



LICENSING COMMITTEE

Date Written	19th April 2021
Report Author	Aneurin Hughes
Exempt/Non Exempt	Non Exempt
Committee Date	29th April 2021

To: Chair, Ladies and Gentlemen

Trwydded Lletya Anifeiliaid/ Animal Boarding Licence

Enw / Name: Dogsden Daycare Ltd

1. SUMMARY OF THE REPORT

- 1.1 Mr Julian Bones on behalf of Dogsden Daycare Ltd has made an application for the Grant of an Animal Boarding Licence with this Authority. The premises were inspected by the Licensing Department and an authorised Veterinary Surgeon and were found to be incompatible with the conditions attached to commercial boarding establishments. The Veterinary Report has concluded that a licence cannot be supported due to significant non-compliance.
- 1.2 Therefore, in accordance with the Council's Constitution and Scheme of Delegation the application submitted by Dogsden Daycare Ltd is being brought before the Licensing Sub-Committee to determine whether a licence should be granted or not.

2. RECOMMENDATIONS that

- 2.1 In determination of this matter, Councillors may take the following steps:
 - To grant the Animal Boarding Licence as applied subject to the standard conditions attached to such licence;
 - To grant the Animal Boarding Establishment Licence and waive some or all of the standard conditions attached to such licence;

- To grant the Animal Boarding Licence and attach any conditions that it deems necessary for the type of establishment applied for;
- To refuse to grant the Animal Boarding Licence giving reasons for doing so.

3. INTRODUCTION AND BACKGROUND

- 3.1 This matter was initially scheduled to be heard by the Sub-Committee on the 1st April 2020, but had to be deferred due to the national lockdown implemented by Central Government in view of the Coronavirus Pandemic.
- 3.2 Mr Bones was advised, by email, of the cancellation of this Hearing on the 25th March 2020. A further email was sent to Mr Bones on the 6th April 2020 advising that there was the opportunity to conduct the Hearing remotely. Mr Bones responded on the same day advising that he would prefer a face-to-face Hearing. The Licensing Officer emailed Mr Bones on the 4th September 2020 to advise him that a decision had been made that face-to-face Hearings would not be re-implemented in the immediate future, and requesting his availability for the remainder of September 2020 for the Hearing to be arranged. A copy of this email chain is attached at **Appendix A-1** to this Report.
- 3.3 A further email was sent to Mr Bones on the 22nd September 2020 advising that it had been brought to the attention of the Licensing Department that work had been carried out at the premises to achieve compliance with the Veterinary Surgeon's Report. Mr Bones' availability for a further Vet's inspection was requested and payment of the Vet's fee of £183.00. Mr Bones responded on the same day advising he was taking the matter further, but not advising whether he wanted the premises re-inspected or not. A further email was sent to Mr Bones advising that if he did not want a further inspection, the matter would be placed before Members for their consideration and determination. A copy of this email chain is attached at **Appendix A-2** to this Report.
- 3.4 A request to adjourn the Hearing of 10th October 2020 was received from Mr Bones' legal representative as they had just been instructed and required further time to conduct an independent vet inspection and provide the report from that inspection. A copy of this request is attached at **Appendix A-3** to this Report.
- 3.5 Members determined to adjourn the Hearing. A copy of the notification sent to Mr Bones is attached at **Appendix A-4** to this Report.
- 3.6 Mr Julian Bones on behalf of Dogsden Daycare Ltd has made a written application for the Grant of an Animal Boarding Licence with this Authority. The application was submitted on the 8th January 2020. A copy of his application form is attached at **Appendix A** to this Report.
- 3.7 In Wales, Animal Boarding Licences are controlled by the Animal Boarding Establishments Act 1963. Members will hear about and be referenced to The Animal Welfare (Licensing of Activities Involving Animals) Regulations (England) 2018. However, these Regulations have no legal standing in Wales and therefore have no bearing on the matter before you.

