

22 March 2023		ITEM: 4
Licensing Sub-Committee		
Determination of an Application to Renew a Scrap Metal Dealer Licence		
Wards and communities affected: Ockendon	Key Decision: Non-key	
Report of: Elizabeth Cox, Licensing Officer		
Accountable Assistant Director: Leigh Nicolson, Assistant Director Planning and Growth		
Accountable Director: Mark Bradbury, Director of Place		
This report is Public		

Executive Summary

An application has been received for renew a Scrap Metal Dealer Site Licence for European Metal Recycling Ltd at Station Road, East Tilbury, RM18 8QR and 13-19 Berth, Tilbury Dock, RM18 7EH. The applicant has declared that they have received a relevant conviction.

1. Recommendation(s)

1.1 That the Sub-Committee

a) Considers this report and appendices together with any oral submissions at the hearing and determines the application to grant the Scrap Metal Site Licence in line with the options open to the committee under the Scrap Metal Dealers Act 2013.

2. Introduction and Background

2.1 European Metal Recycling Limited have been licensed under the Scrap Metal Dealers Act 2013 since its commencement for sites in East Tilbury and Tilbury Docks.

2.2 On 13 December 2022, an application to renew a scrap metal dealer site licence for Station Road, East Tilbury, RM18 8QR and 13-19 Berth, Tilbury Dock, RM18 7EH, was submitted by European Metal Recycling Limited, Sirius House, Delta Crescent, Warrington, WA5 7NS. A copy of the application form and relevant appendices are attached at **Appendix 1**.

- 2.3 As part of the application, a relevant offence was declared namely an offence of depositing controlled waste in May 2016 which resulted in a conviction under section 33(1)(a) and 33(6) Environmental Protection Act 1990. The case was concluded at Bristol Crown Court 2 July 2021 and resulted in a £400,000 penalty and confiscation order of £32,958.
- 2.4 Following this notification, on 13 January 2023 the Licensing Department issued the Company with a notice of intention to refuse the application to renew the Scrap Metal Dealer Licence. A copy of the notice is attached at **Appendix 2**.
- 2.5 On 13 January 2013, Nancy Gray on behalf of EMR Ltd confirmed that they would be submitting representations against the proposed refusal. This was followed up on 25 January 2023 with written representations by Chris Tinsley. The written representation is attached at **Appendix 3**. EMR Ltd also submitted a letter of support from Port of Tilbury London Ltd which is attached as **Appendix 4**.
- 2.6 As part of the application process, Essex Police and the Environment Agency were consulted on the application and neither submitted any representations.

3. Issues, Options and Analysis of Options

- 3.1 The following options are available to the Licensing Sub-Committee:
- To grant the application as applied for;
 - To refuse the application; or
 - To grant the licence with the inclusion of one or both of the following conditions:
 - That the dealer must not receive scrap metal except between 9am and 5 pm on any day;
 - That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time it is received.

- 3.2 The Scrap Metal Dealers Act provides that a local authority must not issue or renew a scrap metal licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer.

In determining whether the applicant is a suitable person, the authority may have regard to any information which it considers to be relevant, including in particular—

- (a) whether the applicant or any site manager has been convicted of any relevant offence;
- (b) whether the applicant or any site manager has been the subject of any relevant enforcement action;

- (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
- (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
- (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

3.3 European Metal Recycling Limited may now not be considered to be a suitable licence holder as they have been convicted of a relevant offence as listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action). A copy of the legislation is attached at **Appendix 5**

4. Reasons for Recommendation

4.1 These are the options available to the Sub-Committee

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 The application has been consulted on in accordance with the requirements in the Scrap Metal Dealers Act 2013.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The Council has a duty under Section 17 of the Crime & Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this duty the Sub-Committee should have due regard to the submissions made by the applicant and interested parties, the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of the Act and the Council's own Statement of Licensing Policy.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Senior Management Accountant

Government Intervention & Section 114

In July 2022, the Council was made aware of concerns around the valuation of specific investments. A review process commenced, and the initial findings highlighted significant concern with three investments and the position was shared informally with the Department of Levelling Up, Housing and Communities (DLUHC).

On the 2 September 2022 DLUHC announced directions to implement an intervention package at the Council.

The Secretary of State exercised his powers under section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

- the scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that were made by third parties about the processes applied to the operation of the Authority's commercial strategy, and;
- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they were taking to address the issues, taking account of the scale and pace of the response required.

The Secretary of State nominated Essex County Council to the role of Commissioner

On 19 December 2022, the Council's Acting Director of Finance & Section 151 Officer issued a report under Section 114 of the Local Government Finance Act 1988. This advises Councillors that the Council faces 'a financial situation of an extremely serious nature'.

Implications relating to this specific report

There are no direct financial implications arising from this report

7.2 Legal

Implications verified by: **Deirdre Collins, Principal Barrister, Prosecutions, Housing and Litigation**

Simon Scrowther, Lawyer, Litigation and Licencing

Thurrock Council as Licensing Authority under the Scrap Metal Dealers Act 2013 is empowered to determine applications of this nature. If the licensing authority refuses the application, it must provide the applicant with a notice of the decision with reasons. The applicant has 21 days in which to appeal to a magistrate's court.

In determining whether the applicant is a suitable person, the authority may have regard to any information which it considers to be relevant, including in particular—

- (a) whether the applicant or any site manager has been convicted of any relevant offence;
- (b) whether the applicant or any site manager has been the subject of any relevant enforcement action;
- (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
- (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
- (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

The Accounts and Audit (England) Regulations 2015 section 4 (2) require that:

“The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes the arrangements for the management of risk.”

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlan**
Community Engagement and Project Monitoring Officer

The Licensing Sub-Committee is of a quasi-judicial nature and whilst the Licensing Committee should ensure equality of treatment for all groups in the granting of licences, due regard should be given to its responsibility to

promote the licensing objectives and its duties under Section 17 of the Crime and Disorder Act 1998.

7.4 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

- The implications of Section 17 Crime and Disorder Act 1998 have been considered at 6.1 above.

8. **Background papers used in preparing the report:**

- Scrap Metal Dealers Act 2013
- Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action)

9. **Appendices to the report:**

- Appendix 1 – Application form and accompanying documents
- Appendix 2 – Notice of intention to refuse
- Appendix 3 – Representations from the applicant
- Appendix 4 – letter of support from Port of Tilbury
- Appendix 5 – Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action)

Report Author:

Elizabeth Cox, Licensing Officer