

CANNOCK CHASE COUNCIL

LICENSING SUB-COMMITTEE

15 MAY 2013

REPORT OF HEAD OF ENVIRONMENTAL HEALTH

LICENSING ACT 2003

APPLICATION FOR A PREMISES LICENCE

RUGELEY SERVICE STATION, MAIN ROAD, BRERETON, RUGELEY, STAFFS, WS15 1DX

1. Reason for Hearing

1.1 This application has not been granted under Officers' delegated powers because representation has been received from Staffordshire Police on the basis that they are concerned that the licensing objectives may be compromised if the premises licence application were granted. They question the primary use of the service station premises in respect of s176 of the Licensing Act 2003. This constitutes a relevant representation and the Council, as Licensing Authority, must therefore hold a hearing to consider this representation.

1.2 Staffordshire Police questions whether the Rugeley Service Station is an excluded premises under s176 of the Act from which alcohol cannot be sold (see the Legal Implications given at paragraph 4 of this report). The Police state that they have asked the applicant's representative for proof of the primary use of the premises however, such evidence has not been forthcoming.

2.

Name and Address of Premises.	Rugeley Service Station, Main Road, Brereton, Rugeley, Staffs., WS15 1DX.
Applicant Details- Registered Address.	Rontec Watford Limited, 13-14 Esplanade, St. Helier, Jersey, JE1 1BD.
Date of Application	22 March 2013.

Fees Paid	Band B: £190.
Licensable Activities Applied For:	Sale by retail of alcohol
Proposed Licensing Hours:	Sale by retail of alcohol: Everyday - 06.00hrs to 23.00hrs.
Proposed Opening Hours.	Everyday - 00.00hrs to 24.00hrs.
Responsible Authority Representation	A formal representation has been received from Staffordshire Police on the basis that they are concerned that the licensing objectives may be compromised if the premises licence application were granted. They question the primary use of the service station premises in respect of s176 of the Licensing Act 2003.
Other Representations from Interested Parties	No other representations have been received with respect to this application.
Promotion of the Licensing Objectives.	The steps the applicant intends to take to promote the 4 licensing objectives are given on page 16 &17 of the Application Form which is attached to this report as Annex 1.

3. Human Rights Act 1998 Implications

- 3.1 Article 6 of the Act provides that where a person's civil rights and obligations are being determined, s/he is entitled to a "fair trial". The Council complies with Article 6 in that it gives the person the opportunity to state their case, will make a decision within a reasonable period of time and will give reasons for its decision.
- 3.2 The Article also provides for the issue to be determined by an independent tribunal. The right of appeal to the Magistrates' Court against the Council's decision fulfils this.
- 3.3 The Council observes the rules of natural justice and its procedures are consistent with Article 6 of the Human Rights Act 1998.

4. Legal Implications

- 4.1 Section 176 of the Licensing Act 2003 states that "No premises licence...has effect to authorise the sale by retail or supply of alcohol on or from excluded premises" Excluded premises include, in S 176(2)(b), "...premises used primarily as a garage or which forms part of a premises which are primarily so used".
- 4.2 Section 176(4)(c) states:
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.
- 4.3 Guidance issued under Section 182 of The Act (paragraph 5.22) states: "The Licensing Authority must decide whether or not the premises are used primarily as a garage. The accepted approach is based on 'intensity of use' to establish 'primary use'.
- 4.4 Section 182 Guidance (paragraph 5.23) states: "Where there is insufficient evidence to establish primary use, it is for the Licensing Authority to decide whether to grant the licence and deal with any issues through enforcement action and it may be able to use its case management powers to enable further evidence to be obtained"
- 4.5 From the above paragraphs it can be seen that neither the Act nor the Guidance precludes the granting of a Licence where the primary use of the premises is as a garage, or where the primary use cannot be established. Any licence granted in such circumstances would not authorise the sale or supply of alcohol.
- 4.6 The Applicant, the licence holder and any other persons who made relevant representations in relation to the application (in this case Staffordshire Police) have a right of appeal to the Magistrates' Court should they disagree with the Licensing Sub Committees decision.
- 4.7 The Magistrates' Court may dismiss the Appeal, substitute the decision being appealed with any other decision that the Licensing Authority could have made or ultimately remit the matter back to the Licensing Authority requesting it to deal with the case subject to whatever direction it has set.

