

BOROUGH OF BARROW-IN-FURNESS

LICENSING REGULATORY SUB-COMMITTEE

Meeting: Monday, 13th June, 2022
at 1.00 pm (Committee Room No. 4)

A G E N D A

PART ONE

1. Appointment of Chairman

2. Apologies for Absence/Attendance of Substitute Members

3. Urgent Items

To deal with any items which the Chair considers to be of an urgent nature.

4. Delegations

To receive notice from Members who may wish to move any delegated matter non-delegated and which will be decided by a majority of Members present and voting at the meeting.

5. Admission of Public and Press

To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.

6. Declarations of Interest

To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

7. Minutes

3 - 14

To confirm the Minutes of the meeting held on 29th April, 2022.

FOR DECISION

PART TWO

- (D) 8. Hackney Carriage and Private Hire Driver

15 - 74

**NOT FOR PUBLICATION BY VIRTUE OF PARAGRAPHS 1 & 2 OF
PART ONE OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT
1972 AND ACCESS TO INFORMATION (VARIATION) ORDER 2006**

NOTE (D) – Delegated
(R) – For Referral to Council

Membership of Committee

Councillors Callister
Hall
McEwan

For queries regarding this agenda, please contact:

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Published: Wednesday, 1 June 2022

BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY SUB-COMMITTEE

Meeting: Thursday 29th April, 2021
at 10.15 am. (Virtual Meeting)

PRESENT:- Councillors Callister, McClure and McEwan..

Barrow Borough Council

Graham Barker (Public Protection Manager), Ivor Churcher (Commercial Team Leader), Debbie Storr (Head of Legal and Governance and Monitoring Officer), Steph Cordon (Director of People and Place), Sharron Rushton (Democratic Services Officer) and Sandra Kemsley (Democratic Services Officer).

Others

Paul O'Donnell (Local Authority Retained Solicitor)
Dr Matthew Brash (Retained Veterinary Consultant – DEFRA Inspector)

Cumbria Zoo Company Limited

Karen Brewer (Chief Executive Officer), Sarah Swarbrick (Legal Representative) and Kim Banks (Animal Manager).

1 – Appointment of Chair for 2021/2022

Nominations were requested for the appointment of Chair of the Licensing Regulatory Sub-Committee for 2021/2022.

Councillor McEwan moved that Councillor Callister be appointed as Chair for 2021/2022. This was duly seconded and it was

RESOLVED:- That Councillor Callister be appointed Chair of the Licensing Regulatory Sub-Committee for 2021/2022.

COUNCILLOR CALLISTER IN THE CHAIR

2 – Apologies for Absence/Attendance of Substitute Members

An apology for absence was received from Councillor Hall. Councillor McClure substituted for Councillor Hall for this meeting only.

3 – The Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985 and Access to Information (Variation) Order 2006

Discussion arising hereon it was:-

RESOLVED:- That under Section 100A(4) of the Local Government Act 1972 the public and press be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 (Minute No.4) of Part One of Schedule 12A of the said Act.

4 – Zoo Licence Renewal: Cumbria Zoo Company Limited

The Public Protection Manager reported that a Part Two addendum to the report had been received today distributed to Officers and Members and requested that this additional information be discussed in private as the content was confidential.

It was moved by Councillor McEwan and seconded by Councillor McClure to move into Part Two to enable confidential discussions to take place between Officers, Members and the Applicant.

Following detailed discussions between Officers, Members and the Applicant it was moved by Councillor McEwan and seconded by Councillor McClure to further move into Part Two to enable a decision to be made as it was felt that holding discussions with Officers and the Applicant present would, or would be likely to, inhibit substantially, the free and frank exchange of views for the purposes of deliberation. Private thinking space was essential to enable all facts, policies and legislation to be properly considered and appropriate legal advice obtained.

All parties with the exception of Councillors Callister, McClure and McEwan, Debbie Storr (Head of Legal and Governance and Monitoring Officer), Paul O'Donnell (Legal Representative), Sharron Rushton, Democratic Services Officer) and Sandra Kemsley (Democratic Services Officer) withdrew and were readmitted to the meeting following the Sub-Committee's deliberations.

