, and all parties to the Hearing to be available for a connectivity test 30 minutes before the start of the Hearing. This is to ensure that any issues can be identified and overcome before the start of the meeting. Notes on how this test will be conducted will be sent directly to parties.

Technical Issues

If during the course of the meeting, the Chairman determines any technical issues (for example, parties dropping out of the meeting or parties being unable to hear or follow proceedings etc) are compromising the integrity of the Hearing, the Chairman will have discretion to adjourn the matter to later date. The test the Chairman will use when considering any adjournment is what is best in the public interest (including the right of all parties to have a fair hearing). Any adjournment will either be to a date when technical issues can be overcome or to a date when a full hearing with all parties physically present can be held.

Etiquette

In order to maximise effectiveness of the Hearing all parties should:

- Identify themselves at the start of the Hearing when asked to do so by the Chairman
- Put their webcam and microphone on mute all times other than when addressing the Committee
- Indicate that you want to speak by using the chat function
- Only address the Committee when called to do so by the Chairman

Committee Reports

The Committee report and all relevant information will be posted on the Council's website at least 7 days prior to the Hearing. A link to the documents will be provided with the Notice of Hearing. The Committee report pack will be paginated and all parties should refer to this pack rather than their own bundles.

Late Evidence

Parties should submit any evidence for consideration of the Committee prior to the drawing up of the Committee agenda packs. This will mean that all information in containing in one paginated bundle that can be referred to by the parties (referencing pages numbers).

Evidence submitted on the day of the hearing can only be included when all parties to the hearing agree. It will ultimately be for the members of the Committee to decide if late evidence is accepted.

Decisions

In accordance with Hearings Regulations the Committee will make a determination at the end of the Hearing and the decision will be given within 5 working days. Some decisions are required to be given at the end of the Hearing, in this case the public meeting will resume once Members have deliberated and formed their decision.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure and will draw up the decision notice.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered (ii) call for any declarations of interest (iii) ask all parties to introduce themselves (iv) summarise the procedure to be followed at the hearing (v) will consider any request made by a party for another person to appear at the hearing (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties)
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	Other Persons (who have made representations)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Other Persons (who have made representations)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which they should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Other Persons (who have made representations)	The local residents who are objecting to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
14	Applicant	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
15	Committee Members	May ask <u>questions</u> of the Local Residents.
16	Chairman	To invite both Responsible Authorities and Local Residents to make their closing addresses.
17	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
18	Close of Public Meeting	When the Chairman determines that all relevant information has been heard and no further matters are to be discussed, the public meeting will end. All parties to the hearing (including

		Licensing Officers and Responsible Authorities) will be excluded from the platform.
18	Committee	<p><u>Will retire</u> to consider the application. They will be accompanied by their Legal Advisor and the Democratic Services Officer. This means that the Members of the Committee can determine the matter in private session. And can take the opportunity to seek legal advice.</p> <p>Members will give their decision with 5 working days by the issuing of a decision notice.</p>

Notes

1. The Committee can exclude members of the press and public from participation in a Hearing; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to be excluded from the Hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the Hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chairman may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

Summary of Procedure

1. Chairman appointed (if this has not been done previously).
2. Chairman to call for declarations of interest and request that all parties introduce themselves.
3. Chairman summarises the procedure for the hearing
4. The Licensing Officer summarises the application
5. Applicant to present his/her case.
6. Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
7. Applicant to be questioned by the Committee.
8. Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
9. Other Persons will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
10. The applicant will be invited to sum up his/her case
11. Committee/Sub-Committee withdraws to make its decision
12. Committee/Sub-Committee will provide its decision in writing



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Licensing Act Sub Committee

Date of Meeting: 20 November 2020

Report Title: Application for transfer a premises licence under Section 42 of the Licensing Act 2003, Rosanero Restaurant, 83 Mill Street, Macclesfield SK11 6NN

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

- 1.1. The report provides details of a police objection to an application to transfer the Premises Licence, under section 42 of the Licensing Act 2003 and outlines the evidence presented in relation to the transfer.

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine the application for the transfer of the Premises Licence made by Mr. Kyle Frost-Morgan, in respect of a premises known as:

Rosanero Restaurant
83 Mill Street
Macclesfield
SK11 6NN

- 2.2. The Licensing Act Sub-Committee is requested to consider the application together with the relevant representation and determine, if it is appropriate, to reject the application for the promotion of the prevention of crime and disorder.
- 2.3. Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives and where Members consider that matters have engaged one or more of the Objectives, they may exercise their discretion. The Licensing Objectives are:

- a) The prevention of crime and disorder;
- b) Public Safety;
- c) The prevention of public nuisance;
- d) The protection of children from harm.