5. Financial Implications

- 5.1 Fees for a premises licence are payable upon application. They are not refundable should the application be refused.
- 5.2 If the application is refused or granted with conditions, both the responsible authority (in this case the Police) and the applicant have a right of appeal to the Magistrates' Court against the decision. All appeals carry financial costs and the Court can set whatever order it deems fitting with regards to the payment of costs. The Court is however, less likely to award costs against the Council if it is satisfied that the Council had acted honestly, reasonably and properly and on grounds which appeared to be sound.

6. Annexes

Annexes Attached	<p>Annex 1 Application form. Please note that pages 5 to 13 (inclusive) have not been reproduced as they do not form any part of the application process and have therefore not been completed by the applicant.</p> <p>Annex 2 Map of the premises location</p> <p>Annex 3 Letter of representation from Staffordshire Police dated 16 April 2013.</p>
7. Determination Required	<p>Members are asked to determine whether the application for a premises licence in respect of Rugeley Service Station, Main Road, Brereton, Rugeley, Staffs, WS15 1DX, can be granted, with or without conditions, having due regard to the 4 Licensing Objectives, Cannock Chase Council's Licensing Policy and Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The 4 Licensing Objectives are:</p> <ul style="list-style-type: none"> ● The Prevention of Crime & Disorder ● Public Safety ● The Prevention of Public Nuisance ● The Protection of Children from Harm

This page is intentionally blank

394

**Application for a 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 Rontec Watford Limited

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Rugeley Service Station Main Road			
Post town	Rugeley	Post code	WS15 1DX

Telephone number at premises (if any)	01889 503 930
Non-domestic rateable value of premises	£28,000

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick yes

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
- i. as a limited company please complete section (B)
- ii. as a partnership 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) a person 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 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 <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post Town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		

I am 18 years old or over		<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address			
Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(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 Rontec Watford Limited	
Address Registered Office: 13-14 Esplanade St Helier Jersey JE1 1BD	Preferred Address: 3 rd Floor Meridien House 67-71 Clarendon Road Watford WD17 1DS
Registered number (where applicable) 108486	
Description of applicant (for example, partnership, company, unincorporated association etc.) Company	
Telephone number (if any) 01923 694038	
E-mail address (optional)	

Part 3 Operating Schedule

When do you want the premises licence to start?

Day		Month		Year			
1	8	0	4	2	0	1	3

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day		Month		Year			
↓	↓	↓	↓	↓	↓	↓	↓

Please give a general description of the premises (please read guidance note1)

A petrol forecourt store which is to sell a broad range of groceries, household products and alcohol.

Situated at Rugeley Service Station, Main Road, Rugeley, WS15 1DX.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	0600	2300			
Tue	0600	2300			
Wed	0600	2300			
Thur	0600	2300			
Fri	0600	2300			
Sat	0600	2300			
Sun	0600	2300			
			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name Giles Nicholas Taylor	
Address 95 Laugherne Road St Johns Worcester	
Postcode	WR2 5LY
Personal Licence number (if known) WORC1417	
Issuing licensing authority (if known) Worcester City Council	

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

The premises will sell other age restricted products.

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)	
Day	Start	Finish	The opening hours of the store are not a licensable activity and the applicant asks that the hours not be restricted by the premises licence.	
Mon	0000	2400		
Tue	0000	2400		
Wed	0000	2400		
Thur	0000	2400		
Fri	0000	2400		
Sat	0000	2400		
Sun	0000	2400		
				<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5)

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

b) The prevention of crime and disorder

1. A CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.
 2. The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will be capable of being recorded digitally on to CD/DVD or other equivalent medium.
 3. 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.
 4. 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.
 5. The system will display, on any recording, the correct time and date of the recording.
 6. A system will be in place to maintain the quality of the recorded image.
 7. The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.

c) 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.

d) The prevention of public nuisance

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

e) The 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 photocard 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.

Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	<i>W. Sheppard</i>
Date	19 March 2013
Capacity	Solicitors duly authorised on behalf of the Applicant

