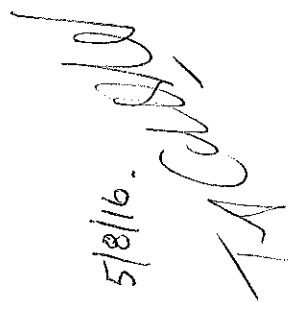


SPECIAL LICENSING REGULATORY COMMITTEE

5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> JULY, 2016

RECORD OF DECISION

Agenda Item No.6

5/8/16. 

<u>Title</u>	<u>Decision</u>	<u>Timescale</u>	<u>Finding of Facts</u>	<u>Reason for Decision</u>
<p>Zoo Licensing Act 1981 (as amended) Zoo Licence for South Lakes Safari Zoo Ltd</p> <p>Licence Renewal Application – Mr David Gill of South Lakes Safari Zoo Ltd.</p>	<p>1. That the Licensing Regulatory Committee do not extend the Zoo Licence currently held by Mr David Gill; and</p> <p>2. That Mr Gill be directed to apply for a fresh Licence in accordance with s.6(1)(b) within 6 months from the date of decision.</p>	<p>Immediate</p>	<p>It should be noted that on Day 2 of the hearing, after being questioned by Mr O'Donnell, Ms Swarbrick confirmed that she was retained by the Directors of South Lakes Safari Zoo Ltd ("the Zoo") not the applicant Mr Gill. The late submissions and representations made by Ms Swarbrick and the 4 Directors were permitted and accepted by the Committee as representations from the Zoo Operator and not the licensee as defined by the Zoo Licensing Act 1981 (as amended) ("the Act").</p> <p><b>Background</b></p> <ul style="list-style-type: none"> <li>Mr David Stanley Gill holds a zoo licence issued on 8th June 2010 for a period of 6 years to operate a zoo at premises known as South Lakes Safari Zoo Ltd, Crossgates, Dalton-in-Furness, Cumbria, LA15 8JR.</li> <li>The original zoo licence was granted to Mr David S Gill to operate the Zoo (formerly named South Lakes Wild Animal Park) on 23rd May 1994. The original licence was granted for a period of 4 years as required by s.5(1) zoo licence</li> <li>On receipt of an application for the renewal of an existing licence the Council must make a determination on whether to extend the current licence for a further period of 6 years, or require the</li> </ul>	<p>A renewal should be granted where the inspection team recommend that this should occur having satisfied themselves that s.9A(12) is met.</p> <p>In accordance with s.9A(12), as part of their inspection, the Inspectors considered whether it was likely that the conditions attached to the licence would be met if the current licence was extended.</p> <p>The Inspectors were not satisfied that under the current management structure, and with Mr Gill still having full operational and financial control over the day to day running of the Zoo, that the conditions would be complied with should the licence be extended, in particular Condition 39. The Inspectors were unable to make a recommendation to the Committee to extend the licence.</p> <p>Members considered whether imposing additional conditions would allow the</p>

licence holder to submit a fresh application.

Licence Renewal Application

- On 11th January 2016 the Council received an application from Mr David S Gill to renew his existing licence.

Renewal Process

- Members noted the process contained in s.6 of the Act which must be followed where an application for renewal was received.
- Fundamentally the process is inspection led (s.6(1A)(b)).

Periodical & Renewal Inspection – 17<sup>th</sup> & 18<sup>th</sup> November 2015

- In accordance with s.9A(3) of the Act a combined inspection comprising of a Periodical Inspection and Renewal Inspection was undertaken on 17th and 18th November 2015 by 3 Secretary of State appointed inspectors, all of which were in attendance at this 3 day Licensing Regulatory Committee hearing (5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> July 2016)

- Members noted that the Secretary of State nominated Inspectors were:

- Professor Anna Meredith; MA VetMB PhD CertLAS DZooMed DipECZM MRCVS; and
- Nick Jackson MBE, Director of the Welsh Mountain Zoo.
- Dr Matthew Brash; B.Vet.Med Cert Zoo Med MRCVS, Council's Professional Advisor; and

LRC – 23<sup>rd</sup>, 24<sup>th</sup> February and 2<sup>nd</sup> March 2016

licence to be renewed and were mindful if that the standards required for a fresh licence, contained in s.4 needed to be met.

Members took the view that Mr Gill and the Operator had failed in their submissions to demonstrate that they have a robust Management structure in place. The key Senior Animal Manager posts, remained unfilled and the Directors, by their own admittance could not recruit a full time manager despite trying for the last 6 months.

Assurances from the Zoo that terms had been agreed with 2 individuals could not be evidenced. Council Officers and the Inspectors submitted information to the contrary.

The Inspection team could not place any reliability on the future structure.