It was moved by Councillor McClure and seconded by Councillor McEwan, and

RESOLVED:- To unanimously agree to adjourn the meeting until additional information requested had been received.

Meeting Adjourned at 11.48 am.

Meeting Re-convened at 2.00 pm.

4 – Zoo Licence Renewal: Cumbria Zoo Company Limited (continued)

It was moved by Councillor McEwan and seconded by Councillor McClure to move into Part Two to enable confidential discussions to take place between Officers, Members and the Applicant.

The Sub-Committee had received information as had been requested prior to the adjournment.

The Public Protection Manager reported that Cumbria Zoo Company Limited ("CZCL") held a Zoo licence issued on 11th May 2017 to operate a Zoo at premises known as

South Lakes Safari Zoo, Melton Terrace, Lindal-in-Furness, Cumbria, LA12 0LU (“the Zoo”).

On 10th December, 2020 the Council had received an application to renew CZCLs existing licence. On 15th and 16th March, 2021 a renewal inspection had been undertaken at the Zoo and the report presented Members with the results of that inspection and considerations for determination of the renewal application.

The original Zoo licence was granted to CZCL to operate South Lakes Safari Zoo on 11th May, 2017 (Ref: ZZ23203). The original licence was granted for a period of 4 years as required by Section 5(1) of the Zoo Licensing Act 1981 (the Act). A copy of the current licence had been attached as an appendix to the report.

Section 6 of the Act sets out the process to be followed where an application for a renewal of an existing licence was made to the local authority.

On receipt of any application the local authority may either:-

- Extend the period of the existing licence (s.6(1)(a)); or
- Direct the applicant to apply for a fresh licence in accordance with s.2. (s.6(1)(b)).

Before extending the period of an existing licence under s.6(1)(a) the local authority shall:-

- Make arrangements for an inspection to take place in accordance with s.9A(subject to subsection (2) of that section); and
- Consider the report made to them pursuant to that inspection.

In accordance with s.9A(15) a copy of the inspection report shall be sent to the licence holder within 1 month of receiving the report for comment. Those comments would be considered along with the inspection report.

As part of the inspection the Inspectors shall consider whether the conditions attached to the licence were likely to be met if the period of the licence was extended as required by s.9A(12).

The various tests contained in s.4 which were applicable to the grant of a new licence shall be applied to the consideration of renewal.

Where the local authority resolves to extend the existing licence under s.6(1)(a) they may alter the licence, by varying, attaching or cancelling conditions, to ensure the proper conduct of the Zoo during the period of the licence under s.16 of the Act after giving the licence holder the opportunity to make representations.

Following the renewal of a Zoo licence the premises were subject to annual inspections under S.10 (Periodical Inspections) and S.12 (Informal Inspections). Periodical inspections take place during the third year and not later than six months before the end of the sixth year of the period of that licence. Informal Inspections take place annually, but not in the same year as a periodical inspection.

Periodical Inspection and Renewal Inspection – 15th and 16th March, 2021

Section 10 of the Act deals with Periodical Inspections. Before extending the period of an existing licence under s.6(1)(a) the local authority shall make arrangements for an inspection to be carried out in accordance with s.9A.

Where one or more inspection was required, s.9A(3) allows the local authority to combine inspection required prior to the renewal of a licence. Local authorities were encouraged to combine these inspections unless there were good reasons not to do so. In accordance with s.9A(3) of the Act a combined inspection comprising of a Periodical Inspection and Renewal Inspection was undertaken on 15th & 16th March 2021.

Where an inspection was undertaken prior to the renewal of a licence under s.6(1A)(a), including an inspection which was combined with another inspection, s.9A(7) required the Inspectors to be nominated, after consultation with the local authority, by the Secretary of State. The Secretary of State nominated Inspectors were:

- Dr Michael Fielding; B.Vet.Med MRCVS (Sec.of State List 1 Inspector.)
- Mr Simon Marsh; (Sec.of State List 2 Inspector.)