- 3.8 As part of the application procedure, all applicants must provide a completed application form, plans of premises, suitable Public Liability Insurance, payment of the required fee. Once submitted a Vet's inspection is arranged and the report from the Vet is used to assist in determining the application.
- 3.9 An initial site visit was undertaken by the Licensing Department on the 7th January 2020. At this visit it was clear that building work was still being undertaken and that the premises were not ready for use in its current state. Mr Bones was advised that he could submit his application form and supporting documentation and we would await confirmation of when the premises would be ready to arrange the inspection.
- 3.10 Mr Bones was further advised that in their current format the pens/enclosures he had for the dogs did not look to be big enough in accordance with Merthyr Tydfil County Borough Council's Standard Conditions attached to an Animal Boarding Licence (Dogs). A copy of these Conditions are attached at **Appendix B** to this Report. He was also advised that an Officer had inspections booked with the authorised Veterinary Surgeon on the 14th February 2020, and that if the premises were ready by then they could be included for inspection on that day.
- 3.11 On the 8th January 2020, Mr Bones submitted his application form (**Appendix A**). At the time of submission no plans and no Public Liability Insurance were provided. It was agreed with the Licensing Officer that the Insurance documents could be provided prior to the Grant of a licence, as the premises were not up and running as yet and were still in the construction process.
- 3.12 The first inspection of the premises took place on the 14th January 2020, and it became evident upon entry to the premises that they were not ready to be licensed.
- 3.13 At this inspection Mr Bones was advised that the pens/enclosures for the dogs were not in compliance and would therefore not be licensed – see Condition 4.2.1. The isolation unit was in the main room next to pens/enclosures that other dogs would be using. This was also not in compliance with the standard conditions – see Condition 5.7.2.
- 3.14 On the 4th February 2020 the Licensing Authority received a copy of the plans in relation to the premises. The Licensing Officer emailed Mr Bones to seek clarification with regards a couple of issues identified on the plans.
- 3.15 Amended plans were received by the Licensing Authority on the 21st February 2020. The Licensing Officer emailed Mr Bones confirmation that the inspection with the Veterinary Surgeon would take place at 1030hrs on the 24th February 2020.
- 3.16 Following this inspection and discussions that took place, the Veterinary Report was received on Monday 2nd March 2020 advising: -

“The significant non-compliance noted above prevents me from supporting a licence for this facility.”

4. PREMISES HISTORY

- 4.1 An initial enquiry came through to the Licensing Authority on the 4th November 2019 in relation to Dog Day care Centres. A site visit was initially arranged for 11th November 2019.
- 4.2 The Licensing Officer emailed Mr Bones on the 6th November 2019 cancelling the site visit and included in the email were the relevant application form; the standard conditions attached to Boarding Licences and the English regulations with advice stating they do not apply in Wales. A copy of this email is attached at **Appendix C** to this Report.
- 4.3 On the 6th January 2020 the Licensing Authority received information that a Dog Day Care facility was advertising its services on Facebook within the Merthyr Tydfil Borough. A Warning Letter was sent to Mr Bones with another application form and another copy of the standard conditions attached to a Boarding Licence for Dogs. A copy of this letter is attached at **Appendix D** to this Report.
- 4.4 Licensing Officers attended the premises on the 7th January 2020 to further investigate the possible unauthorised activity. It was clearly evident that the premises were not ready for use at that point and advice was given to Mr Bones with regards the standard conditions and a further copy of them was given to him.
- 4.5 It was agreed at this visit that Mr Bones could submit his application form for a Boarding Licence for Dogs, initially without the usual supporting documentation, in order for a Vets inspection to be booked. He was advised that the next availability for the Vet was the 14th January 2020 and Mr Bones advised both officers that the premises would be ready for this date.
- 4.6 Mr Bones submitted his application form (**Appendix A**) to the Licensing Authority on the 8th January 2020 with a BACS payment of £285.26 being made on the 9th January 2020, due to the payment machines not being able to take card payments any longer.
- 4.7 The initial inspection of the premises took place on the 14th January 2020 by Licensing Officers and Mr Mike Jessop, the authorised Veterinary Surgeon. The premises were nowhere near being ready for a licence to be issued as extensive work was still being carried on and the main floor area of the premises was covered in building equipment.
- 4.8 The Veterinary Surgeon spoke with Mr Bones and enquired as to the research he had conducted prior to construction and whether he had sought advice from recognised professional bodies. The pens/enclosures were too small to achieve compliance; the isolation unit was in the same room as where the other dogs would be; the inspection ceased at this point as it was clear that the premises could not achieve compliance.
- 4.9 It was again emphasized to Mr Bones what the conditions state in relation to pen/enclosure sizes and that the isolation unit must be separate and physically located a minimum of 5 metres away from the main pens/enclosures.

