

Present: Councillor Kathleen Brothwell (*in the Chair*),
Councillor Loraine Woolley, Councillor Fay Smith,
Councillor Ralph Toofany, Councillor Paul Gowen,
Councillor Pat Vaughan, Councillor Peter West and
Councillor Andy Kerry

Apologies for Absence: Councillor Biff Bean, Councillor Ronald Hills, Councillor
Adrianna McNulty and Councillor Keith Weaver

40. Confirmation of Minutes - 21 March 2018

RESOLVED that the minutes of the meeting held on 21 March 2018 be confirmed.

41. Declarations of Interest

No declarations of interest were received.

42. Application for the Grant of a Licence to Keep an Animal Boarding Establishment

The Public Protection, Anti-Social Behaviour and Licensing Service Manager:

- a. presented a report which provided the Committee with an opportunity to consider the grant of an Animal Boarding Establishment Licence under the Animal Boarding Establishments Act 1963
- b. reported that an application had been received in respect of premises known as 58 Wolsey Way in Lincoln which sought a licence to board dogs from different households under an Animal Boarding Establishment Licence
- c. reported that this application had been presented to the previous meeting of the Licensing Committee held on 21 March 2018, however, due to an administrative error resulting in the applicant and her representative not being invited to attend the meeting, the application was being reconsidered this evening in their presence
- d. referred to additional information circulated to members of the Licensing Committee and the applicant, giving details of veterinary and council inspections held at the premises and photographs of the property
- e. highlighted that the current model condition for an animal boarding licence stated that 'only dogs from the same household may be boarded at any one time' and that this application was seeking a variation to this model condition to allow the applicant to be able to board four dogs from different homes at the same time
- f. confirmed that within the City of Lincoln Council boundary there were currently no homes boarding licences issued that permitted dogs to be boarded from different households

- g. reported that Lynn Leary had held an Animal Boarding Licence issued by City of Lincoln Council since 7th November 2017 allowing her to board up to 4 dogs from one household, with no complaints or concerns having been raised about the operation of this licence to date
- h. advised members of the main considerations to be given particular regard to, as detailed at paragraph 3.3 of the officers report
- i. outlined the policy implications and model licence conditions for home boarding, as set out under paragraph four of the report, including documentation on how the applicant intended to ensure the animals' safety and that adequate provision of care was given at all times as detailed within Appendix C – I of the report
- j. highlighted that the applicant had indicated she intended to hold a maximum of 3 dogs from different households at any one time with the 4th space for emergencies should owners be delayed in collecting their pets
- k. reported that the applicant was supported by Vippies Ltd, a long established Lincolnshire based company providing pet care such as home board, dog walking, pet sitting and pet foster care; it was proposed that the applicant would be employed by this company
- l. advised on the options available to Licensing Committee as detailed at paragraphs 6-7 of the report
- m. invited members' questions and comments.

Confirmation was sought as to the current licence conditions held by the applicant.

The Licensing Officer confirmed that an animal boarding licence had been granted subject to the council's standard home boarding licence conditions to allow dogs only from the same household to be boarded. Consideration was now requested to apply a variation to this policy to allow dogs from up to 4 different households to be boarded.

Sheena Chapman, representing Vippies, advised that the company had been operating in the West Lindsey District Council area for 10 years. Her home was licensed to hold up to 15 dogs from any household subject to strict processes to keep them happy, healthy and safe.

Councillors raised concern regarding the arrangements offered by the applicant for disposal of excreta in black domestic waste disposal facilities provided by the Council, which could soon become an odour issue, only being collected once a fortnight.

Sheena Chapman confirmed that dog waste was individual bagged, although most dogs went to the toilet on their walk and the dog waste was then disposed of in dog bins designated for this purpose.

Councillors further raised concerns in relation to the ability of the applicant to safely confine a dog to one room in cases of infection. There was always a risk of contamination being carried to other rooms. Members questioned council policy in this respect.

The Public Protection, Anti-Social Behaviour and Licensing Service Manager confirmed that measures would be put in place to prevent contamination. Any infected animal would be removed from the isolation room at the property as quickly as possible.

Sheena Chapman emphasised that all the dogs were inoculated, there would be no life threatening issues in terms of their health.

Lynn Leary, Applicant, addressed Licensing Committee in support of her application for an animal boarding licence, covering the following main points:

- She was hopeful to be able to board 2 or 3 more dogs from different homes.
- Having just one dog was not a viable option commercially.
- She planned on boarding 3 dogs from other households however she had requested up to 4 for emergencies in case one was waiting to be collected.

