

Minutes of **General Licensing Sub-Committee**

Meeting date **Friday, 16 July 2021**

Members present: Councillor Matthew Lynch (Chair), Councillor and Councillors Margaret France, Hasina Khan, Alan Platt and John Walker

Officers: Laura-Jean Taylor (Public Protection Team Leader (Early Intervention)), Irene Elwell (Intervention and Prevention Officer), Alex Jackson (Legal Services Team Leader) and Coral Astbury (Democratic and Member Services Officer)

Other Members: Councillor Nathan Howson (Enforcement Team Leader (Licensing))

20.50 Declarations of Any Interests

There were no declarations of any interest.

20.51 Procedure

The Chair outlined the procedure that would be used to conduct the meeting.

20.52 Exclusion of the Public and Press

Resolved (Unanimously):

That the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

20.53 Determination of Application of New Animal Welfare Licence - Dog Day Care

The Director of Communities submitted a report for the General Licensing Sub-Committee to determine whether a licence should be granted, as the applicant is currently subject to ongoing criminal court proceedings and has been charged with offences under the Animal Welfare Act 2006, Fraud Act 2006, Proceeds of Crime Act 2002 and Consumer Protection from Unfair Trading Regulations 2008.

The Applicant and her representative (who is her mother) were present at the Sub-Committee.

The Public Protection Team Leader outlined the report, requesting members to refer to the details contained within the report and to give due consideration to all information put before them when deciding if the applicant should be given a licence.

Members were informed that on 27 April 2021, a solicitor instructed on behalf of Animal Protection Services, a registered charity, contacted Chorley Borough Council to enquire regarding an application for a dog day care licence in the applicant's name. At this time, no application had yet been received.

However, the applicant had been in email correspondence to make arrangements for a premise's inspection. As the application and fees had not yet been submitted no inspection was arranged.

The applicant was made aware at the time of application that the Council had been provided with the prosecution information, and this would be taken into consideration when a decision was made. In response, the applicant asked if somebody else could obtain the licence in their name.

Following submission of the application, a qualified vet surgeon was employed to inspect the premises on behalf of the Council. The site passed inspection with minor failings and with the recommendation that, should a licence be approved a local authority officer should check prior to opening that all equipment was in place and working effectively.

The Public Protection Team Leader advised members that it was initially understood that a director decision could be taken to approve the grant of a licence, however, after further legal guidance the applicant was told the licence would not be approved, but a report would be submitted to the General Licensing Sub-Committee for a decision. The applicant was in receipt of this information.

The applicant told members that she was a dog lover and only sought to help dogs in need. It was her view that she did the right thing and anybody else in her position would have done the same. The applicant explained to the panel that she had contacted Animal Protection Services herself when she had discovered the ongoing investigation.

The applicant advised that she had sold three full litters and individual dogs in between litters. These dogs were purchased from puppy farms, looked after by the applicant and then rehomed. The applicant explained that she sold the dogs for a similar price to what she had originally paid and did not make a profit. The applicant explained to the Panel that the charges had nothing to do with the day care and not one single puppy farm she had reported had been prosecuted.

Following a request from the applicant, the Panel were shown a before and after video of German Shepherd puppies which the applicant had taken care of.

Following a member enquiry, the applicant confirmed that if she was allowed, she would continue to rescue and rehome puppies. The applicant advised that she did contact South Ribble Borough Council to request a licence but was informed that no such licence exists, due to Lucy's Law. Dogs can only be sold once they are six months of age, unless they are being sold by the original breeder or a genuine rescue centre.

In response to a member enquiry, the applicant stated that the first time she visited a puppy farm she had never intended to get the dogs. A friend was intending to purchase a dog, and the applicant had volunteered to drive her friend to collect it. The applicant advised that upon entering the property, it was clear that the dogs were very young and could only have been about 10 days old and the property was in fact a puppy farm. Her friend purchased one of the dogs and the applicant called her Mother to lend her the £6000 to purchase the dogs.

Members asked the applicant if she was aware that by paying for these dogs she could be seen to be colluding with the seller and encouraging the process to begin again. In response, the applicant agreed with members but explained as a dog lover she took the right route by reporting the farms to the relevant authorities, but she could not justify leaving the animals there. If she did not buy them then somebody else would. It was her view that she did the right thing and should be thanked.

In response to a member enquiry, the applicant confirmed that the licence would be for a seven-day daycare which is a provision not currently offered in Lancashire. The premises would be open from 7.00 AM until 6.00PM every day, dogs would get space to play and to relax. The applicant likened the business to a nursery for children.

In summary, the applicant explained to members that the doggy day care had nothing to do with the charges. The business would be three individuals who love dogs and want to work with them all day. In her view, rescuing a dog and putting them in a better place should not be a crime. The applicant commented that reporting puppy farms did not go far enough and that more needed to be done. It was further explained that she had two dogs of her own which she spoils and loves, and this would be what she would continue to do at her day care.