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

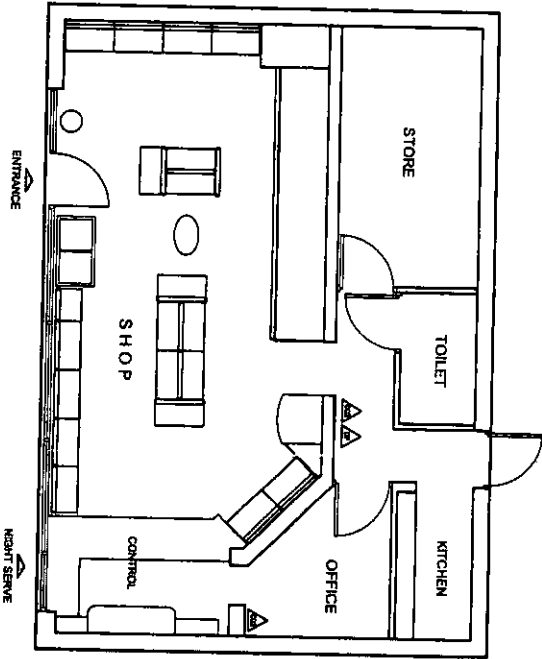
Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13) Winckworth Sherwood LLP (Ref. CVE/32991/66/RPB) Minerva House 5 Montague Close			
Post town	London	Post code	SE1 9BB
Telephone number (if any)	020 75930277		
If you would prefer us to correspond with you by e-mail your e-mail address (optional) cedwards@wslaw.co.uk			

Notes for Guidance



1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

ENCLOSURE 4.15
ANNEX 1



PROVISIONAL SCHEME ISSUE
RUGLEY SERVICE STATION - NG002579


GENERAL NOTES

- The entire premises may be used for the sale of alcohol
- Fire extinguishers are either in the location shown or will be added as shown following the granting of the licence.
 -  CO2 Extinguisher.
 -  Foam Extinguisher.
- The building does not have a fire alarm system.

Rev	Date	Comments
STANIS		ALCOHOL LICENSE
PROPOSAL		Proposed Amendment of Alcohol Licence
SITE LOCATION		RUDELEY SERVICE STATION 87 WYCHWOOD RD RUGLEY, CV21 3JL
TITLE		BUILDING LAYOUT
CLIENT		Rontec Investments LLP



Drawn By: MB
Date: MARCH 2012
Checked by: NLU
Scale: 1:100 @ A3
130356-01


RUGLEY SERVICE STATION
 87 WYCHWOOD ROAD
 RUGLEY, CV21 3JL
 01827 551150
 01827 551151
 01827 551152

**FORM OF CONSENT OF INDIVIDUAL TO BEING SPECIFIED
AS PREMISES SUPERVISOR**

I, GILES NICHOLAS TAYLOR

of 95 LAUGHERNE ROAD, ST JOHNS, WORCESTER, WR2 5LY

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for a PREMISES LICENCE

by RONTEC WATFORD LIMITED

relating to a premises licence no.

for Rugeley Service Station, Main Road, Rugeley, WS15 1DX

and any premises licence to be granted or varied in respect of this application made by
RONTEC WATFORD LIMITED

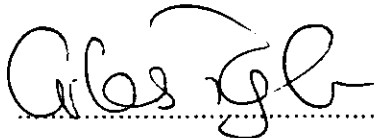
concerning the supply of alcohol at Rugeley Service Station, Main Road,
Rugeley, WS15 1DX