The Local Authority representatives were:

- Dr Matthew Brash; B.Vet.Med Cert Zoo Med MRCVS Council's veterinary advisor,
- Graham Barker; Public Protection Manager
- Ivor Churcher; Commercial Team Leader

Periodical Inspection Report

A copy of the Section 10 Periodical Inspection Report had been attached as an appendix to the report. In accordance with the requirements set out in s.9A(15) the report had been sent to CZCL for comment on 8th April, 2021. In addition, two further reports on recommended conditions and directions had also been sent to CZCL. CZCL's comments had been received on 14th April 2021 and were attached as appendices to the report.

At the end of the inspection on 16th March, 2021, the Inspection Team verbally reported their findings to CZCL, including the recommended additional conditions and directions and recommendations.

Members noted the comments from the Inspection Team that showed an ongoing and improved veterinary programme, ensuring animal care and welfare needs were met across the collection.

'The Inspectors were impressed with the improvements made to Zoo since the last inspection but believe that there is still much to do before the Zoo meets the high standards of the SSSMZP across the whole site.

The vet programme is excellent and has addressed all previous concerns, with the vet being highly engaged and effective. The effectiveness of the program

of preventative and curative veterinary care is evident by the decrease in mortality and more specifically the decrease in conspecific injuries.'

Despite the Zoo being closed for substantial periods during the previous 12 months due to coronavirus restrictions, animal welfare had not been compromised.

Directions vs Conditions – Supplementary provided by Dr Matthew Brash:

The Zoo Licensing Act 1981, provided a framework by which Zoos can be licensed and conduct themselves. The EC Zoos Directive (Directive 1999/22/EC) required EU Member States to regulate Zoos in accordance with its provisions. The Directive was transposed into national legislation in England by means of the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002. Defra issued guidance on the provisions of the Zoo Licensing Act 1981 in 2012.

The Secretary of States Standards of Modern Zoo Practice (SSSMZP) 2012, provided the guidelines by which Zoos must be managed. To ensure this, Barrow Borough Council had placed a Standard Condition on the licence that stated:

2. *Accommodate and keep the animals in a manner consistent with the standards set out in the Secretary of State's Standards of Modern Zoo Practice.*

If the Inspectors found that there was a failure to comply with the SSSMZP, then action was taken to ensure the Zoo complied.

Historically this was achieved by recommending that additional Condition(s) were applied to their licence, with a time limit, for remedial action to be taken. If this was completed prior to the licence being issued, then it would not be applied to the licence. Failure to comply with these conditions, would result in it being elevated to a 'Direction to Comply'. If this was not complied with, then either the whole Zoo or part of the Zoo would be closed.

However in 2019, DEFRA legal informed all SoS Inspectors that the law had been misinterpreted, and that if the issued licence had a standard condition, that stated that the SSSMZP must be complied with, then any breach was automatically elevated to a 'Direction to Comply', as there was already a Standard Condition on the licence.

CZCL had this Standard Condition on their licence, therefore any failure to comply with the SSSMZP, when related to the animals, was automatically a Direction, not an additional Condition.

Periodical Inspection Report Conclusions

It was recommended by the Inspection Team, that South Lakes Safari Zoo be licensed in accordance with the Act, subject to the conservation measures in Section 1A the Act and the Additional Conditions as detailed in the report.

In addition, the Inspectors had recommended that a number of directions were made under s.16A of the Act.

CZCLs comments on the inspection report were received on 14th April, 2021 and had been attached as an appendix to the report.

“We [CZCL] accept with no exception the conditions and directions within and also the recommendations many of which as listed below are completed.”