Sheena Chapman, representing Vippies, prospective employee of the Applicant, addressed the Licensing Committee in support of her application for an animal boarding licence, covering the following main points:

- Vippies offered foster care for dog owners on holiday, the company had been set up and was led by customer demand.
- It also operated day care.
- The dogs were dropped off at people's homes in the morning and collected by up to 7.30pm in the evening.
- Every dog had a care plan incorporating details of inoculations, feeding, sleeping and walking.
- The dogs were introduced with others they would be staying with before they were boarded together, in a controlled environment with two people present to make sure they got along. If not, they were boarded instead in a 'one dog' home.
- The applicant wanted to take dogs during holiday periods. Only those smaller dogs suitable for Lynn to care for would be boarded with her.
- A similar policy was operated in West Lindsey area and worked very well.
- Vippies had been operating for 10 years with no incidents of dog fights/bites.
- Dogs were separated during sleeping times at night. Those that arrived in crates also slept in them.
- Lynn would allow dogs to sleep on her bed only with the owners' permission.

Members raised concern again in relation to:

- Arrangements for disposal of excreta in domestic waste bins. Commercial dog waste should not be disposed of by the City of Lincoln Council.
- Arrangements for separation of dogs in the case of disputes which could escalate very quickly.

Sheena Chapman responded as follows:

- Lynn would receive appropriate training and was already a dog owner herself.

- Personally Sheena had not experienced any issues with disposal of dog waste and boarded up to 15 dogs at any one time. Many owners walked their dogs before they arrived and again in the evening once they were collected from the boarding home. The dogs were fed in the morning and the evening and tended to defecate on their walks.

The applicant was asked questions as follows:

Question: Had West Lindsey District Council questioned the use of black domestic waste bins for excreta?

Response (Sheena Chapman): No. Domestic waste bins were very rarely used. Mostly the dogs went to the toilet whilst being walked and the waste was put in the designated dog bins at that time, if not the dog waste was taken from the house and put in the designated dog bins.

Members questioned the use of the council bin system to dispose of waste which other commercial premises couldn't access.

The Solicitor for the City of Lincoln Council agreed to seek legal advice as to procedure.

Question: Was the applicant seeking to board up to 4 additional dogs including her own?

Response: Yes.

Question: How large was the applicant's bungalow?

Response, Lynn Leary, Applicant: It had two bedrooms, kitchen, lounge conservatory and bedroom with a neighbour to one side.

Response (Sheena Chapman): Day care facility arrangements could be viewed on the Vippies website.

Question: Would the dogs to be boarded come from Vippies?

Response (Sheena Chapman): Yes. There would be a meet and greet at Lynn's house.

Question: For what length of time would the dogs be boarded?

Response (Sheena Chapman): This could be up to a period as long as a month if the owners went abroad.

Question: So the intention was for the applicant to board 3 dogs plus hold 1 spare place for emergencies, in addition to the owner's dog?

Response (Sheena Chapman): Yes the ash cloud was for one spare. Ideally, Lynn would be boarding only 2-3 dogs at any one time. Any dog boarded would first be the subject of a meet and greet. Vippies staff were at the end of the telephone at all times to offer advice.

Question: Was the applicant classed as a commercial tax payer? These bins were emptied every week rather than fortnightly.

Response, Lynn Leary, Applicant: No.

Member Response: Section 5.2.2 of the council's model licence conditions stated that disposal facilities for animal waste must be agreed with the licensing authority.

Response (Sheena Chapman): The dog waste could be disposed of in the red dog waste bins should the council require this.

Response Council Solicitor: The concern here was that the applicant could be filling up public waste bins causing an issue for non-commercial dog walkers. The applicant was responsible for ensuring that the condition was met for disposal of animal waste to be agreed with the licensing authority.

Question (Sheena Chapman): What about other businesses using the City Commons for example for dog walking?

Response Council Solicitor: Any such activity was not related to the application before us today. The remit of the applicant was to persuade Licensing Committee why the application should be granted.

Response (Sheena Chapman): The dog waste was disposed of on dog walks as a rule using strong bags at all times. There was no other options available to dispose of excreta other than dog bins/council bins. Vippies did as a matter of course report any full dog bins and had made enquiries as to whether the company could sponsor dog bins to improve cleanliness in the City. It was told however, that the arrangements for collection of dog waste were due to change and red dog bins were to be discontinued.

Question: Did the applicant intend to board dogs every week?

Response (Sheena Chapman): It was hoped so. The company took people off the dole queue and was interested in helping the local community.

Question: How would the applicant satisfy the model conditions for animal boarding at paragraph 5.10.4 to have suitable arrangements in place for the temporary boarding of dogs if the premises became inhabitable?

Response, Lynn Leary, Applicant: All the dogs would be taken out of the premises and secured, then collected by Vippies.

Question: How would the applicant satisfy the model conditions for animal boarding at paragraph 5.10.6 to keep all doors shut at night, bearing in mind there was no door between the kitchen and dining room?