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below

Personal licence number: WORC1417

Personal licence issuing authority: Worcester City Council

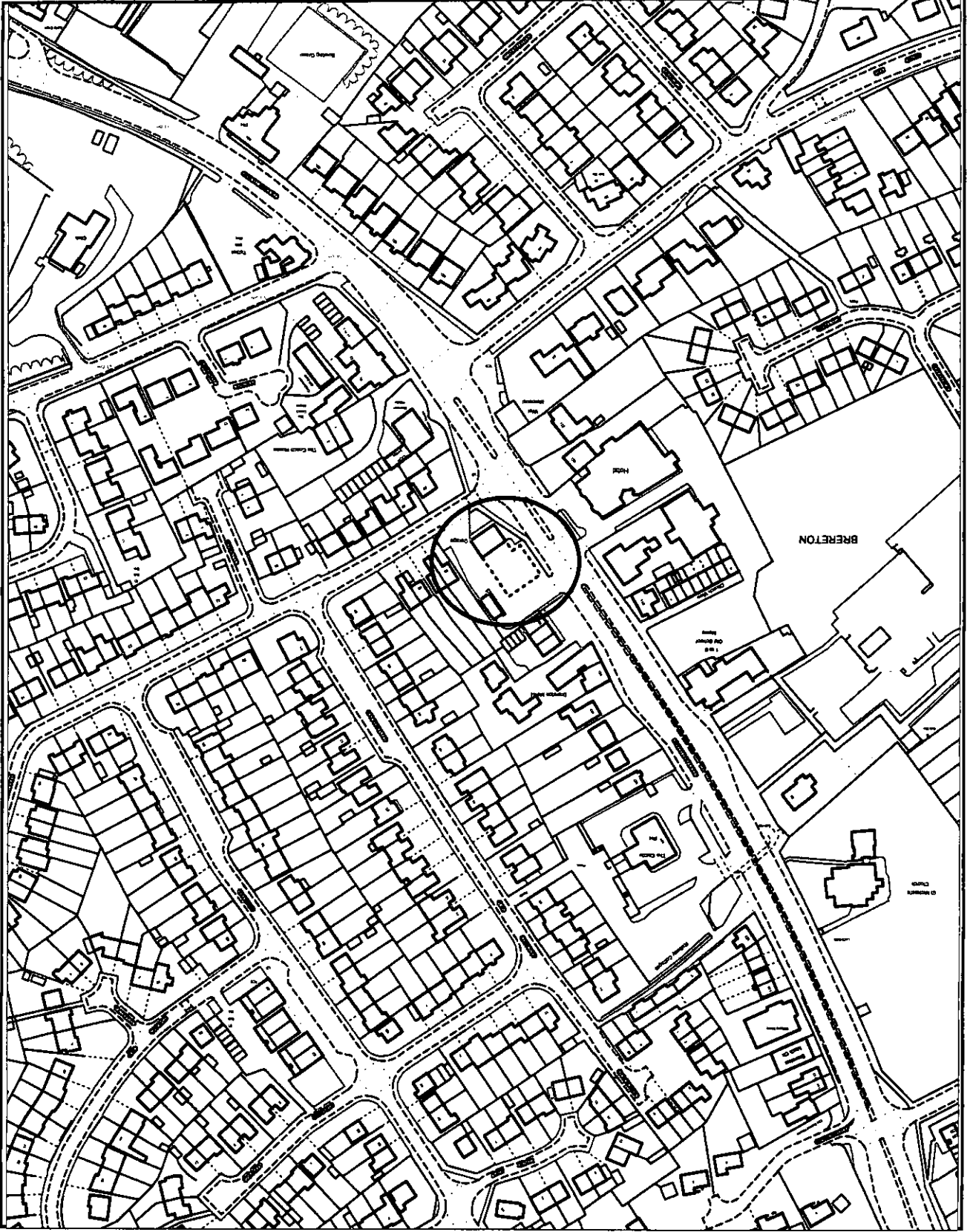
Signed:




.....

Name (please print): GILES NICHOLAS TAYLOR

Date

19-3-13
.....



 <p>Cancock Chase Council</p>	<p>Rugeley Service Station Main Road Breerton</p> <p>NOT TO SCALE</p> <p>DATE May 2013</p>	
--	---	---



Keeping our communities
safe and reassured



Mr.S.O'Meara
Licensing Department
Cannock Chase District Council
PO Box 28
Beecroft Road
Cannock
Staffordshire
WS11 1BG

Contact: Jennifer Mellor
Direct Line: 01785
234772
Fax: 01785 233772
Our ref:
Your ref:
Date: 16 April 2013

CANNOCK CHASE COUNCIL
ENVIRONMENTAL HEALTH
22 APR 2013
PASSED TO

Dear Mr. O'Meara.

**Application for the grant of a premises licence in respect of
Rugeley Service Station, Main Road, Rugeley.**

I am in receipt of an application for the grant of a premises licence
in respect of the above premise.

The application states that the premise is a petrol station
forecourt. The premise is I believe a petrol station that sells other
goods, and not a convenience store that also sells petrol and
DERV.

I have corresponded with the applicant's representative and
requested proof as to the primary use of the premise to ensure
that the premise is not exempt under Section 176 Licensing Act
2003.

My request for the provision of such information by the applicant
has been unsuccessful.

The decision of Mr. Justice Cranson in the matter of Murco
Petroleum Limited and Bristol City Council of 24th June 2010 is
clear and allows for the authority to be able to request such
information. It is clearly a matter for the authority to decide if it
will grant a premises licence without there being any proof as to
primary use or exemption under Section 176 Licensing Act 2003.

I have also been unable to agree, due to the initial lack of
information requested, a suitable set of conditions to ensure that
none of the licensing objectives would be undermined.

CANNOCK COUNCIL

22 APR 2013

POST ROOM

Unfortunately, I feel that the granting of the premises licence without there being any evidence that the premise is not exempt or a set of conditions, would undermine all four of the licensing objectives and I therefore make representations to the granting of the premises licence accordingly.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Mellor', written in a cursive style.

Jennifer Mellor
Licensing Officer
Southern Licensing Unit
Police Station
Horninglow Street
Burton on Trent
DE14 1PA
01283 234772