2.4. Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so. Careful consideration should be given to the application and the evidence presented by the parties in relation to the Transfer of a Premises Licence application.

2.5. Finally, Members are also reminded that in determining the application, consideration also needs to be given to:

- a) The rules of natural justice;
- b) The provisions of the Human Rights Act 1998.

3. 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 and the Council's Constitution, and provide the key reasons why the recommendation/s has/have been made. Link your reasons into appropriate council policies and corporate objectives.

4. Other Options Considered

4.1. Not applicable.

5. Background

5.1. An application for the transfer of an existing premises licence under Section 42 of the Act is normally a straightforward licensing procedure and is dealt with as an administrative matter. As part of the application process, the applicant is required to give notice of the application to the Police.

5.2. Under Section 42(6) of the Act, where a chief officer of police is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must serve notice to the Licensing Authority within fourteen days of receiving the application.

- 5.3. When a valid objection under Section 42(6) is received from the police and the objection has not been withdrawn, the matter must be referred to the Licensing Act Sub-Committee for a hearing to determine the application.
- 5.4. An application to transfer a premises licence under the Licensing Act 2003 was received by Cheshire East Council (the “Licensing Authority”), from Mr. Kyle Frost-Morgan on 06th October 2020, although payment for the application was not received until 27th October 2020. A copy of the transfer application is attached at **Appendix 1**.
- 5.5. Mr. Kyle Frost-Morgan has applied to transfer the premises licence PR/0183 for Rosanero Restaurant, 83 Mill Street, Macclesfield into his name from the current licence holders Mr. Salvatore Di Maio and Mrs Claire Millar. A copy of the existing Premises Summary and Conditions of Licence is attached at **Appendix 2**.
- 5.6. In this case, the request to transfer was to have immediate effect and was administered by the Licensing Authority accordingly. By virtue of Section 43 of the Act the application has effect during the ‘application period’ as if the application was received by the Licensing Authority and ends when the application is granted, or if it is rejected, at the time the rejection is notified to the applicant. Therefore, if a decision is made to appeal the Sub-Committee’s decision at Magistrates Court, the ‘application period’ will continue until the determination by that court.
- 5.7. On 3rd November 2020 the Licensing Authority received a notice under Section 42(6) of the Act from Cheshire Police in objection to this application, including a detailed account of their reasons. These reasons are considered by the licensing officer to be a valid objection under the Act. **Appendix 3** is a copy of the Police representation together with a copy of an email received by Cheshire East Council’s Licensing Team on 28th August 2020, from the premises licence holder, advising that the business has been sold to Miss. Emma Warne. Also attached are screen shots of online records, lifted from Companies House, that shows Miss Emma Warne as a Director of the business and the name person with significant control over the business.
- 5.8. In such cases, if a subsequent objection against the transfer is received from the police, within the legal timeframe, the matter must be placed before the Licensing Sub-Committee to determine the application under Section 44(5) of the Act.
- 5.9. The applicant and the police have been notified of the hearing in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

5.10. Responsible Authorities:

5.10.1. Cheshire Police have submitted a representation which is set out at Appendix 3.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. In accordance with the provisions of section 18 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 44(5)(b)i provides that the authority may:

- I. Grant the licence;
- II. Reject the application, if it considers it appropriate, for the promotion of the crime prevention objective to do so.

6.1.3 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to exercise its various functions, doing all that it can to prevent Crime and disorder, and Anti-Social Behaviour, behaviour adversely affecting the environment as well as the misuse of drugs, alcohol and re-offending in the Local Environment.

6.2. Finance Implications

6.2.1. There are no financial implications.

6.3. Policy Implications

6.3.1. The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

6.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

6.3.3. Members should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.

6.4. Equality Implications

6.4.1. There are no direct equality implications.

6.5. Human Resources Implications

6.5.1. There are no human resources implications.

6.6. Risk Management Implications

6.6.1 The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant persons' who have submitted their representations and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 makes provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.9.1 There are no direct implications for public health.

6.10. Climate Change Implications

6.10.1. There are no direct implications for Climate Change.

7. Ward Members Affected

7.1. Macclesfield Central – Councillor Liz Braithwaite

7.2. Macclesfield Central – Councillor Ashley Farrall

8. Consultation & Engagement

8.1. Consultation in respect of submitting an application to Transfer a Premises Licence is prescribed in the Licensing Act 2003 and has been fully complied with.