- 4.10 Mr Bones attended the Civic Centre on the 15th January 2020 to discuss the inspection. It was re-iterated to him that the premises would need to comply with the conditions that would be attached to a licence if granted. It was also discussed about licensing the premises for less dogs than originally applied for, as an initial way forward and he would then look to expand over time.
- 4.11 Mr Bones explained that he was an experienced businessman and had been involved in the licensed trade previously and therefore, knew what he needed to do in respect of conditions attached to licences.
- 4.12 The Licensing Team Leader emailed Mr Bones on the 16th January 2020, detailing the Licensing Authority's requirements should he proceed with his intended plan of reducing the numbers initially and then expanding. A copy of this email is attached at **Appendix E** to this Report.
- 4.13 The Licensing Authority received a photograph from Mr Bones on the 20th January 2020 showing the work being carried out to amend the pen/enclosure sizes. Mr Bones also emailed a copy of his Policies & Procedures and his Business Plan on the 23rd January 2020.
- 4.14 Mr Bones requested an update on the 31st January as he needed "to get operational". A response was sent advising the Licensing Authority were still awaiting the amended plans and confirmation that the works had been completed as advised in the Team Leaders email of 16th January 2020 (**Appendix E**). A copy of this email is attached at **Appendix F** to this Report.
- 4.15 On the 4th February 2020 the Licensing Authority received a copy of the plans in relation to the premises. The Licensing Officer emailed Mr Bones to seek clarification with regards a couple of issues identified on the plans on the 5th February 2020. A copy of this email is attached at **Appendix G** to this Report.
- 4.16 The Licensing Officer emailed Mr Bones on the 6th February 2020 advising of the vet's availability and requesting his preferred date for inspection. Clarification was sought on a few matters, and advice given that any part of the premises (inside and out) where work was still being undertaken would not be inspected.
- 4.17 Mr Bones confirmed that his date of preference for the inspection was the 24th February 2020.
- 4.18 The Licensing Officer responded to Mr Bones on the 7th February and again asked for the clarification previously requested. Mr Bones was advised that if the information was not provided, the inspection planned for 24th February 2020 would be re-arranged until such time as the information has been provided. A copy of this email is attached at **Appendix H** to this Report.

- 4.19 On the 7th February 2020, information was sought from the Planning Department as to whether the proposed activity required a Change of Use consent or whether the works merging the two units into one required any specific planning permission or Building Control permission. The Licensing Authority received a response on the 10th February 2020, and a copy of this is attached at **Appendix I** to this Report.
- 4.20 The Licensing Authority received the amended floor plans in response to the email of the 7th February 2020 on the 21st February 2020. The additional information requested, however, was not provided. Despite this, it was agreed to conduct the inspection.
- 4.21 The Licensing Authority and Veterinary Surgeon attended the premises on the 24th February 2020 to conduct the inspection. Whilst improvements had been made in some areas, the premises were still not compliant with the standard conditions. The conduct of Mr Bones (argumentative, aggressive and dismissive) during the inspection was not acceptable and the Licensing Authority cut short the inspection.
- 4.22 The Licensing Authority received an email from Mr Bones on the afternoon of the 24th February 2020 stating that there are no professional bodies concerned with dog day care. A copy of this email is attached at **Appendix J** to this Report.
- 4.23 The Licensing Officer spent less than 10 minutes doing a quick search online and was able to find the following professional bodies which would be able to provide the required advice: -
- Pet Industry Federation - www.petcare.org.uk
 - Association of Dog Boarders - www.associationofdogboarders.co.uk
 - Royal Society for the Prevention of Cruelty to Animals – www.rspca.org.uk
- 4.24 The Licensing Authority received the Vet's Report following the inspection on the 2nd March 2020. A copy of this report is attached at **Appendix K** to this Report.
- 4.25 A copy of the Vet's Report and the decision that the application would be required to be determined by the Licensing Sub-Committee was sent to Mr Bones on the 5th March 2020. A copy of this email is attached at **Appendix L** to this Report.
- 4.26 Since the initial Reports for the April and October 2020 Committee Hearings, further inspection reports have now been provided by Mr Bones' Legal Representatives. The first inspection report provided was following an inspection by Mr V Rumbu of MobiVET Ltd, Bridgend. A copy of this Report is attached at **Appendix M** to this Report.
- 4.27 Members should note that this inspection was conducted and based on the conditions that are relevant to licences issued under The Animal Welfare (Licensing of Activities Involving Animals) Regulations (England) 2018 and not the actual conditions that are attached to Animal Boarding Licences issued by Merthyr Tydfil County Borough Council. This inspection would only be relevant for a premises situated in England and not for any potential boarding establishment in Wales.

