

The Highland Licensing Committee

Meeting - 11 August 2015

Agenda Item	8.1
Report No	HLC/068/15

Application for grant of a licence under the Riding Establishments Acts 1964 and 1970

Northwolds, Fendom, Tain (Ward 8 – Tain and Easter Ross)

Report by Area Environmental Health Manager, North Area

Summary

This Report relates to an application for the grant of a licence under The Riding Establishments Acts 1964 and 1970

1.0 Background

- 1.1 In terms of the Riding Establishments Acts 1964, no person shall keep a riding establishment except under the authority of a licence granted under the Act. A person keeping a riding establishment shall be regarded as keeping it at the premises where the horses employed for the purposes of the business concerned are kept. For the purposes of the Act, premises includes land.
- 1.2 A Riding Establishment is regarded as the carrying on of a business of keeping horses for either or both of the following: the purpose of their being let out on hire for riding; or the purpose of their being used in providing, in return for payment, instruction in riding.
- 1.3 The Council, as Licensing Authority must ensure that the applicant appears to them to be suitable and qualified, either by experience in the management of horses or by being the holder of an approved certificate or by employing in the management of the riding establishment a person so qualified.
- 1.4 Furthermore, the Council must ensure that the health, safety and wellbeing of the horses is protected in various respects as set out in the legislation. The Council must obtain a report from a veterinary surgeon authorised to carry out inspections advising whether in the view of the veterinary surgeon the premises are suitable for use as a riding establishment and describing the condition of the premises and the horses found there.

2.0 Description of application

- 2.1 Mrs Jan O'Neill had applied for the grant of a licence to operate a Riding Establishment at North Wilds Trekking Centre, The Caravan, North Wilds, Fendom, Tain, IV19 1PE. The premises has operated as a riding establishment since 17 December 2008. Planning Permission (13/02237/FUL) for change of use to base for horse trekking was granted on 27 August 2013 for a static caravan as reception and toilet/wash room; large metal container used as tack and feed room; a block of three stables and a small sand schooling area and tie up area. The site is enclosed by a post and wire fence with top wire electrified. There is also a large field. The

Highland Council TEC Services Roads were consulted in 2013 and had no objection to the proposal. The proposed number of horses for licensing purposes is 30.

2.2 Following receipt of the application, the following agencies were consulted:-

- Police Scotland
- Scottish Fire and Rescue Service
- Scottish Society for the Prevention of Cruelty to Animals
- Ward 8 Members

The consultees had responded intimating no objection to the grant of a licence.

2.3 A specialist veterinary surgeon inspected the premises and horses on 15 & 20 April 2015, and a report was provided. The vet's report detailed her findings, the works required and her concerns over the adequacy of staffing arrangements. The vet's report further specified that even once the necessary works had been carried out, given the poor quality of grazing at the Fendom site, no more than 10 horses should be kept there at any one time. A copy of the previous vet report was sent to the applicant on 11 May 2015

2.3 A provisional licence was granted by the Highland Licensing Committee on 16 June 2015. This will run until 15 September 2015. The Committee does not meet again until 6 October and a decision is required prior to the expiry of the licence.

2.4 For this report, a suitably qualified veterinary surgeon was asked to re-inspect the premises at Tain, the horses in order to assess whether a licence should be granted by the Committee. An inspection was carried out on 14 July 2015. Following this inspection the vet provided a letter and this is appended.

2.5 The specialist vet noted that although there had been improvements at the Tain premises, the work detailed in the previous veterinary report dated 24 April 2015 had not been completed. Signs had been erected and feed bins provided, however the fencing had not been completed and there did not appear to be site supervision at Fendom. Although the outdoor sand school had had fencing improvements, it had still to be finished. The surface still required attention before it could be used as a school. There was a steep drop to a pond which had been partially fenced but still needed more fencing. The additional available grazing still needed finished fencing, permanent or suitable electric fencing, before it could be used by horses. There was also some ragwort that would need attention. The additional grazing in Tain would be suitable for horses but would require some work first. The fencing is inadequate and there are pallets and an old trailer that would need removed before it was suitable for horses.

2.6 It was also not possible to inspect all of the horses at the time of the vet's visit on 14 July as some were out on treks at that time.

2.7 The specialist vet was of the opinion that the grazing at Brora was unacceptable and recommended that horses were not kept there.

- 2.8 At the time of inspection (14 July) there was little to indicate that the business was operating from Fendom and at the time of writing this report, the applicant's website still gives directions to the Brora site. The applicant was reminded on 26 June that business signs at Keepers Cottage should be removed but this had not been actioned at the time of writing.
- 2.9 The vet has recommended that a further provisional licence be granted but has stated that the grazing at Brora is unacceptable. Also, one of the fields identified at Brora has been reseeded and will not be suitable for grazing by horses for some time to come.
- 2.10 There are ongoing Planning issues in addition to court action by the landlord to evict the applicants from Keepers Cottage but these are not pertinent to the grant of a licence.

