

LICENSING HEARING PANEL

26 NOVEMBER 2010

LICENSING ACT 2003

APPLICATION FOR REVIEW OF A PREMISES LICENCE COST CUTTERS 6 KESTREL ROAD LORDSWOOD

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Summary

Application for review received from Kent Police in respect of Cost Cutters in Lordswood. The premises currently operate by way of a premises licence granted in accordance with the Licensing Act 2003, a copy of which is attached at Appendix A. A copy of a plan showing the location of the premises is at Appendix B. A copy of the review application is at Appendix C.

1. Budget and Policy Framework

- 1.1 Medway Council has published its Statement of Licensing Policy, which it takes into account in all applications relating to the Licensing Act 2003. Paragraphs 3, 5 and 6 specifically deal with the question of crime and disorder; prevention of public nuisance and the protection of children from harm respectively which are the objectives raised in respect of this review application.

2. Background to the application & relevant representations

- 2.1 In accordance with Section 51 of the Licensing Act 2003, the Council has received an application from Kent Police, as a responsible authority, for a review of the existing premises licence in respect of the Cost Cutters 6 Kestrel Road Lordswood Chatham ME5 8TH
- 2.2 A copy of the review application is at Appendix C and the Panel's attention is drawn to the grounds for the review, related to the licensing objectives of the Licensing Act 2003.
- 2.3 The application has been correctly advertised by way of the display of notices at and around the premises and on the Council's website for the required period, in accordance with regulations made under the Licensing Act 2003. Also, in accordance with the legislation, notice of the application (and the application itself) was served on the licence holder and the other responsible authorities.

- 2.4 Before determining the review application, the Council as licensing authority must hold a hearing to consider it and any relevant representations received.
- 2.5 Following the advertising of the review application, no relevant representations have been received from interested parties, the premises licence holder or any of the other responsible authorities.

3. Advice and analysis on determination of review application

- 3.1 At the panel hearing, Members must, having regard to the review application and the relevant representations received, take any of the following steps considered necessary to promote the licensing objectives of the Act:-
 - (a) modify the conditions of the licence;
 - (b) exclude a licensable activity from the scope of the premises licence;
 - (c) remove the designated premises supervisor (where premises licence authorises sale of alcohol)
 - (d) suspend the licence for a period not exceeding three months;
 - (e) revoke the licence
- 3.2 “Modification” of the conditions of a licence includes adding new conditions as well as altering or omitting any existing conditions. Where conditions are modified, or where a licensable activity is excluded, the authority can, if it wishes, limit the changes to a period not exceeding three months.
- 3.3 Paragraph 11.16 of the revised guidance issued by the Home Office on 7 October 2010 under Section 182 of the Licensing Act 2003 states “The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the premises licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach”.

4. Risk Management

- 4.1 It is essential that the Licensing Authority apply the licensing policy in accordance with the Licensing Act 2003 and regulations made there under.

5. Financial and legal implications

- 5.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if an appeal were made to the courts in respect of the Council's decision, there would be costs associated with this process.
- 5.2 Section 4 of the Licensing Act 2003 provides that in carrying out its functions a licensing authority must 'have regard' to guidance issued under section 182.

6. Decision Required

- 6.1 The Committee is asked to consider and make a decision in accordance with the Licensing Act 2003 as set out in paragraphs 3.1 and 3.2 above in respect of the application by Kent Police for the review of the premises licence for Cost Cutters in Lordswood.

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Background papers

Medway Council's Licensing Policy – available to view on the council's website at www.medway.gov.uk.

Premises licence Medway-05-Prem-0366 (see Appendix A)

Review application (see Appendix C)