RESOLVED:

Although members recognised the applicant's passion for animal welfare the decision was made to refuse the application for a licence on the following grounds:

1. Members noted that the Inspector's report was overall positive for the applicant. However, members were aware that they need to consider other matters not known to the Inspector.
2. Members also noted that no animal cruelty was alleged against the applicant. However, the 2018 Regulations impose a regime of conditions which address matters such as dog welfare beyond actual cruelty.
3. Members considered that the charge under Section 13 of the Animal Welfare Act 2006 was relevant. Members further considered that the multiple charges under the Fraud Act 2006 were relevant as the facts were related to allegations of offering for sale puppies bred by illegal puppy farmers. Members noted that for nearly all the time neither an Inspector nor an officer of the Council is present at a licensed premise and the sound operation of the business in accordance with all licence conditions depends largely on trust. Charges of serious dishonesty offences raise questions about the extent to which the applicant could be trusted to observe all applicable laws and licence conditions when left to her own devices.
4. Members noted that the allegations remain to be proven in a criminal court but took into account that the applicant has been committed for trial in the Crown Court. The prosecuting solicitor must have had regard to the Code for Crown Prosecutors. The prosecutor has decided that there is sufficient evidence to provide a realistic prospect of conviction and that the prosecution is in the public interest. The application admitted in sub-committee to selling three litters off puppies without a licence and also using names of third parties purporting to be herself on a pet sale website, although she said this was because she had reached her quota of offering three litters for sale.
5. Members directed themselves that they must be positively satisfied that the applicant is fit and proper before granting a licence. Given the question mark hanging over her fitness and propriety which does not arise from mere accusations casually made by a complainant but on charges to be heard in the Crown Court members considered that they could not be so satisfied.
6. Members directed themselves that the civil standard should apply as it would do in any appeal to the First-tier Tribunal; therefore, a conviction was not required to raise strong doubts about an applicant's fitness and propriety and the 2018 Regulations do not require a conviction as a bar to being granted a licence.
7. In relation to the duty contained in Regulation 4(2)(b) of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 obliging the council to grant a licence if it considers that the licence conditions will be met members noted that if the allegations about an illegal operation were true then the applicant had been operating outside of any licence conditions whatsoever. In such circumstance's members did not feel able to grant a licence to someone who may have been prepared

to operate not subject to any conditions.

8. The applicant according to the case summary supplied by the prosecuting solicitor admitted selling some of the dogs she had purchased from illegal puppy farms. Members had doubts that purchasing puppies for £6,000 according to the log of the call to Chorley Borough Council was an act of charity but was done with a commercial aim. Members also considered that purchasing puppies from illegal puppy farms tends to reward and perpetuate maltreatment of dogs by others. Rather they should be seized by the authorities so that the puppy farmer is not rewarded. The applicant appeared to lack proper insight into how purchasing such puppies means the purchaser is helping to sustain a market which causes animal suffering. She continued to regard her activities as morally justified by saying at the sub-committee what she did was the right thing and should be thanked for it although conceded but only in response to a question from Cllr France that it was a bit silly to pay £1,500 to someone doing a bad thing.
9. Given that the applicant regarded purchasing puppies from an illegal puppy farm as a morally positive act (in her words “a good thing”) and had said that she would do it again tomorrow members considered it a significant risk that she might do so again in the future and that such puppies might end up being accommodated in her dog day care facility (presumably alongside dogs from domestic owners which would be a legitimate activity). Members considered this risk unacceptable as it would make the dog day care facility in effect a customer for illegal puppy farms and support the market for an illegal trade causing animal suffering.
10. Members viewed the videos showing the puppies before and after they were acquired by the applicant. Members accept that their treatment by the applicant was good and she does not cause harm to them. Members recognised her passion for dogs but her purchase from illegal puppy farms would promote further maltreatment of dogs. Members considered that purchasing puppies from illegal puppy farms rewards people who do cause suffering to animals and only encourages more puppy farming. The letter of support from a satisfied customer shows that the applicant does treat dogs well that are in her care. However, being a third-party seller helps to facilitate the harms described above. The letter from a supporter submitted by the applicant was of relevance to the dog day care operation but not the alleged criminal activity of selling puppies.
11. Members considered that the applicant’s claim that she had been told by South Ribble Borough Council that she did not need a licence were misleading. The log provided by South Ribble Borough Council recorded that she had been advised that the activity she described was not licensable at all due to Lucy’s Law, not that it was lawful to carry on as no licence was required.
12. Members noted that the applicant according to the case summary supplied by the prosecutor had criminal associates who were also related to her. Given such recent associations connected with an animal welfare charge, members could not be satisfied that the applicant is fit and proper especially as she is likely to continue such associations with close relatives.

Chair

Date