

BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Special Meeting, Tuesday 27th January, 2015
at 10.00 a.m. (Committee Room No. 4)

A G E N D A

PART ONE

1. To note any items which the Chairman considers to be of an urgent nature.
2. 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.
3. 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.

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.

4. Apologies for Absence/Attendance of Substitute Members.

FOR DECISION

Environmental Health Manager's Report

- (D) 5. Mr David Gill – South Lakes Safari Zoo Ltd - Suitability to Hold a Zoo Licence Following Conviction Under Wildlife and Countryside Act 1981.

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

Membership of Committee

Callister (Chairman)
Irwin (Vice Chairman)
Biggins
Derbyshire
Graham
W. McClure
Maddox
Opie
Pemberton
Roberts
Seward
Wall

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LICENSING REGULATORY COMMITTEE	(D) Agenda Item 5
Date of Meeting: 27th January, 2015	
Reporting Officer: Environmental Health Manager	
<p>Title: Mr David Gill – South Lakes Safari Zoo Ltd - Suitability to Hold a Zoo Licence Following Conviction Under Wildlife and Countryside Act 1981</p> <p>Summary and Conclusions:</p> <p>Mr David Stanley Gill has held a licence granted under the Zoo Licensing Act 1981 ('the Act') since 1994 to operate South Lakes Wild Animal Park, Dalton-in-Furness, which is now known as South Lakes Safari Zoo.</p> <p>s.16B(5)(c) of the Act places an obligation on the Council as Licensing Authority to consider whether a Zoo Closure Direction should be made in the event of a licence holder being convicted of any offence mentioned in s.4(4) of the Act.</p> <p>On 19th November 2014 Mr Gill together with his trading company South Lakes Wild Animal Park Ltd were both convicted of three offences contrary to s.14 Wildlife & Countryside Act 1981</p> <p>An offence committed contrary to s.14 Wildlife & Countryside Act 1981 is a qualifying offence mentioned under s.4(4) of the Act and thus triggers the need to review the licensee's suitability.</p> <p>The purpose of this report is to enable Members to consider whether Mr Gill remains a suitable person to hold a Zoo Licence in respect of South Lakes Safari Zoo in the light of his recent convictions.</p> <p>Recommendations:</p> <p>Under the Zoo Licensing Act 1981, Members are required to determine, in the light of the representations made at the meeting, whether Mr Gill remains a suitable person to hold a Zoo Licence.</p> <p>The options available to the Members are to:</p> <ul style="list-style-type: none">a) issue a Zoo Closure Direction;b) issue a warning as to future conduct; orc) take no further action.	

Report

Background

Between July 2013 and October 2013 there were a number of sightings of Sacred Ibis (*Threskiornis aethiopicus*) in the Furness Peninsula at Roanhead Beach and Aldingham.

Sacred Ibis are not birds that reside naturally in Great Britain. In fact they pose such a significant threat to the natural fauna of Britain, should they invade, it is one of only 3 species that the government has developed an action plan to deal with. In addition out of the multiplicity of pathways by which invasive species arrive, the Government's Programme Board chose escapes from zoos as their first priority.

An image of a Sacred Ibis and data sheet from the Non Native Species Secretariat (part of Defra) can be found at **Appendix 1** for Members' information.

This data sheet states that the Sacred Ibis is an opportunistic feeder which favours invertebrates when foraging in meadows and marshes, but also takes larger prey when available, including fish, amphibians, eggs and young birds. In western France, predation has been observed in a Sandwich Tern colony, with the Ibis flushing the Terns off their nests and then taking their eggs. Also, colonies of incubating Terns have been destroyed by Sacred Ibis in France on at least three occasions. Apart from birds, there is concern that the observed predation of Sacred Ibis on newts may have detrimental effects on discrete populations of these endangered amphibians.

As a result of the sightings referred to in paragraph one and the significant concerns associated with this, an expert ornithologist working for the Animal and Plant Health Agency (APHA) was deployed to the area to investigate. He established that the birds were originating from South Lakes Wild Animal Park and the matter was referred to National Wildlife Crime Unit (NWCU) and Cumbria Police. On 30th October 2013 Officers from Cumbria Police, NWCU and APHA executed a search warrant at South Lakes Wild Animal Park. During the visit Officers found a large open enclosure housing Sacred Ibis. The Officers found only 27 Ibis present, but the zoo's records indicated that there should be 36.

