Committee: Licensing and Environmental Health Panel

Date: Tuesday 4th June

Title: Application for a Dangerous Wild Animal Licence

Author: Graham Rendell, Enforcement Officer

Summary

1. This report has been submitted to members to consider a Dangerous Wild Animals Licence for Fripps Farm CIC. The application is dated 9th January 2024 and is made under Section 5 of the Dangerous Wild Animals Act 1976 (DWAA)

2. This report sets out in details of the Dangerous Wild Animals application, associated information and representations that have been made.

3. Given the unusual nature of this application, the potential impact of the proposal beyond the immediate site, and the substantial public interest the matter has been referred to a Panel of the Licensing and Environmental Health Committee for determination.

Recommendations

4. That the application is determined in consideration of the options available to the panel as set out within the Dangerous Wild Animals Act 1976, namely:
   - To approve the application with or without conditions
   - To refuse the application

Financial Implications

5. None directly arising from this report. The Council manages licencing matters within existing budgets. This includes setting appropriate fees and managing determination processes as well as potential enforcement.

Background Papers

6. The following papers were referred to by the author in the preparation of this report and are included within the appendices for further consideration.

   1. Dangerous Wild Animal Application (Appendix 1)
   2. Plan of Premises (Appendix 2)
   3. Appointed Veterinarian Inspection Report (Appendix 3)
   4. Images of Enclosure (Appendix 4)
Impact

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<tr>
<th>Category</th>
<th>Details</th>
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<tr>
<td>Communication/Consultation</td>
<td>The Service has obtained the guidance of a Council appointed Vet in line with the legislation. The service has consulted with neighbours and other relevant organisations. The wider consultation is not required by the legislation but has been undertaken to support the consideration of the application.</td>
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<td>Community Safety</td>
<td>The authority has a duty to only issue a licence if it is satisfied that private individuals seeking to keep dangerous wild animals do so in circumstances that ensures that it keep people and animals safe.</td>
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<td>Equalities</td>
<td>The Council in determining the application must have regard to its statutory responsibility under the Equalities Act 2011. This includes the processes for the hearing of the application and in the management of any licence which may be granted, including enforcement.</td>
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<td>Health and Safety</td>
<td>None directly. The Application is made by Fripps Farm, an animal rescue charity</td>
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<td>Human Rights/Legal Implications</td>
<td>The Council must determine the licence in accordance with the provisions of the Dangerous Wild Animals Act 1976, more detail of the requirements are incorporated in the body of the report. It should be noted that if the applicant is either refused a licence or if they wish to challenge any conditions placed on a license they may appeal to the Magistrates Court.</td>
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When making their determination the panel should be mindful of the Councils overarching duty to consider matters fairly and reasonably. Under Article 6 of the Human Rights Act 1998 the Council has a duty to ensure a fair hearing. They should determine the application on the material factors presented in the report and as presented at the hearing by any party present. They should not take into account immaterial factors or any lobbying.

Under Article 1 of the Human Rights Act everyone is entitled to peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The applicants right to have regulated animals is restricted by the provisions of the DWAA requiring them to have a licence, and if granted to abide by its conditions, accordingly any limitations must be fair and proportionate. It should be noted that where the grant of a licence impinges on the rights of third parties (such as by way of levels of nuisance) the panel has to balance the competing rights and determine this in a proportionate way in line with the DWAA provisions.

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<th>Sustainability</th>
<th>None</th>
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<td>Ward-specific impacts</td>
<td>Thaxted and the Eastons Ward</td>
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<tr>
<td>Workforce/Workplace</td>
<td>The management of the licencing process is undertaken within existing resources.</td>
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**Situation**

7. Fripps Farm is a residential property set in 3-acre grounds at Porridge Hall Cottage, Bustard Green, Linsell, Essex CM6 3QP. Fripps Farm ([https://www.frippsfarm.co.uk/](https://www.frippsfarm.co.uk/)) is an Animal Rescue business and does not require a licence under provisions of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. It is not classified as a zoo as it is not open to the public and the captive animals are not on display.
8. The legal status of Fripps Farm Animal Rescue is a Community Interest Company (CIC). The business was first incorporated on 23rd August 2022 and is registered to 8 High Street, Brentwood, Essex, United Kingdom, CM14 4AB. The purpose of the business is to provide a home and care for unwanted animals.