5.11 The Inspection Team’s proposed additional Conditions, Directions and Recommendations were detailed in full, in sections 6, 7 and 8 of the report respectively and included CZCLs comments. A summary of these were as follows:-

Proposed Condition	Recommendation
Standoff Barriers The Sulcata and Anteater Enclosure	The requirements of the proposed conditions have been complied with, therefore the proposed conditions are not applied.
The new Meerkat enclosure	
The top Giraffe House	
The Penguin Enclosure	
Public Areas and Footpaths	The requirements of the proposed condition have been complied with, therefore the proposed condition is not applied.
Walkthrough Enclosures / Exhibits	The requirements of the proposed condition have been complied with, however it is recommended that this condition should be permanently placed on the licence as an additional condition.
Existing Additional Conditions	Recommendation
Condition 12 – Animal Escapes Condition 13 – Firearms cover and Protocol regarding escapes	These are on-going conditions on the licence and therefore no further action is required.
Condition 14 – Review of Animal Bites	Condition 14(a) has been complied with and should be removed and that Condition 14(b) remains on CZCL’s licence, as an ongoing requirement. Proposed amended Condition 14.

	<p>Condition 14. Animal/Visitor Interactions</p> <p>In accordance with 8.14 of the SSSMZP, all contact injuries to visitors from animals must be reported to the Local Authority within 14 days.</p>
<p>Condition 15 – Management and Staffing Structure.</p>	<p>Condition 15 be amended to:</p> <p>Proposed amended Condition 15.</p> <p>Condition 15 - Management, Operational and Staffing Structure</p> <p>a) The Animal Director (or equivalent) must have the ability to make decisions independent of the registered land owner; and</p> <p>b) To ensure the orderly management of the Zoo, the licensee shall at all times retain the legal right to occupy and operate from the premises known as South Lakes Safari Zoo, Melton Terrace, Lindal-in-Furness, Cumbria, LA12 0LU comprised in legal titles registered at HM Land Registry under CU269901, CU269902 and CU103199.</p>
<p>Proposed Direction</p>	<p>Recommendation</p>
<p>[D1] Maintenance and Feed Store Building</p>	<p>The requirements of the proposed direction have been complied with, therefore the direction is not made.</p>
<p>[D2] The Africa Exhibit Paddock (Grazing)</p>	<p>The proposed Direction [2] is accepted by CZCL and therefore should be made.</p>
<p>[D3] The Africa Exhibit Paddock (Shelter)</p>	<p>The proposed Direction [3] is accepted by CZCL and therefore should be made.</p>
<p>[D4] Drainage at the Africa House and Service Area</p>	<p>The proposed Direction [4] is accepted in part by CZCL and therefore should be made. Members are to consider extending the time for compliance from SIX to TWELVE MONTHS, to enable thorough testing of the drainage system.</p>
<p>[D5] Parma Wallabies</p>	<p>The requirements of the proposed Direction [5] have not yet been complied with, therefore the Direction should be made.</p>
<p>[D6] Tortoise Accommodation</p>	<p>The requirements of the proposed direction have been complied with, therefore the direction is not made.</p>

[D7] The Flamingo Enclosure (Refuge)	The requirements of the proposed Direction [7] have not yet been complied with, therefore the Direction should be made.
[D8] The Flamingo Enclosure (Drainage)	The requirements of the proposed direction have been complied with, therefore the direction is not made.
[D9] The Penguin Enclosure	The requirements of the proposed direction have been complied with, therefore the Direction is not made.
[D10] Lone Animals	The requirements of the proposed Direction [10] have not yet been complied with, therefore the Direction should be made.
[D11] Enclosure Gate Systems	The requirements of the proposed direction have been complied with, therefore the Direction is not made.
[D12] 'New' Meerkat Enclosure	The requirements of the proposed direction have been complied with, therefore the direction is not made.
[D13] Emergency Escape Drills	The requirements of the proposed Direction [13] have been complied with in part, therefore the Direction should be made, to allow CZCL the opportunity to review procedures during 2021.

CZCL's response was sent to the Inspection Team for comment and where appropriate, their responses were also detailed in the report.

Health & Safety and Other Matters

Barrow Borough Council Public Protection Services staff were responsible for enforcing the Health and Safety at Work etc. Act 1974 and its relevant statutory provisions at South Lakes Safari Zoo.