Officers witnessed and actually filmed birds flying out of the Park. The owner and licensee of the zoo Mr Gill who was on site explained that he was aware of the birds getting out and that he was trying to resolve the situation. He indicated that the problem related to birds that had been hatched in 2013 that had not had their wings clipped. The officers examined copies of the zoos records and found no records of any Sacred Ibis breeding at the zoo in 2013. Using ring identification of birds seen in flight and birds photographed in the wild, they were able to show that some of the birds that had escaped were actually born in 2009.

Mr Gill was interviewed by Police and told that he would be reported for suspected offences. Upon returning to the Park he arranged for the Sacred Ibis to be herded into an area and then proceeded to shoot as many birds that appeared able to fly. A Witness statement suggests that this procedure was begun whilst staff and visitors were present within the Park. It is understood that he shot 13 free flying Sacred Ibis.

Expert evidence heard at the trial confirmed that Sacred Ibis were easily caught in the wild and that it was unnecessary to shoot the birds to stop them flying out of the Park.

The matter was heard by District Judge Chalk at Kendal Magistrates' Court on 19th November 2014. In summing up, the Judge did not accept Mr Gill's version of events. His findings were as follows:-

- 1) Sacred Ibis were not birds that were resident or regular visitors to Great Britain in a wild state;
- 2) Sacred Ibis birds had been escaping from SLWAP;
- 3) None of the birds should have been capable of flight however 13 birds were shot by Mr Gill because they could fly. This is despite Mr Gill initially telling the Police that only 4 had been capable of flight;
- 4) Some of the escaping birds flying out of the Park were 4 years old despite Mr Gill claiming that only young birds could fly;
- 5) The species poses a significant threat to the British countryside but it is accepted that it had not colonised on this occasion; and
- 6) No due diligence had been shown by Mr Gill or SLWAP and the Judge commented that it was unbelievable that nobody at the Park knew the birds were able to fly and flying out of the Park.

As a result Mr Gill and South Lakes Wild Animal Park Ltd were both convicted of three counts of releasing or allowing to escape into the wild an animal which is a species that is not ordinarily resident or a regular visitor to Great Britain in a wild state, contrary to s.14(1) Wildlife & Countryside Act 1981. SLWAP Ltd was fined £5000 plus £370 costs and David Gill was fined £2000 plus £870 costs.

None of the above convictions have been appealed.

Section 16B(5)(c) of the Zoo Licensing Act 1981 (as amended) puts the Licensing Authority under an obligation to consider any offence listed in Section 4(4) of the Zoo Licensing Act 1981 being committed by a licence holder. A conviction under Part 1 of the Wildlife & Countryside Act 1981 is such a qualifying offence and triggers this obligation.

Options Available to Members

Legislation states that Members are required to consider the impact of the above-mentioned conviction and if Mr Gill remains a suitable person to hold a zoo licence. The following options are available to Members:

- a) Issue a zoo closure direction;
- b) Issue a warning to Mr Gill as to his future conduct; or
- c) Take no further action.

Section 16(B)(5)(c) states that the Authority may, after giving the licence holder an opportunity to be heard, make a Zoo Closure Direction in respect of a zoo licensed under this Act if the licence holder is convicted of any offence mentioned in s. 4(4), which includes Part I of the Wildlife & Countryside Act 1981.

The Council has no adopted guidance concerning the relevance of convictions for use in determining applications for Zoo Licences, or for considering the continuance of one already in place. The guidance issued by DEFRA states “Local authorities may refuse a licence application if anyone associated with the zoo has, as stated in section 4(4) of the Act, a conviction under the Zoo Licensing Act 1981 or any of the Acts mentioned in section 4(5). In exercising this discretion, local authorities will need to consider the seriousness of the offence committed.”

Members are advised that Article 6 of the Human Rights Act 1998 provides that everyone is entitled to a fair hearing. Accordingly, a person should be afforded the right of a hearing before any decision is taken. Mr Gill has been informed of these proceedings and has requested the opportunity to address the Committee in person. He has also been advised that he may have legal representation.

Members are requested to consider this report and determine which of the above options are necessary.

