

Licensing Sub-Committee of the Regulatory Committee

2.00pm, Monday, 8 March 2021

Application for Renewal of Metal Dealer's Licence – Stephen Dalton Scrap Metal Merchant

Item number

Report number

Executive/routine

Wards

Ward 9 – Fountainbridge/Craiglockhart

Council Commitments

N/A

Executive Summary

An application for a renewal Metal Dealer's Licence for Stephen Dalton Scrap Metal Merchant at 23 Yeaman Place has been received.

Several objections to the granting of this licence have been received.

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Application for Renewal of Metal Dealer's Licence – Stephen Dalton Scrap Metal Merchant

1. Recommendations

- 1.1 After hearing from Council officers, the applicant and the objectors, the committee is asked to:
 - 1.1.1 decide whether to grant or refuse the Metal Dealer's Licence application.

2. Background

- 2.1 Metal dealing is regulated by the Civic Government (Scotland) Act 1982 ('the 1982 Act'). This application is for the renewal of a Metal Dealer's Licence.
- 2.2 This location has been used as a scrap metal dealer site for at least 70 years. The current operator is Stephen Dalton Scrap Merchants which has operated at this site for at least 30 years. They have held a Metal Dealer's Licence since 2016, and there were no objections to the granting of that licence or its renewal in 2017.
- 2.3 It is important to note that whilst the licensing of Metal Dealers was expanded in 2016 following the passing of the Air Weapons and Licensing (Scotland) Act 2015, ('the 2015 Act'), this premises was previously regulated under the 1982 Act by applying for an 'exemption warrant' under that Act. Whilst not a full licensing system, the exemption warrant system did have some similarity to this. There were no issues for this premises under that 'exemption warrant system prior to 2016.
- 2.4 The changes to the 1982 Act - expanding the previous metal dealers licensing system to include all dealers - was driven by concerns about theft of metal and ensuring that the market, which deals with scrap metals, is not exploited by those engaged in criminal activity.

3. Main report

- 3.1 This application for renewal has resulted in the receipt of several objections (Appendix 2). The objections generally come from local residents and relate to noise from the premises.
- 3.2 The Environmental Health Service has over a number of years investigated complaints about noise from the premises. The most recent investigation began in May 2018 (Appendix 3). Noise monitoring by the Environmental Health Service was

undertaken in 2018 and 2019 and the noise assessment found that the evidence gathered does not demonstrate that the noise from Dalton's yard constitutes a Statutory Nuisance under the Environmental Protection Act 1990. Therefore, no enforcement action has been necessary under that legislation.

- 3.3 Members will recall that the licensing system has specific grounds of refusal, and alternatively the ability to attach reasonable conditions. The grounds of refusal are summarised below:
- 3.3.1 A licensing authority shall refuse an application to grant or renew a licence if, in their opinion—
 - 3.3.2 The applicant is not a fit and proper person to be the holder of the licence;
 - 3.3.3 the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
 - 3.3.4 where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to—
 - 3.3.4.1 the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - 3.3.4.2 the nature and extent of the proposed activity;
 - 3.3.4.3 the kind of persons likely to be in the premises, vehicle or vessel;
 - 3.3.4.4 the possibility of undue public nuisance; or
 - 3.3.4.5 public order or public safety; or
 - 3.3.4.6 there is other good reason for refusing the application;
- 3.4 The applicant has been invited to attend.

4. Measures of success

- 4.1 Not relevant, as decisions on individual licences have to be considered on their own merits.

5. Financial impact

- 5.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2018. The committee should note that the Licensing Refunds Policy will apply in this case, should the application be unsuccessful or be withdrawn.

6. Risk, policy, compliance and governance impact

- 6.1 The process outlined takes account of the relevant statutory provisions.
- 6.2 The applicant has a right of appeal against any decision made. The appeal lies to the Sheriff Court.

7. Equalities impact

- 7.1 There is no equalities impact arising from the contents of this report.

8. Sustainability impact

- 8.1 A noise assessment has been initiated with respect to the premises.

9. Consultation and engagement

- 9.1 This application was posted publicly as required by the Act.
- 9.2 Nine objections were received (Appendix 2).

10. Background reading/external references

- 10.1 None

11. Appendices

- 11.1 Appendix 1 - Application for renewal of Metal Dealer's Licence
- 11.2 Appendix 2 – Public objections received
- 11.3 Appendix 3 – Memorandum dated 19 February 2021