9. In January 2024, the Director of the company, Jodie Marsh advised the Council of her intention to rehome 8 Ring Tailed Lemurs (RTL) and that the animals were subject to the provisions of the Dangerous Wild Animals Act 1976. An application was logged with the Council on 24th January 2024. A copy of the application is provided in appendix 1 to this report. A site plan is provided within appendix 2.

10. The Dangerous Wild Animals Act 1976 (DWAA) seeks to regulate the keeping of certain kinds of dangerous wild animals, not including those kept in zoos, circus’s, licensed pet shops or registered for the purpose of experiments. It is mainly concerned with public health and safety, but there are some provisions for welfare.

11. In carrying out its statutory function, the Licensing Authority shall not grant a licence under the act unless it is satisfied that:

   (a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the Licence.

   (b) the applicant for the licence is a suitable person to hold a licence under this Act.

   (c) any animal concerned will at all times of its being kept only under the authority of the licence—

      (i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage, and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and

      (ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals.

   (d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency.

   (e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases.

   (f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.
12. Amongst the various provisions in the legislation, the premises must be inspected by a veterinary surgeon or practitioner appointed by the local authority. Should the Local Authority grant a licence, it may specify conditions. Licences also run for 2 years from the date of issue.

13. The DWAA allows for veterinary surgeons or veterinary practitioners and local authority officers to inspect the licensed premises at any reasonable time. Given the two-year term of the licence, officer anticipate at least one inspection, mid-term to check on compliance with conditions. Any person guilty of an offence under any provision of this Act shall be liable on summary conviction to an unlimited fine.

14. There is no statutory guidance published under the legislation. Due to the rare nature of the application, there is no UDC policy to inform decision making.

15. In fulfilling the requirements of the DWAA, officers commissioned Dr Steven Philp from the International Zoo Veterinary Group to inspect and provide a report on the enclosure.

16. The inspection report and recommendations are provided within appendix 3. Images of the enclosure are provided within appendix 4.

17. The report makes reference to the enclosure being suitable for 8 RTL. This report has been shared with the applicant and officers are satisfied that all recommendations made have been adopted.

18. The vet and the officers have reviewed the plans for the management of fires and other emergencies, this is considered to be appropriate in the circumstances.

19. In consideration of whether the applicant should be regarded as a suitable person to hold a licence, officers requested further information in the form of a DBS check, insurance details and information on the applicant’s knowledge and ability to care for the Lemurs. The applicant was forthcoming with this information.

20. The officers are satisfied that there is an adequate policy of insurance in place. A reference supporting Jodie Marsh’s experience in handling Ring Tailed Lemurs is provided in appendix 5.

21. Following delivery of a positive Vet inspection report, officers considered it appropriate to consult neighbours in immediate to Fripps Farm and interested bodies, namely, Essex Police, Essex Fire and Rescue and the RSPCA. The Summary of Representations within appendix 6 provides an overview of the main considerations provided by the representations together with comments from officers to assist the panel. In total 19 representations from members of the public were received.

22. No objections were received from Essex Police, Essex Fire and Rescue and the RSPCA. The detailed submissions are provided in full in appendix 7. It should be noted that despite concerns raise over the number of animals on site, information has been provided by the applicant following an Animal and Plant Health Agency inspection, conducted on March 29th 2024. The inspectors report confirmed that the
The site complies with animal welfare legislation and there are no problems of overcrowding. In considering the legislative provisions, members of the panel must have regards to exhibits contained within the appendices to this report. However, in the main, matters relating to safety and welfare of the Lemurs has been subject to consideration by the Councils appointed Vet [present to answer questions today] who has concluded that the accommodation is considered suitable and that adequate provisions have been made to ensure that the Lemurs cannot escape.