Appeals

For Members’ information, under s.18(1) a person aggrieved by a Zoo Closure Direction may appeal to a Magistrates’ Court. Any such appeal shall be brought within 28 days from the date on which the person wishing to appeal receives written notification of the Licensing Authority’s decision.

A Zoo Closure Direction has effect upon expiry of the appeal process or on the day following the appeal being determined.

Background Papers

Nil.

Sacred Ibis

Species Description

Scientific name: *Threskiornis aethiopicus*

AKA: Crymanbig y deml (Welsh)

Native to: Sub-Saharan Africa

Habitat: Wide range of mainly inland habitats by lakes and rivers

A distinctive species with a long, down-curved bill, white body and black head and neck.

Sacred ibis is popular in captivity in both the UK and Europe. Escaped birds have been recorded in the wild in Europe since the 19th century, however since the 1970s, free-flying birds in zoos and parks have established several feral breeding populations. The largest feral colonies currently exist on the French Atlantic coast. The species has yet to be recorded breeding in the wild in the UK.

The sacred ibis is an opportunistic feeder and will predate on eggs and young of other birds. In France, predation of tern colonies has been observed, as well as the nests of mallards and a variety of other waterbirds. The species is dominant at multi-species bird colonies and can outcompete other species for nest sites. Their large size represents a bird-aircraft strike hazard.

For details of legislation go to www.nonnativespecies.org/legislation.



Key ID Features



Identification through the year

Sacred ibis do not vary in colouration during the year.

Distribution

A small number of feral or escaped sacred ibis have been recorded in Britain though there are no records of breeding pairs.

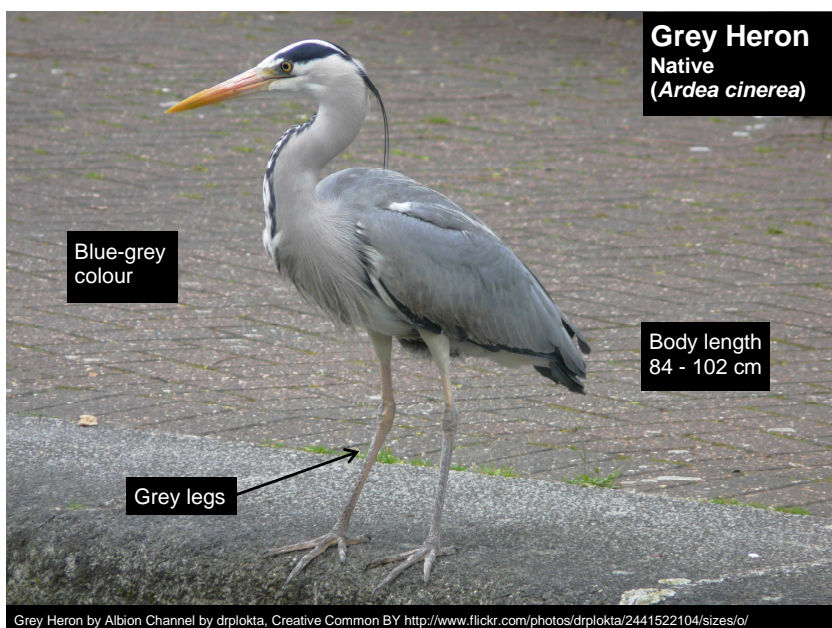
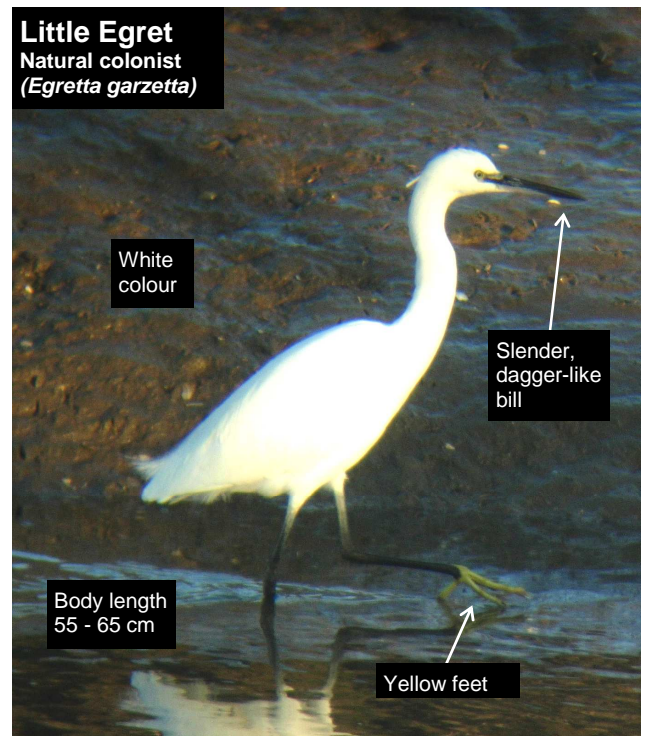
Field Signs