This responsibility covered not only the Health, Safety and Welfare of employees but also included members of the public visiting the Zoo.

On 23rd March 2021 a visit was made to the Zoo to ascertain the full extent of Health and Safety risks to members of the public and staff working at the Zoo.

A brief summary of the issues were:

- Several of the Public Footpaths/Walkways throughout the Zoo were either badly eroded, broken and potholed causing a potential tripping hazard
- Safety barriers were either missing or inadequate

- Information signs located throughout the Zoo had sharp edges presenting a potential risk to young children
- The walled surfaces of the Penguin pool were in an unsafe condition
- Two of the electrified fences could potentially be touched by members of the public
- The lemur slope was not provided with any form of barrier to protect the public from the risk of falling
- Zoo staff were unable to retrieve items from a mezzanine storage area located in the animal food prep room in a safe manner
- There was a large pothole at the staff entrance to the Zoo
- Several electrical appliances were potentially unsafe as they were either fitted with the wrong type of cabling or had makeshift joins to the 13amp plug which connected them to the main electrical installation in the vets room
- Electrical Certification for several areas was either out of date or incomplete

A detailed report of the issues found had been attached as an appendix to the report.

A further inspection was made on 11th April 2021, the day before the Zoo were due to re-open, following lockdown. At that time suitable remedial action had been taken or was well underway.

Consequently Barrow Borough Council would not be taking any enforcement action with regards to the matters raised.

Update on Leases

Cumbria Zoo Company Ltd (CZCL) has an 8 year lease to rent the land South Lakes Safari Zoo, with an automatic renewal under the tenancy act. They were now four years into this lease, which required them to return the zoo in the same condition or better, should it be surrendered.

Historically the site of the zoo had two landlords; Mr D. Rivera (Gill) and South Lakes Safari Zoo Ltd who between them owned the 42 acre site. The tenancy related to the land, buildings, plant and machinery and animals, although some of these animals belonged to Mr Rivera personally.

In February 2021 a sale of all of these assets was finalised and bought by the Zoo Investment Company Ltd. (ZIC), with CZCL as sitting tenants. With the sale all the land, buildings, plant and machinery etc. ownership transferred to ZIC, with the exception of any new machinery that CZCL had purchased.

Most animals within the zoo were not owned, but were either on loan from other zoos, part of breeding programs etc. Most zoos in Europe did not sell or buy animals, but loaned them to other collections.

In summary the animals in the zoo belonged to ZIC, or were on loan from other collections, but were managed on a day to day basis by CZCL. They cannot leave the zoo without prior permission of ZIC.

Perimeter fence adjacent to the private dwelling

The private dwelling at the top of the zoo had recently been purchased by a third party, independent of the zoo or ZIC. This party had been undertaking modifications to the ground level of their garden, raising it to make a flat terrace, by building a retaining wall and back filling with rubble. This retaining wall lies immediately adjacent to the perimeter fence and some of the zoo buildings.

In places the new retaining wall was of a similar height to the perimeter fence itself and may have a negative impact on the zoo's ability to comply with the Act, and the SSSMZP.

The Act requires:

1A (d) preventing the escape of animals and putting in place measures to be taken in the event of any escape or unauthorised release of animals.

The SSSMZP states:

8.29. The perimeter boundary, including access points should be designed, constructed and maintained to discourage unauthorised entry and so far as is reasonably practicable as an aid to the confinement of all of the animals within the zoo.

The ground level being raised to such a height and so close to the perimeter fence would diminish the effectiveness of the perimeter fence as a deterrent and was less likely to discourage unauthorised entry. The weight of the backfill retained may cause movement of the perimeter fence, leading to instability. The presence of electrified wiring on top of the fence now lies within easy reach of the occupants of the house.

The inspectors were concerned that this development, so close to the zoo perimeter, may impact negatively on the zoos ability to comply with the ZLA and the SSSZMP and had potential safety concerns for people outside the zoo.