9. Access to Information

9.1. The background papers relating to this report can be made available by contacting the report writer.

10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

Name: Amanda Andrews

Job Title: Licensing Enforcement Officer

Email: amanda.andrews@cheshireeast.gov.uk

Appendix 1 – Application

Appendix 2 – Premises Licence

Appendix 3 - Cheshire Police Representation

Application to transfer premises licence to be granted 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/We KYLE FROST - MORGAN

(insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

PR0183

Part 1 - Premises details

Postal address of premises or, if none, ordnance survey map reference or description

83 MILL STREET

Post town

Macclesfield

Post code

SK11 6NN

Telephone number at premises (if any)

[REDACTED]

Please give a brief description of the premises (see note 1)

Restaurant

Name of current premises licence holder

Salvatore Di Majo / Claire Rachel Millar

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

a) an individual or individuals*

Please tick ☒ yes

☒ please complete section (A)

b) a person other than an individual *

i. as a limited company/limited liability partnership

☐ please complete section (B)

ii. as a partnership (other than limited liability)

☐ please complete section (B)

iii. as an unincorporated association or

☐ please complete section (B)

- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☐
- I am making the application pursuant to a ☐
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr ☒ Mrs ☐ Miss ☐ Ms ☐

Other title
(for example, Rev)

Surname

FROST-MORGAN

First names

KYIE

Date of birth

I am 18 years old or over

Please tick ☒ yes

Nationality

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3Please tick ☒ yesAre you the holder of the premises licence under an interim authority notice? ☐Do you wish the transfer to have immediate effect? ☒

If not when would you like the transfer to take effect?

Day	Month	Year

Please tick ☒ yesI have enclosed the consent form signed by the existing premises licence holder ☒

Current residential address if different from premises address

Post town

MACCLESFIELD

Post code

Daytime contact telephone number

E-mail address (optional)

[REDACTED]@gmail.com

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

Surname

First names

Date of birth
Nationality

I am 18 years old or over

Please tick ☒ yes
☐

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

Current residential address if different from premises address

Post town

Post code

Daytime contact telephone number

E-mail address (optional)

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick ☒ yes

I have enclosed the premises licence

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee ☒
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed ☒
- I have enclosed the premises licence or relevant part of it or explanation ☒
- I have sent a copy of this application to the chief officer of police today ☒
- I have sent a copy of this form to Home Office Immigration Enforcement today ☒
- Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents, or my Home Office online right to work checking service share code, to demonstrate my entitlement to work in the United Kingdom (please read note 2) ☒

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.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date 11/10/20

.....

Capacity

Co owner

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

.....

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

AS ABOVE

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)



Premises Licence Summary

Premises Licence Number:

PR/0183

Premises Details

Postal address of Premises or, if none, ordnance survey map reference or description:

Rosanero Restaurant
83 Mill Street
Macclesfield
Cheshire

Post Town: Macclesfield

Post Code: SK11 6NN

Telephone Number:

Where the Licence is time limited, the dates:

Not applicable

Licensable activities authorised by the Licence:

Recorded Music
Sale and supply of alcohol
Late night refreshment

The time the Licence authorises the carrying out of licensable activities:

Recorded music

For hours premises are open to the public

Sale and Supply of Alcohol

Monday to Saturday	10.00 to 24.00
Sunday and Good Friday	12.00 to 23.30
Christmas Day	12.00 to 23.30

(Subject to condition 1-3 in Annex 2)

From the end of permitted hours on New Years Eve to the commencement of hours on New Years Day

Late night refreshment

Monday to Saturday	23.00 to 00.30
Sunday and Good Friday	12.00 to 24.00
Christmas Day	12.00 to 24.00

From 23.00 on New Years Eve to 05.00 on New Years Day

The opening hours of the Premises:

Not known

Where the Licence authorises supplies of alcohol, whether these are on and/or off supplies:

For consumption either on or off the premises

Name, (registered) address of holder of Premises Licence:

Mr Salvatore Di Maio
3 Deans Row
Knutsford Road
Cranage
Cheshire
CW4 8ES

Mrs Claire Rachel Millar
3 Deans Row
Knutsford Road
Cranage
Cheshire
CW4 8ES

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

Not applicable

Name of designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol:

Mrs Claire Rachel Millar

State whether access to the Premises by children is restricted or prohibited:

No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (1) He is the child of the holder of the premises licence.
- (2) He resides in the premises, but is not employed there.
- (3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

Signed by Mr J Hopper
On behalf of Cheshire East Borough Council



Licensing Act 2003 – Premises Licence

Duration of a Premises Licence

A premises licence has effect until such a time that it is suspended, revoked or surrendered.