- Call - Generally silent.
- Behaviour - In Europe often found in flocks on coastal estuaries, but individual birds can join flocks of other waterbird species e.g. Herons. Breeding season is March to May.
- Nest - Colonial breeder, the nest forming a platform made from sticks and any other available materials.
- Eggs - 2 - 4 in a clutch. Dull white with a faint blue tinge.
- Fledglings - Once the chicks have fledged they can form large crèches.

Sacred ibis, if clearly seen, are unlikely to be confused with any other species that regularly occurs in the UK. It should be noted that individual birds may well join multi-species flocks of waterfowl making their detection and identification difficult if only seen from a distance.

Herons, spoonbills and little egrets have a similar body-shape to sacred ibis.

Similar Species



References and further reading:

Lever, C (2005) "*Naturalised Birds of the World*". T & A D Poyser

Mullarney, K, Svensson, L, Zetterstrom, D and Grant, P J (2001) "*Bird Guide*". HarperCollins

Snow, D W and Perrins, C M (1998) "*The Birds of the Western Palearctic*". Oxford University Press

Yesou, P and Clergeau, P (2005) Sacred Ibis: a new invasive species in Europe. *Birding World* **18**, 517-526

Sacred Ibis (*Threskiornis aethiopicus*)

GB Priority - HIGH

Aim: Prevent this species from establishing in GB.



Objectives:

1. Reduce the risk of invasion from locations outside of GB.
2. Rapidly detect, report and confirm any sightings in GB.
3. Humanely cull or otherwise remove individuals where risk is identified.

Aim	Action	Where	Co-ordinating body	Support	Start/finish date
Prevention	Encourage a concerted approach to remove European populations by European Partners .	Europe	Defra	NNSS	Ongoing
	Develop a pathway action plan to reduce risk of escape from zoos and collections in GB.	GB	NNSS, Defra, SG, WG	Agencies, BIAZA	Ongoing
Early detection / rapid response	Develop a communications plan to underpin this ISAP and any subsequent action that may result from it - including clear lines of responsibility.	GB	Defra, SG, WG	Agencies, NGOs	Aug 13
	Ensure appropriate equipment and trained personnel are available for effective, timely and humane removal	GB	Defra, SG, WG	National Wildlife Team	Aug 13
	Issue a GB level alert.	GB	NNSIP	NNSS, Agencies, NGOs	Ongoing
	On detection, confirm sighting, assess for risk to protected native species, and assess for potential breeding (e.g. nest building, mating displays observed, juveniles present, a group of individuals observed)	GB	NE, SNH, NRW	National Wildlife Team	As req
	If risk to a protected native species is identified, or breeding appears possible, remove individuals as soon as possible (no later than 4 weeks from confirmation) and carry out other control work as necessary (e.g. egg oiling).	GB	NE, SNH, NRW	National Wildlife Team	As req

Risk Register	Location	Mitigation
Rapid response delayed and population becomes established (<i>high</i>)	GB	Ensure the actions in this plan are implemented, including the training of appropriate personnel and appropriate communications handling to reduce risk of delay.
Negative public / stakeholder response to intention to cull or remove birds (<i>high</i>)	GB	Thorough communications plan essential. Ensure humane methods are identified (consider trapping). Work with stakeholders to communicate the issues, the importance of undertaking control and humaneness of approach.
Refused access to land to enable control (<i>high</i>)	GB	Work closely with landowners and stakeholders to obtain access. In Scotland consider control orders if necessary.

Measurable outcome: No populations established in GB.

Updating and review: For most up-to-date ISAP visit www.nonativespecies.org: scheduled review date Jul 2014

Supporting documentation: [Risk assessment](#) | [ID sheet](#) | [Factsheet](#) |