

**Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 29 March 2016**

Agenda Item No	Topic	Decision
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**Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.**

**Part A – Items considered in public**

<p><b>A1</b></p>	<p>MD SPARES, UNIT 5, SALAMONS WAY, RAINHAM, RM13 9UL - APPLICATION FOR A SITE LICENCE UNDER THE SCRAP METAL DEALERS ACT 2013</p>	<p align="center"><b>Scrap Metal Dealers Act 2013 Notice of Decision</b></p> <p><b>PREMISES</b> Unit 5, Salamons Way, Rainham, Essex. RM13 9UL</p> <p><b>DETAILS OF APPLICATION</b></p> <p>This application for a Site Licence was made under Section 1 of the Scrap Metal Dealers Act 2013 (“the Act”).</p> <p><b>APPLICANT</b> M D Spares Limited, 1 Deri Avenue, Rainham, Essex. RM13 9LX</p> <p align="center"><b>1. Details of the application</b></p> <p>The Licensing Officer had advised the Sub-Committee that on 3 February 2016 he had been involved in a joint authority inspection of premises in Salamons Way. He had</p>
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		<p>entered Unit 5 expecting to talk to the Site Manager of Car Breakers (Int) Ltd., a Maimouna Balde. He had noticed that the office area had been changed since his previous visit and spoke to Michalis Nzam who had informed him that his business MD Spares were now operating from the premises.</p> <p>The Licensing Officer had quickly established that MD Spares were operating without a licence under the Scrap Metal Dealers Act 2013 and accordingly he had served a Closure Notice on the premises.</p> <p>The Environment Agency had also spoken to Mr Nzam about him not having the correct waste disposal certificates in place for the site. Since the inspection on 3 February Mr Nzam had obtained the appropriate Certificate of Registration under the Waste (England and Wales) Regulations 2011.</p> <p>On receipt of the Closure Notice Mr Nzam had responded by applying for a Site Licence for his premises on the 10 February 2016.</p> <p>On his application Mr Nzam had put himself down as the sole director of MD Spares Limited and as the Site Manager.</p> <p>In completing the form Mr Nzam was asked:  ‘Have you, any listed partners, any listed directors, or any listed site manager(s) in this application ever been convicted of a relevant offence or been the subject of any relevant enforcement action?’</p> <p>Mr Nzam had ticked the No box.</p>

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		<p>Mr Nzam had provided a Basic Disclosure from Disclosure Scotland which indicated that there were no convictions.</p> <p>On receipt of the application the Licensing officer had consulted the Metropolitan Police, Environment Agency and other relevant agencies. On the 23 February a representation had been received from the Metropolitan Police stating that they did not consider Mr Nzam to be a suitable person under the Scrap Metal Dealers Act 2013.</p> <p>In these circumstances and in accordance with Section 3 (1) of the Act a letter had been sent to Mr Nzam advising that his application for a site Licence had been refused. Section 3 (1) states 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.'</p> <p>On 14 March Mr Nzam lodged an appeal against that decision.</p> <p>The Licensing Officer had explained that once a Closure Notice was served the recipient was allowed 7 days to cease trading. Failure to cease trading would result in referral to the Magistrates Court who had the option to issue a Closure Order. The Council had not applied for a Closure Order.</p> <p>The Licensing Officer had informed the Sub-Committee that he had not been able to contact Mr Balde to confirm whether or not he was still trading. He had also indicated that he believed that Unit 5 had been sub-divided into at least two sub units.</p>

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		<p><b>2. Metropolitan Police representation.</b></p> <p>In their written representation the Metropolitan Police had advised that Mr Nzam had two convictions from 2005 which had related to him being in possession of two stolen vehicles which had been taken from a hire company.</p> <p>The Metropolitan Police had also referred to the issue of the closure notice by the local authority which they had considered to be relevant enforcement action and therefore should have been revealed in Mr Nzam’s application.</p> <p>PC Goodwin in presenting the Metropolitan Police’s representation had stated that the local authority, in accordance with section 3 (1) of the Act, must not issue a licence unless they were certain the applicant was a suitable person. In her opinion it would have been likely that Mr Nzam would have continued to have operated without a licence if the premises had not been visited.</p> <p>PC Goodwin had confirmed that the convictions had been spent but she believed Mr Nzam should have still declared them on his application form. Even though spent the convictions were relevant in her opinion.</p> <p>If the Sub-Committee had decided to grant the licence PC Goodwin had requested the addition of the following condition to the consent:</p> <p>‘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 when it is received’</p>