3.0 Determining Issues

- 3.1 Section 1(4) of the 1964 Act allows a local authority the discretion to withhold a licence on any grounds. Planning legislation is not a material issue in the consideration of a licence application. The Act, unsurprisingly for its age, does not state what the general objective of the legislation is but from its terms it would appear to relate to the welfare of horses and perhaps the welfare of customers. Any reasons for refusal should relate to this and the matters detailed in section 1(4) of the Act which can be summarised as the suitability and qualification of the applicant and the welfare of horses.
- 3.2 It also states that in determining whether to grant a licence, the authority have regard to certain issues relating to the welfare of the horses and that the licence holder possess a valid certificate of insurance. This has been produced by the applicant.
- 3.3 A licence, if granted, would relate to the year in which it is granted or to the next following year. In the former case, the licence would come into force at the beginning of the day on which it is granted, and in the latter case it would come into force at the beginning of the next following year.
- 3.4 In any case where the local authority are not satisfied that having regard to all the circumstances they would be justified in granting such licence they may grant a provisional licence which shall come into force at the beginning of the day on which it is granted and shall remain in force for three months.
- 3.5 Section 1(5) of the 1964 Act states that any person aggrieved by the refusal of a local authority to grant such a licence, or by any condition subject to which such a licence is proposed to be granted, may appeal to the Sheriff who may on such an appeal give such directions with respect to the issue of a licence or, as the case may be, with respect to the conditions subject to which a licence is to be granted as he thinks proper.

4.0 Timescale

- 4.1 The acts do not specify a timescale within which to determine an application.

5.0 Powers

- 5.1 The Committee may grant a full licence subject to the standard conditions, in which case it would last until the end of the calendar year; grant a further (and final) provisional licence lasting for three months to run from 16th September to 15th December; or refuse the application.
- 5.2 If minded to grant the licence, the Committee may attach such reasonable conditions, in addition to the standard conditions, as they think fit.

6.0 Recommendation

It is recommended that members either:

1. grant a further provisional licence (to 15 December 2015) for up to 10 horses to be kept at the Fendom premises to give the applicant further time
 - (a) to complete the works identified at paragraph 2.5 of this Report, and
 - (b) to produce evidence that the number of suitably qualified and experienced staff employed to operate the business is adequate to ensure the welfare of horses on the premisesand delegate power to the Area Environmental Health Manager to grant a full licence in the event that the requirements in both paragraphs (a) and (b) above are met by the date of expiry of the further provisional licence, or to refuse to grant a full licence if the requirements in both paragraphs (a) and (b) above are not fully met by that date

or

2. delegate power to the Area Environmental Health Manager to grant a full licence for up to 10 horses to be kept at the Fendom premises in the event that
 - (a) the works identified at paragraph 2.5 of this Report are fully completed by the date of expiry of the current provisional licence on 15 September 2015, and
 - (b) evidence has been produced by that date to demonstrate that the number of suitably qualified and experienced staff employed to operate the business is sufficient to ensure the welfare of horses on the premisesor to refuse to grant either a further provisional licence or a full licence if the requirements of both paragraphs (a) and (b) above are not fully met by that date.

Designation: Area Environmental Health Manager, North Area

Author: Chris Ratter

Date: 28 July 2015

Appendices:

1. Letter from veterinary surgeon dated 17 July 2015



STRATHSPEY

VETERINARY CENTRE

17th July 2015

Veterinary Inspectors Report for North Wild Trekking, Tain

On Tuesday the 14th July I attended with Gillian Bain from The Highland Council to inspect the above Riding Establishment owned by Ms Jan O'Neil who is trading under a provisional license. A full vet inspection was not carried out but a check up on the points of concerns at the last inspection in April.

Premises at Tain:

There have been improvements since the last inspection. The outdoor sand school has had fencing improvements but has still to be finished and the surface would need attention before it could be used as a school but would be fine as a corral as long as the fence was finished.

One field where there is a steep drop to a pond has been partially fenced but still needs more to be horse safe – judicious use of electric fencing would probably be adequate.

The additional available grazing still needs finished fencing, permanent or suitable electric fencing, before it could be used by horses. There is some ragwort that would need attention.

The 2 horses seen at this premises appeared in good condition

The additional grazing in Tain would be suitable for horses but would require some work first. The fencing is inadequate and there are pallets and an old trailer that would need removed before it was suitable for horses.

Premises at Brora:

“Carlen” still has hock wounds. “Woody” now also has hock wounds on his right hind. These are probably due to trauma from lying on an unsuitable surface. Wounds of this nature were noted on 3 horses during the inspection in April and I feel this should have been addressed.

“Chloe” was the only horse that I saw that I was concerned about. She was lame and was in poor body condition. She was stabled and we were informed that she was not being used for trekking and that she was being treated by a vet. I would recommend that a letter is requested as proof that she is under veterinary treatment.

The grazing for the horses at Brora was scattered and consists of fields and small paddocks. The Shore Field that I believe is common grazing had very little grass and completely inadequate fencing. There were 2 small paddocks behind the buildings that again had no grass, were boggy and poached and had inadequate fencing that was dangerous in places. There was a large field at Inverbrora but there was limited grass, ragwort and inadequate fencing. We couldn't find a suitable water supply. There was what appeared to be a water filled ditch that was down a steep bank. An alternative water supply was recommended at the time. There were a couple of small areas of grazing around the Doll area but again due to inadequate fencing I feel these are not suitable for horses.

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Apart from "Chloe" the few horses that were seen were in good condition but the accommodation and grazing at Brora is unacceptable and I recommend that horses are not kept here. Unfortunately without some work the premises at Tain would not be suitable for the number of horses that are kept under the Act straight away. It is difficult to decide what to recommend as removal of a license altogether would mean no income to make the improvements required. Therefore I recommend a provisional license of 3 months duration be granted but the situation at Brora should be dealt with as soon as possible as this is not a suitable environment for horses being kept under the Riding Establishments Act.

Jane Harley, BVMS, MRCVS.