Duty to notify change of name or address

The holder of a premises licence must, as soon as is reasonably practicable, notify the relevant licensing authority of any change of name or address.

Where the designated premises supervisor (DPS) under a premises licence is not the holder of the licence, he should notify the licensing authority of a change in name or address as soon as possible. The DPS must also notify the holder of the premises licence.

Failure without reasonable excuse to comply with the above is an offence, and a person will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (ie£500)

Duty to keep and display licence

The holder of a premises licence must ensure that the licence or a certified copy of it is kept at the premises in the custody of or under the control of the holder of the licence or a person who works at the premises whom the premises licence holder has nominated in writing. A notice should be prominently displayed at the premises specifying the position of any such nominee.

The premises licence holder has a duty to ensure that a summary of the licence or a certified copy of that summary is prominently displayed at the premises.

Failure without reasonable excuse to comply with the above is an offence, and a person will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (ie £500)

Duty to produce licence

A constable or an authorised person may require production of the premises licence for examination. An authorised person must, if requested, produce evidence of his authority to exercise the power.

Failure without reasonable excuse to comply with the above is an offence, and a person will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (ie £500)

Theft or loss of premises licence

Where a premises licence or summary is lost, stolen, damaged or destroyed, the holder of the licence may apply to the relevant licensing authority for a copy of the licence or summary. A fee of £10.50 is payable in relation to such an application.

Where an application is made for a replacement licence or summary the licensing authority must issue the holder of the licence with a licence or summary if it is satisfied that –

- (a) the licence or summary has been lost, stolen, damaged or destroyed; and
- (b) where it has been lost or stolen, the holder has reported that loss or theft to the police.

Surrender of premises licence

Where the holder of a premises licence wishes to surrender his/her licence he/she may give the licensing authority a notice to that effect. The notice must be accompanied by the premises licence, or where that is not practicable, by a statement of the reasons for the failure to provide the licence. Where a notice of surrender is given, the premises licence lapses on receipt of the notice by the licensing authority.

Death, incapacity, insolvency of licence holder

A premises licence lapses if the holder of the licence –

- (a) dies,
- (b) becomes mentally incapable (within the meaning of section 13(1) of the Enduring Powers of Attorney Act 1985)
- (c) becomes insolvent,
- (d) is dissolved, or
- (e) if it is a club, ceases to be a recognised club

(subject to provision for re-instatement in certain circumstances).

Annex 1 - Mandatory Conditions

1. Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.
- c. On Good Friday, 12 noon to 10.30 p.m.
- d. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- g. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS) ORDER 2010

MANDATORY CONDITIONS

Condition 1

(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

Condition 2

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

Condition 3

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Condition 4

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Condition 5

The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with the Operating Schedule

1. Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m.
- c. On Good Friday, 12 noon to 10.30 p.m.
- d. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- g. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

2. The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

- (e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (f) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- (h) the taking of alcohol from the premises by a person residing there; or
- (i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- (j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

3. Alcohol may be sold or supplied [for one hour following the hours set out above and] [on Christmas day, between 3 p.m. and 7 p.m.] to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply

4. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (1) He is the child of the holder of the premises licence.
- (2) He resides in the premises, but is not employed there.
- (3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

5. Where there is provided in the Premises an entertainment for children, or an entertainment at which the majority of the persons attending are children, then, if the number of children attending the entertainment exceeds one hundred, it shall be the duty of the person providing the entertainment to station and keep stationed wherever necessary a sufficient number of adult attendants, properly instructed as to their duties, to prevent more children or other persons being admitted to the building, or to any part thereof, than the building or part can properly accommodate, and to control the movement of the children and other persons admitted while entering and leaving the building or any part thereof, and to take all other reasonable precautions for the safety of the children

6. Where the occupier of the Premises permits, for hire or reward, the Premises to be used for the purpose of an entertainment, he shall take all reasonable steps to secure the observance of the provisions of condition (5) above.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

None

Annex 4 - Plans

Please see attached

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CHESHIRE EAST COUNCIL

Representation Form.

Responsible Authority.

POLICE

Your Name	Lesley Halliday
Job Title	Police Licensing Officer
Postal and email address	Warrington Police Station, Charles Stewart House, 55 Museum Street, Warrington, WA1 1NE [REDACTED]
Contact telephone number	[REDACTED]

Name of the premises you are making a representation about.	Rosanero Restaurant
Address of the premises you are making a representation about.	83 Mill Street, Macclesfield, SK11 6NN

Which of the four licensing Objectives does your representation relate to? Please state yes or no.	Yes Or No	Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary
The Prevention of harm to children		
To prevent Public Nuisance		
To prevent crime and disorder	Yes	See Below
Public Safety		

Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.	See Below:
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COMMENTS:

Cheshire constabulary wish to object the transfer of the premise licence in respect of the above premises, to Mr Kyle Frost-Morgan as we believe that if the transfer is granted it will undermine the licensing objective of prevention of crime and disorder.