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		<p><b>3. Applicant's response</b></p> <p>Mr Nzam had advised the Sub-Committee that he had been in the country for 17 years, the last 15 of which he had operated a business from 9A Salmons Way. He had identified the need to obtain a larger unit to carry out car breaking. His landlord owned both Unit 9a and Unit 5 which had become available at the end of 2014. Mr Nzam had taken the lease of Unit 5 from the then leaseholders, Vauxhall Spares.</p> <p>Mr Nzam had informed the Sub-Committee that he was not aware that he needed a licence to operate. He had spoken to the former tenant who had advised him that the site had a licence which had 2 years to run. At the end of that period he would be contacted by Licensing.</p> <p>Once he had been informed by the Licensing Officer that this was not the case he had immediately applied for a licence. He had answered no to the question regarding previous convictions because the Basic Disclosure Notice which he had had to obtain stated no convictions.</p> <p>His conviction had become spent in 2014 and he believed he deserved a fresh start.</p> <p>In answer to questions from the Sub-Committee Mr Nzam advised that he had operated a body work and paint shop at Unit 9a. He had moved his operations to Unit 5 and expanded his operations to include car breaking. He would take in cars and use them for parts to repair vehicles and sell them to the general public. When he had stripped vehicles of all usable parts he arranged for the vehicles to be scrapped and disposed of. The valuers had split Unit 5 into separate parts and he had use of Units</p>

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		<p>5(c ) and 5(d).</p> <p>The Licensing Officer confirmed that Mr Nzam had not required a Scrap metal Dealers licence for his operations at Unit 9a.</p> <p align="center"><b>4. Sub-Committee questions</b></p> <p>In response to questions the Licensing Officer informed the Sub-Committee that the Scrap Metal Dealers Act 2013 had combined the former Scrap Metal and Car Breakers Licences into one entity. He had also confirmed that the former user of Unit 5 Vauxhall Breakers had held a Scrap Metal Dealers Licence which would expire in October 2016. However, a Scrap Metal Dealers Licence was issued to an individual or a company and could not be transferred. It did not relate to the premises. It was therefore likely that Mr Nzam was not aware that the licence could not be transferred.</p> <p>The Licensing Officer had also confirmed that there were no planning issues with the proposed use of this unit, and the issues with the Environment Agency had been resolved.</p> <p align="center"><b>5. Determination of Application</b></p> <p><b>Decision</b></p> <p><b>Consequent upon the hearing held on 29 March 2016, the Sub-Committee’s decision regarding the application for a Site Licence for MD Spares Limited was as follows:</b></p>

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		<p>The Sub-Committee was obliged to determine this application having regard to section 3(1) of the Scrap Metal Dealers Act 2013 and determine whether the applicant was a suitable person to carry on business as a scrap metal dealer.</p> <p>In addition, the Sub-Committee took account of the obligations under Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.</p> <p>Having considered the written representations and oral responses the Sub-Committee were satisfied with the applicant’s responses.</p> <p>Having considered the representation from the Metropolitan Police the Sub-Committee agreed that the applicant’s convictions were spent and that the closure notice issued by the Licensing Authority was not a relevant enforcement action.</p> <p>Accordingly the Sub-Committee have agreed to grant the licence subject to the following condition:</p> <p>‘that all scrap metal received must be kept in the form in which it is received for a 48 hours, beginning with the time when it is received’.</p> <p>There was some confusion with regard to the precise site to be covered by the licence and have authorised the Licensing Officer to liaise with Mr Nzam to define the precise limits of the site on a plan which shall be attached to the licence.</p> <p><b>6. <u>Appeal</u></b></p>

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		<p>Any party to the decision or anyone who has made a relevant representation in relation to the application may appeal to the Magistrates Court within 21 days of notification of the decision. On appeal, the Magistrates Court may:</p> <ol style="list-style-type: none"> <li>1. dismiss the appeal; or</li> <li>2. substitute the decision for another decision which could have been made by the Sub Committee; or</li> <li>3. remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and</li> <li>4. make an order for costs as it sees fit.</li> </ol> <p>James Goodwin Clerk to the Licensing Sub- Committee</p>
<b>A1</b>		
<b>A2</b>		