



Leicester
City Council

Minutes of the Meeting of the
LICENSING ENFORCEMENT SUB-COMMITTEE

Held: TUESDAY, 12 OCTOBER 2021 at 10:00 am

P R E S E N T:

Councillor Westley (Chair)

Councillor Fonseca

Councillor Shelton

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1. APPOINTMENT OF CHAIR

The meeting commenced at 10.20am as the applicant was late in arriving at the meeting.

Councillor Westley was appointed as Chair for the meeting.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Byrne.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting of the Licensing Enforcement Sub-Committee held 3 August 2021 be confirmed as a correct record.

5. PRIVATE SESSION

RESOLVED:

That the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act,

and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to any individual

Paragraph 2

Information which is likely to reveal the identity of an individual

Paragraph 7

Information relating to the any action taken or to be taken in connection with the prevention, investigation, or prosecution of crime.

B1) Application for a Scrap Metal Dealer's Licence

6. APPLICATION FOR A SCRAP METAL DEALER'S LICENCE

The Director of Neighbourhood and Environmental Services submitted a report on an application for a Scrap Metal Dealer's Licence.

The applicant was present accompanied by his father. Mr Matthew Robinson, Licensing Enforcement Officer who had made representation, the Licensing Team Manager, and the Legal Adviser to the Sub-Committee were also present.

The Licensing Team Manager outlined the details of the application, including the relevant City Council Policy Guidelines. It was confirmed that the applicant had received copies of the report and documentation for the meeting through email.

The applicant, with support from his father, was invited to set out the reasons why he ought to be granted the Licence.

Mr Robinson outlined the reasons for the representation and answered questions from Members.

All parties were then given the opportunity to sum up and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present.

The Chair announced that the decision and reasons made during private deliberation would be publicly announced in writing within five working days. The Chair informed the meeting the Legal Adviser to the Sub-Committee would be called back to give evidence on the wording of the decision.

The Chair then asked all but Members of the Sub-Committee and Democratic Support Officers to leave the meeting. the Sub-Committee then deliberated in private to give advice on the wording of the decision.

RESOLVED:

That the application for a Scrap Metal Dealer's Licence be
REFUSED.

The Sub-Committee had considered an application by a limited company (the applicant company) for a Scrap Metal Site Licence in respect of a site in Leicester.

Members had considered all the written representations previously submitted and the oral representations presented at the hearing by the Council's Licensing Section (including the evidence of Licensing Enforcement Officer Matthew Robinson), the director of the applicant company and his father. Members had also taken account of the Statutory Guidance and the Regulators' Code.

Members were informed the director of the applicant company was 18 years of age. He was the sole director of the applicant company and was to be the site manager if the Licence was granted.

Members heard that in 2017, the Council granted a 3-year Scrap Metal Licence to a company (company 2) who then moved to the site in July 2019. The applicant's brother was the sole director of company 2. No application was made to renew the 2017 Licence and it expired on 25 February 2020. In October 2020, Police Officers visited the site as part of a general operation and found that despite the expiry of the 2017 Licence, the site was still operating. In addition, they found records of sales had not been kept in accordance with sections 14 and 15 of the Scrap Metal Dealers Act 2013. On 27 November 2020, Council Officers issued a Closure Notice to the business which required the cessation of the unauthorised scrap metal business. The same day, company 2 submitted an application to the Council for a new Licence. On 04 May 2021, that application was considered by colleagues sitting in Licensing Sub-Committee. They heard that in the period 25 February 2020 to 15 February 2021, company 2 had 'weighed-in' scrap metal on 161 occasions for which it received payment of £13,925.56. Throughout that 13-month period of trading, company 2 had no Scrap Metal Licence. Members had been advised that their colleagues at the time had no confidence that there would be future compliance with legislation. They were not satisfied that company 2 and its director were suitable persons to carry on business as a scrap metal dealer and therefore refused the application for a Licence. company 2 and its director subsequently pleaded guilty at Leicester Magistrates' Court to carrying on business as a scrap metal dealer without a Licence.

The current application before Members was submitted on 08 June 2021.

On 09 July 2021 Licensing Enforcement Officer Matthew Robinson met the

director of the applicant company by arrangement on site to discuss the application and to ascertain his understanding of relevant legislation. His brother, the director of company 2 was also present. The director of the applicant company informed Mr Robinson that he intended to attend the site on a daily basis and would be responsible for running the business which employed staff who had previously worked for company 2. According to Mr Robinson, he demonstrated a lack of knowledge of the responsibilities of being a site manager. On occasion it was his brother who answered questions for him. When asked about his experience, the director of the applicant company indicated that he had spent time over the previous 1-2 years observing the operation of the site by company 2 and his brother.

On 03 August 2021, at a Hearing before Nicola Preston, the Council's Head of Regulatory Services, the director of the applicant company again answered questions about the application. Mrs Preston was equally unimpressed with his responses which displayed a lack of knowledge of the relevant legislation and a lack of experience.

The Council's Licensing Section had made representations against the grant of the Licence. Their view was that the applicant company would not have measures in place to satisfy the requirements of the Scrap Metal Dealers Act 2013 in the form of record keeping. They were concerned that the experience in the field of the director of the applicant company consisted of observing the poor working practices of company 2 and his brother, both of whom had admitted criminal offending in operating the site without a Licence for a period of approximately 13 months. They were concerned that the applicant company and the director of the applicant company were effectively fronts for the brother.

The director of the applicant company told Members that he would run the business if the Licence was granted and in that he was supported by his father who indicated that his elder son, would not be involved in the venture.

In accordance with section 3 of the Scrap Metal Dealers Act 2013, Members must not grant the application unless they were satisfied that the applicant company was a suitable person to carry on business as a scrap metal dealer and in determining whether it was a suitable person, Members were required to have regard to whether the director of the applicant company, being the sole director, was a suitable person. In determining whether the applicant company and the director of the applicant company were suitable persons, Members may have had regard to any information they consider to be relevant.

Members considered the matter on its own merits.

Members noted that neither the applicant company nor the director of the applicant company had any criminal convictions. Members also noted that neither had been the subject of any relevant enforcement action and Members had not been informed of any previous refusals or revocations of relevant Licences.

However, Members believed it was relevant to have regard to the enforcement

action taken against company 2 and the elder brother, the refusal to issue a Licence to company 2 in May 2021 and the prosecution of both company 2 and the brother for carrying on business as a scrap metal dealer without a Licence.

Sub-Committee Members were informed the director of the applicant company and his brother resided at the same address. It was established there was a link between the respective limited companies in that the applicant company would employ staff previously employed by company 2.

Members were concerned the director of the applicant company had shown a limited knowledge of relevant legislation in his dealings with Council Officers. In addition, they were concerned that his experience consisted solely of observing the poor working practices of company 2 and his brother for 1-2 years which ultimately led to their prosecution for criminal offending.

The director of the applicant company was 18 years of age and the applicant company was recently incorporated on 12 April 2021. It had not been demonstrated to Members that there would be adequate procedures in place to ensure the provisions of the Scrap Metal Dealers Act 2013 would be complied with.

In those circumstances, Members had no confidence that there would be compliance with the required legislation. Members were not satisfied that that the applicant company and the director of the applicant company were suitable persons to carry on business as a scrap metal dealer and therefore refused the application.

The applicant company was informed there would be a right of appeal within 21 days to the Magistrate's Court.

7. ANY OTHER URGENT BUSINESS

There being no items of urgent business, the meeting closed at 11.08am.