On Friday 28th August 2020 the police received an email forwarded from Cheshire East Council Licensing from Claire Millar & Salvatore Di Maio the previous owners of Rosanero Restaurant advising that as of 4pm that day they had sold the company Rosanero Restaurant Ltd who operates from the premises to Miss Emma Warne.

Miss Warne has previously run Thirsty Beak Café, Dukes Court, Macclesfield, with her Mum Ms Tracey Warne and during the time she was running the premises she committed a number of licensing offences, which she later admitted in an interview under caution on 23rd January 2020.

Both the police (PC Bassirat and Licensing officer Lesley Halliday) and the Council's licensing Enforcement Officer Ms Amanda Andrews met with the applicant Mr Kyle Frost-Morgan on Tuesday 3rd November 2020.

Mr Frost-Morgan advised that he has bought the business from Miss Warne and that she now works for him as a self-employed Chef. Mr Frost-Morgan advised that although he has bought the business, he sublet the premises from Miss Warne as she has signed a 10-year lease on the premises. When asked why he had not taken over the lease Mr Frost-Morgan advised it was cheaper for him to sub-let the premises from Miss Warne as it saved on the solicitors fees to transfer the lease. Mr Frost-Morgan has been asked if he can evidence the sale of the business, which he said he could however, the documentation has not been forthcoming.

Having checked the company Rosanero Restaurant Limited on companies' house, it shows that there is only one company director and the person with significant control is Miss Emma Warne.

The police have concerns that although the transfer is to Mr Frost-Morgan it is clear that Miss Warne is involved in the business. Given her previous history where she demonstrated a complete disregard for both the conditions on the premises licence and the licensing objectives, it is the police's view that should this transfer be granted it will undermine the licensing objective of prevention of crime and disorder and we therefore ask the committee to support this objection.

Signed:

Lesley Halliday

Date: 03/11/2020

From: ☐ LICENSING (Cheshire East)
To: ☐ Lesley Halliday
Cc:
Subject: [EXTERNAL] [OFFICIAL] FW: Premises Licence PR/0183 Rosanero Restaurant 83 Mill Street, Macclesfield, SK11 6NN

Sent: Fri 28/08/2020 15:57

Hi Leslie,

For your info, we have received the email below, the contents of which should be self-explanatory.

At the time of writing, we are not in receipt of any application to transfer the licence.

Regards,

[REDACTED] Cheshire East Council Licensing Enforcement Officer Regulatory Services & Health (Licensing), 2nd Floor, Municipal Buildings, Earle Street, Crewe, CW1 2BJ
Tel: 0300 123 5015
www.cheshireeast.gov.uk

-----Original Message-----

From: Claire Millar **[REDACTED]**
Sent: 28-Aug-2020 15:10

To: LICENSING (Cheshire East)
Subject: Premises Licence PR/0183 Rosanero Restaurant 83 Mill Street, Macclesfield, SK11 6NN

Hello

The premises licence is held in the names of myself Claire Millar and Salvatore Di Maio. I am also the designated premises supervisor.

As at 4 pm today Friday 28 August 2020 we have sold the company Rosanero Restaurant Ltd who operates from the premises to a Miss Emma Warne. We no longer have any connection to the company.

I have this afternoon given Emma Warne the relevant paperwork to complete to transfer the licence and to appoint a new designated supervisor.

Regards

Claire Millar

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ROSANERO RESTAURANT LTD

Company number **07432594**

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File for this company

Overview

Filing history

People

Charges

More

Officers

Persons with significant control

1 active person with significant control / 0 active statements

Ms Emma Louise Warne

ACTIVE

Correspondence address

83 Mill Street, Macclesfield, England, SK11 6NN

Notified on

28 August 2020

Date of birth

January 1993

Nationality

British

Nature of control

Ownership of shares – 75% or more

Country of residence

England

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ROSANERO RESTAURANT L...

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ROSANERO RESTAURANT LTD

Company number **07432594**

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Persons with significant control

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4 officers / 3 resignations

WARNE, Emma Louise

Correspondence address
83 Mill Street, Macclesfield, England, SK11 6NN

Role	ACTIVE	Date of birth	Appointed on
Director		January 1993	28 August 2020

OFFICIAL

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