Response, Lynn Leary, Applicant: The kitchen and dining room would be classed as one room.

Question: Could the applicant satisfy the model conditions for animal boarding at paragraph 5.10.9 requiring a relative, friend or neighbour within 5 minutes travelling time to carry a spare set of keys for access to the premises in the case of emergency?

Response (Sheena Chapman): Yes. Vippies was based only 5 minutes away at Reepham.

Question: Could the applicant satisfy the licence conditions at paragraph 5.6.1 to separate dogs showing signs of illness and requiring isolation?

Response, Lynn Leary, Applicant: Yes, having 3 cages and separate rooms there was plenty of space to separate the animals.

Question: Could the applicant satisfy the licence conditions at paragraphs 4.1 and 4.5 to have sufficient space to keep the dogs separated if required without external cages, buildings or runs?

Response, Lynn Leary, Applicant: Yes.

Question: The inspection by the Licensing Officer and Animal Warden suggested there was adequate space at the premises for small dogs. Could the applicant offer an assurance that only small dogs would be boarded?

Response, Lynn Leary, Applicant: Yes that was true. The dogs would need to meet and greet her dog to socialise and make sure they were settled first.

Question: Having held your animal boarding licence since November 2017, did the applicant consider she had enough experience to board dogs from separate households which were more difficult to control?

Response, Lynn Leary, Applicant: She did not believe that dogs from separate households were more difficult to control. She had kept dogs all her life, also having worked for another company.

Question: Would the remaining animals at the premises be caged whilst the applicant was out dog walking?

Response, Lynn Leary, Applicant: Those dogs who used cages would be, the remaining animals kept in separate rooms. Two dogs would be exercised at a time.

Response (Sheena Chapman): Vippies did not accept puppies under 6 months of age. No dog in season was boarded.

There were no further questions forthcoming.

Summing Up: Lynn Leary, Applicant

- Walks helped dogs socialise.
- All the dogs were sociable whilst on walks.

Summing Up: Sheena Chapman on behalf of Vippies

:

- The applicant had not experienced any problems looking after dogs.
- Vippies offered welfare support if necessary.
- The applicant had undertaken a first aid course run by Vippies.
- Vippies was also planning to run a behavioural course for dog owners.
- Vippies gave support to its employees 24/7 and could be reached via an emergency telephone number.

At this stage of the proceedings Lynn Leary and Sheena Chapman left the room in order that members could determine their decision, which would be notified to them by telephone the following day and in writing within 7 days.

The decision was made as follows:

ANIMAL BOARDING ESTABLISHMENT ACT 1963

Notice of Determination of Application for the Grant of a Licence to Keep an Animal Boarding Establishment.

Premises: 58 Wolsey Way, Lincoln LN2 4SJ

The City of Lincoln Council, being the licensing authority, received an application for the grant of a licence for a home boarding establishment for dogs made by Mrs Leary in respect of premises known as 58 Wolsey Way, Glebe Park, Lincoln LN2 4SJ.

The Council's policy with regards to licenses to keep an animal boarding establishment is set out in the 'Model Licensing Conditions for Home Boarding (Dogs)' under the Animal Boarding Establishments Act 1963 (the '1963 Act'). These model conditions have been adopted by the Council from the LACORS 2005 model licensing conditions for home boarding. Condition 3.2 of the Council's Model Licence states: '**Only dogs from the same household may be boarded at any one time**'.

The applicant is seeking a variation to this model condition and a departure from the Council's current policy to enable her to board four dogs from different homes at the same time as well as keeping her own dog at the premises.

The committee considered whether it should depart from current policy and grant the applicant a licence to board four dogs from different households as well as her own dog.

In attendance at the Licensing Committee:

Lynn Leary, Applicant
Sheena Chapman, Vippiers

In accordance with section 1 (3) of the 1963 Act, the local authority must take the following issues into account when determining whether to grant a licence:

(3) In determining whether to grant a licence for the keeping of a boarding establishment for animals by any person at any premises, a local authority shall in particular (but without prejudice to their discretion to withhold a licence on other grounds) have regard to the need for securing—

- (a) that animals will at all times be kept in accommodation suitable as respects construction, size of quarters, number of occupants, exercising facilities, temperature, lighting, ventilation and cleanliness;*
- (b) that animals will be adequately supplied with suitable food, drink and bedding material, adequately exercised, and (so far as necessary) visited at suitable intervals;*
- (c) that all reasonable precautions will be taken to prevent and control*

the spread among animals of infectious or contagious diseases, including the provision of adequate isolation facilities;
(d) that appropriate steps will be taken for the protection of the animals in case of fire or other emergency;
(e) that a register be kept containing a description of any animals received into the establishment, date of arrival and departure, and the name and address of the owner, such register to be available for inspection at all times by an officer of the local authority, veterinary surgeon or veterinary practitioner authorised under [section 2\(1\)](#) of this Act;

Having given careful consideration to the application and the evidence provided at the Licensing hearing and in the light of the requirements of the 1963 Act, the Licensing Committee considers it appropriate to make the following decision.