Confirmation had been received from CZCL that the retaining wall was being reduced and the land excavated behind.

Representations from Cumbria Zoo Company Limited.

CZCL had submitted comments on the inspection reports, recommended conditions and directions and they had been included within the report. However, Sections 16(2) and 16A(4) of the Act required, that before any conditions were added or amended or directions made, the licence holder was given an opportunity to be heard.

CZCL had been invited to today's hearing and had addressed the Committee through their Chief Executive Karen Brewer; Animal Manager Kim Banks and Retained Lawyer Sarah Swarbrick.

It was moved by Councillor McEwan and seconded by Councillor McClure to further move into Part Two to enable a decision to be made as it was felt that holding discussions in public would, or would be likely to, inhibit substantially, the free and frank exchange of views for the purposes of deliberation. Private thinking space was

essential to enable all facts, policies and legislation to be properly considered and appropriate legal advice obtained.

All parties with the exception of Councillors Callister, McClure and McEwan, Debbie Storr (Head of Legal and Governance and Monitoring Officer), Paul O'Donnell (Legal Representative), Sharron Rushton, Democratic Services Officer) and Sandra Kemsley (Democratic Services Officer) withdrew and were readmitted to the meeting following the Sub-Committee's deliberations.

It was moved by Councillor Callister and seconded by Councillor McEwan, and

RESOLVED:- To unanimously agree:

- (i) To note the Inspection report and its conclusion to renew Cumbria Zoo Company Limited's licence for a period of 6 years;
- (ii) To consider the recommended Conditions and Directions and the response from Cumbria Zoo Company Limited, including the extended compliance period for Direction 4;
- (iii) To grant the renewal of the Zoo Licence with following Conditions and Directions detailed and agreed at (ii) above:
 - (Standoff Barriers): Proposed conditions not applied
 - (Public Areas and Footpaths): Proposed conditions not applied
 - (Walkthrough Enclosures/Exhibits): Condition be permanently placed on licence as additional condition
 - Condition 12 (Animal Escapes): No further action
 - Condition 13 (Firearms cover and Protocol regarding Escapes): no further action
 - Condition 14 (Review of Animal Bites):
 - a) Remove 14(a) from licence
 - b) Leave 14(b)
 - c) Amend condition to "In accordance with 8.14 of the SSSMZP, all contact injuries to visitors from animals must be reported to the Local Authority within 14 days"
 - Condition 15 (Management and Staffing Structure) be amended to:
 - a) The animal Director (or equivalent) must have the ability to make decisions independent of the registered land owner; and
 - b) The ensure the orderly management of the Zoo, the licensee shall at all times retain the legal right to occupy and operate from the premises known as South Lakes Safari Zoo, Melton Terrace, Lindal-in-Furness, Cumbria, LA12 0LU comprised in legal titles registered at HM Land Registry under CU269901, CU269902 and CU103199
 - Direction 1 (Maintenance and Feed Store Building): Direction not made
 - Direction 2 (Africa Exhibit Paddock (Grazing)): Direction made
 - Direction 3 (Africa Exhibit Paddock (Shelter)): Direction made
 - Direction 4 (Drainage at the Africa House an Service Area: Direction made and compliance extended to twelve months to enable thorough testing of the drainage system
 - Direction 5 (Parma Wallabies): Direction not made
 - Direction 6 (Tortoise Accommodation): Direction not made
 - Direction 7 (Flamingo Enclosure (Refuge)): Direction made
 - Direction 8 (Flamingo Enclosure (Drainage)): Direction not made

- Direction 9 (Penguin Enclosure): Direction not made
- Direction 10 (Lone Animals): Direction made
- Direction 11 (Enclosure Gate Systems): Direction not made
- Direction 12 ('New' Meerkat Enclosure): Direction not made
- Direction 13 (Emergency Escape Drills): Direction made to allow CZCL the opportunity to review procedures during 2021

The meeting closed at 3.00 pm.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 8
Appendix 2
Page 35

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 8
Appendix 3
Page 39

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