- 4.28 At the same time that Mr Rimbu's report was provided to the Licensing Authority from Mr Bones' legal representative, a further document was provided. This document is a Section 9 Witness Statement given by Mr Bones dated 23rd October 2020. In this statement Mr Bones seems to confirm that he has been providing a doggy day care centre in Merthyr Tydfil without the appropriate authorisation. A copy of this statement is attached at **Appendix N** to this Report.
- 4.29 The Council's Authorised Veterinary Surgeon has provided a response to the reports of Mr Rimbu and Mr Bones' statement. Mr Jessops comments are attached at **Appendix O** to this Report.
- 4.30 A further report has been provided from Mr David Martin, Brownlow Veterinary Group, Ellesmere, Shropshire. A copy of this Report is attached at **Appendix P** to this Report.
- 4.31 Members should note that no inspection of the premises were conducted for the basis of this report. This report is based purely on the inspection reports of Mr Mike Jessop and Mr Vlad Rimbu. Again, reference is made to the Regulations and the standard conditions that are attached to licences issued in England that is irrelevant in Wales.
- 4.32 The Council's Authorised Veterinary Surgeon has provided a response to the report of Mr Martin. Mr Jessops comments are attached at **Appendix Q** to this Report

5. POLICY

- 5.1 In considering this application, the Council must have regard to the relevant legislation, its own standard conditions of licence for an Animal Boarding Licence (Dogs). Members are also to be mindful of the Model Licence Conditions and Guidance for Dog Boarding Establishments issued by the Chartered Institute of Environmental Health in May 2016.

6. LEGISLATION

- 6.1 The relevant legislation is the Animal Boarding Establishments Act 1963. The relevant sections of this Act are: -

6.1.1 Section 1(1) – *No person shall keep a boarding establishment for animals in Wales except under the authority of a licence granted in accordance with the provisions of this Act.*

6.1.2 Section 1(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 constructions, size of quarters, number of occupants, exercising facilities, temperature, lighting, ventilation and cleanliness;*
- (b) *That animals will be adequately supplied with 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;*

and shall specify such conditions in the licence, if granted by them, as appear to the local authority necessary or expedient in the particular case for securing all objects specified in paragraphs (a) to (e) of this subsection.

6.1.3 Section 2(1) – *A local authority may authorise in writing any of its officers or any veterinary surgeon or veterinary practitioner to inspect (subject to compliance with such precaution as the authority may specify to prevent the spread among animals of infectious or contagious diseases) any premises in their area as respects which a licence granted in accordance with the provisions of this Act is for the time being in force, and any person authorised under this section may, on producing his authority if so required, enter any such premises at all reasonable times and inspect the and any animals found thereon or any thing therein, for the purpose of ascertaining whether an offence has been or is being committed against this Act.*

6.1.4 Section 5(1) – *References in this Act to the keeping by any person of a boarding establishment for animals shall, subject to the following provisions of this section, be construed as references to the carrying on by him at premises of any nature (including a private dwelling) of a business of providing accommodation for other people's animals:*

Provided that –

- (a) A person shall not be deemed to keep a boarding establishment for animals by reason only of his providing accommodation for other people's animals in connection with a business of which the provision of such accommodation is not the main activity; and*
- (b) Nothing in this Act shall apply to the keeping of an animal at any premises in pursuance of a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981.*

6.2 The Animal Welfare Act 2006 states at Section 9: -

- (1) A person commits an offence if he does not take such steps as are reasonable in all circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.”*
- (2) For the purposes of this Act, an animal's needs shall be taken to include-*
 - (a) Its need for a suitable environment,*
 - (b) Its need for a suitable diet,*
 - (c) Its need to exhibit normal behaviour pattern,*
 - (d) Any need it has to be housed with, or apart from, other animals, and*
 - (e) Its need to be protected from pain, suffering, injury and disease.*
- (3) The circumstances to which it is relevant to have regard when applying subsection (1) include, in particular-*
 - (a) Any lawful purpose for which the animal is kept, and*
 - (b) Any lawful activity undertaken in relation to the animal.*

6.3 The Animal Welfare (Licensing of Activities Involving Animals) Regulations (England) 2018 states at Section 1(2): -

- (2) The following provisions of these Regulations apply in England only—*
 - (a) regulations 2 to 24,*
 - (b) regulations 27 to 29, and*
 - (c) Schedules 1 to 8.*

Regulations 25 and 26 refer to Repeals, Revocations and Consequential Amendments that were relevant in Wales. All other Regulations and Schedules, which deal with Animal Boarding Establishments, amongst other animal licensing matters, apply in England only.

7. FINANCIAL IMPLICATIONS

7.1 None

8. EQUALITY IMPACT ASSESSMENT

8.1 It has been identified that an Equality Impact Assessment (EqIA) is not required for the purpose of this Report. Please contact the author for details of this decision.

ELLIS COOPER
INTERIM CHIEF EXECUTIVE

CLLR TONY ROGERS
PORTFOLIO MEMBER FOR HOUSING &
PUBLIC PROTECTION

BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
Does the report contain any issue that may impact the Council's Constitution?		NO