The Decision

1. To refuse the application for a variation to the Council's current model conditions for home boarding establishments for dogs to allow the boarding of four dogs from different homes at the above premises at the same time; and
2. To grant the licence application subject to the Council's standard home boarding licence conditions, to allow only dogs from the same household to be boarded.

Reasons for the Decision

1. A majority decision was reached by members of the Licensing Committee. Members were not persuaded that sufficient justification had been provided by the applicant to warrant a departure from its standard home boarding licence policy.
2. The Licensing Committee noted the reasoning behind model condition 3.2: 'Only dogs from the same household may be boarded at any one time'. This model condition was intended to protect the safety of the dogs and to protect the licensee and the public from any risk of a dog attack, injury, etc. As dogs in home boarding situations have the freedom to move around, there are risks that are not present in boarding kennels. For example, there is the risk that dogs that are strangers to each other may turn on one another unexpectedly (e.g. at feeding time or to defend territory) even after they have been familiarised with each other. The Licensing Committee were not persuaded that the applicant had put in place adequate measures to minimise these risks to an acceptable level.
3. The Licensing Committee took into account the further guidance for local authorities issued by LACORS in 2009 to assist those local authorities that had chosen to relax model condition 3.2. The guidance sets out examples of additional conditions which could be applied to the licence to mitigate the risks. The Licensing Committee were not persuaded that the perceived risks would be sufficiently mitigated by adding additional conditions to the licence.

4. It was noted that the applicant had held an animal boarding licence since November 2017, which was relatively recently. The Licensing Committee were not satisfied that the applicant had demonstrated that she had sufficient experience to board, handle and exercise in public dogs from different households, which it considered would be more difficult to control and hence represent a risk to the licensee, the dogs and the public.
5. Reference was made to paragraph 5.10.6 of the Council's animal boarding policy which states that all doors to rooms where dogs are boarded should be kept shut at night. However, it was noted there was no door between the kitchen and dining room of the applicant's household, therefore this should be classed as one room, reducing the availability of separate segregated areas.
6. The Licensing Committee felt that the applicant's home was not of a sufficient size to house a total of four dogs from different households plus the applicant's dog at any one time in the interests of the safety and wellbeing of the animals and that of the applicant, contrary to paragraph 4.5 of the Council's animal boarding policy and section 1 (3) (a) of the 1963 Act. The Licensing Committee felt that the boarding of dogs from different households presented higher risks and required more space and better facilities for separation than dogs from the same household.
7. Paragraph 5.2.2 of the Council's animal boarding policy requires that disposal facilities for animal waste must be agreed with the Licensing Authority. The Licensing Committee were not satisfied with the arrangements offered by the applicant for the disposal of dog excreta in standard domestic bins or in public dog waste bins collected by the City of Lincoln Council. Such standard bins are emptied only once per fortnight, meaning that excreta from potentially five dogs would be stored in the black bin for up to 14 days. The applicant's alternative offer to dispose of the waste in public dog waste bins was not acceptable as these are not intended to be used to dispose of the large amounts of collected excreta produced by a commercial dog boarding establishment.
8. The Licensing Committee had concerns about the capacity of the applicant's premises to separate the dogs if necessary in instances of a contagious disease outbreak, contrary to paragraph 5.6.1 of the Council's animal boarding policy and section 1 (3) (c) of the 1963 Act.
9. The Licensing Committee gave due consideration to the applicant's rights under Article 1, Protocol 1 of the Human Rights Act 1998: 'Every natural or legal person is entitled to the peaceful enjoyment of his possessions'. This includes the right to engage in commercial activities under the benefit of a licence. The applicant was granted a licence in accordance with the current policy and standard conditions, which will permit her to continue with her current commercial enterprise. However, given the perceived risks, the Licensing Committee were not persuaded that it was in the public interest to depart from policy by extending that licence to allow the applicant to board dogs from different households,.
10. The Licensing Committee did not consider there was any condition it could impose in this instance to enable the grant of a variation to the Council's

standard home boarding conditions to allow dogs from up to four households to be boarded.

The effective date: 19 April 2018

Dated: Signed

Designation: Licensing Officer

Please address any communications to:

The Licensing Team
City of Lincoln Council
City Hall
Lincoln
LN1 1DB

An appeal against the decision may be made by the Applicant/ to the magistrates' court for the petty session's area (or any such area) in which the premises concerned are situated within 28 days from the date of receipt of the notification of the decision.