23. Further consideration has also been given to the nuisance potential of the Lemurs. To ascertain the nuisance potential a number of requests to identify the location of the lemurs seeking to be rehomed have been made by officers to the applicant. The applicant has confirmed that the current owner is not willing to give her his address and will be bringing the Lemurs to Fripps Farm once the licence is in place. The applicant has indicated that the Lemurs are from the Nottingham area and suggested that we make our own direct enquiries. Officers have contacted all Nottinghamshire based authorities to identify the Council that has previously licenced the Lemurs. At the time of writing this report, the Council in question has not been identified.

24. Officers have also sought advice from Somerset Council who does currently licence RTL. In addition, contact has been made with several zookeepers. Contrary versions from different keepers have been received and this supports the view formed that the noise impact may depend on the personalities of the particular troop in question. Further information is provided within appendix 8 table 1.

25. The Councils appointed Vet has also confirmed that the Lemurs communicate extensively through scent and sound. Odour is not likely to be pervasive. He has stated that vocal communication is a major part of Lemur social interaction and much of that is quiet. However, their alarm calls and aggressive calls are loud. He also stated that RTL are by no means the loudest of the Lemurs. Lastly, he has stated that it is impossible to predict the frequency of the louder calls in the proposed group. The calls can be stimulated by the sight of predators, but not always. They can become habituated to their presence. Social discord as well as social excitement can prompt outbursts of vocalisations and are equally impossible to know the frequency of these in advance.

26. Ms Marsh has confirmed that they have already put up camo netting in the Lemur enclosure to obscure the view of her Wolf Dog, however, she also states that the current owner has multiple dogs, so they are not scared of dogs.

27. In anticipation of the uncertainty regarding the nuisance potential noise measurements of RTLs have been obtained by officers. Information detailing the potential noise impact of Lemurs is also provided within appendix 8.

28. It is the officer’s opinion that based on information sourced to date, that noise from the troop of RTL on their own is unlikely to constitute nuisance. However, when they do call, the sounds are likely to be clearly audible at the nearest neighbouring residential location. However, the
sound level, duration and frequency of the calls is likely to depend on the behaviour and characteristics of the troop in question.

29. It is also relevant to note that the proposed RTL will live in proximity to a variety of other animals. The cumulative noise from the premises has resulted in complaints alleging noise nuisance. At the time of writing this report, officers have yet to conclude their nuisance investigation. It is reasonable to assume that the introduction of Lemurs will contribute to the overall noise from the premises that is impacting on neighbours.

30. The licensing panel can grant or refuse a licence, but where it decides to grant a licence, the licence is subject to both mandatory and locally determined conditions. The mandatory and proposed conditions are set out in appendix 9. The Panel is entitled to consider or modify any of the proposed local conditions if this is considered appropriate.

31. It should be noted that should the licensing panel determine to refuse the application the applicant may appeal to a magistrate’s court; and the court may on such appeal give such direction with respect to the grant of a licence or, apply conditions of the licence as it thinks proper, having regard to the provisions of the DWAA.

32. The government has brought in new regulations to introduce licensing and higher welfare standards for those seeking to keep primates as pets. This legislation is not in full force and does not apply for the purposes of the determination of this licence. Whilst the new regulations would not apply to animals being kept under licenses based on the Zoo Licensing Act 1981, they would apply in addition to the DWAA to the setting at Fripps Farm. This would give the council powers to apply further requirements and conditions on welfare that should meet zoo standards. Fripps Farm would be required to obtain a licence by 6 April 2026.

Risk Analysis

33. In determining the application, the panel has to balance competing representations as to whether or not it should grant the application. The panel in reaching its decision will have to evaluate the evidence before it and consider the appropriateness (or otherwise) of granting the application. The panel is reminded that the determination should be based on the terms of the DWAA, (see section 11 above). It is intrinsic to this application that it cannot be known for certain what the impact of granting the licence would be definitively, the panel will have to reach their own assessment of the likely impact and whether this is appropriate or not.