The Inspectors findings and opinion that the ongoing serious concerns over animal welfare, public safety and potential escapes are due fundamentally to both the animal husbandry/management regimes and philosophy (i.e. free-ranging mixed exhibits), and/or the inability by staff, including current management and the vet, to effectively influence or challenge these. Only when a management structure is properly implemented that is able to review

		<ul style="list-style-type: none"> <li>Members considered the Inspectors statutory report of their findings which contained a recommendation that the renewal of the licence be refused unless the "Additional Conditions" listed in their report were complied with, with greater emphasis placed on "Additional Condition" 32 (current licence condition 39).</li> <li>The Zoo's comments to the November 2015 inspection report were also considered by Members.</li> <li>The final decision of the Committee was that the renewal application be deferred until 5<sup>th</sup> &amp; 6<sup>th</sup> July 2016 and that proposed additional condition 32 be imposed on the licence with a compliance date of 22<sup>nd</sup> May 2016 :-  <i>In order to comply with section 10 of the Secretary of State's Standards, a robust management and staffing structure must be in place to the satisfaction of the licensing authority, in order to allow a new licence to be issued. This new structure must include a competent, suitably qualified and experienced full-time Director (or Senior Manager) with day to day responsibility for the running of the Zoo, the ability and authority to make decisions independent of the owner (Mr David Stanley Gill), and must be fully responsible to the licensing authority for the conduct of the Zoo, all its on-site activities and its compliance with the Secretary of State's Standards.</i> <i>[Timescale 22nd May 2016]</i></li> <li><b>Special Inspection – 23<sup>rd</sup>, 24<sup>th</sup> and 25<sup>th</sup> May, 2016</b></li> <li>Under s.11(1)(a) and (d) a Special Inspection was undertaken by the same 3 Secretary of State appointed Inspectors who undertook the Periodical and Renewal Inspection in November 2015.</li> <li>The Inspectors' subsequent reports comprised of 3 parts: <ul style="list-style-type: none"> <li>Report 1 – DEFRA Inspection Report Form</li> </ul> </li> </ul>	<p>current practices independently of the owner [the licence holder Mr Gill], will there be the ability to bring about significant change that will address these issues effectively and enable this zoo to progress and realise its full potential."</p> <p>The Inspectors stated "The zoo is clearly being managed directly by Mr Gill and the way that the collection is being managed still has a profoundly negative impact on the welfare of the animals kept in this collection, and continues to act as a potential danger to the public.</p> <p>The above existing management structure of SLSZ is not, in the inspectors opinion, sufficiently robust to ensure that the SSSMZP are being delivered. Nor does it fulfil the requirements of the condition applied by the inspectors back in November 2015."</p> <p>At the Licensing Regulatory Committee hearing on 23rd &amp; 24th February and 2nd March 2016, having heard in evidence from the Zoo that management changes were taking place and had been for some time, the Committee resolved to defer a decision on renewal, at the request of Zoo Chief Executive Officer, to allow the Zoo sufficient time to make the necessary changes they have failed to come to the table with a definitive plan.</p> <p>All the timescales placed against the</p>
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		<ul style="list-style-type: none"> <li>• Report 2 - Special Inspection Ancillary Report; and</li> <li>• Report 3 – Assessment of ZLA Compliance during Special Inspection 23rd to 25th May 2016.</li> </ul> <p>and were attached to the report as appendices for Member’s information</p> <ul style="list-style-type: none"> <li>• The purpose of the Inspection was to assess the Zoo’s compliance with the conditions on the licence. Particular attention was paid to condition 39. An extract from Report 3 was noted by Members: <ul style="list-style-type: none"> <li>“As part of a Special Inspection carried out at South Lakes Safari Zoo Between May 23rd and May 25th 2016 by Professor A Meredith, Mr N Jackson and Dr M Brash, the inspectors were asked to evaluate the existing management structure of the zoo, and whether additional condition 32 in the November 2015 inspection report (condition 39 on the zoo licence) had been met”.</li> </ul> </li> <li>• At the previous inspection in November 2015, the Inspectors were informed that Mr D Gill was taking a step back from running the Zoo, and had put in place two new Directors; C Fischer and F Schreiber. However, whilst writing their November report, the Inspectors were informed that C Fischer was no longer a Director.</li> <li>• At the February/March 2016 Licensing Regulatory Committee, where one of the Inspectors, M Brash, was present, the Local Authority were informed that the new Management Team was in place including Karen Brewer, David Armitage, John McIntosh, and Frieda Schreiber.</li> <li>• As part of the Special Inspection process, the Inspectors examined in detail whether a new Management Team had been put in place by the required deadline of 22<sup>nd</sup> May 2016, as specified in condition 39 and that the new management structure was now effectively managing the Zoo; in particular that changes</li> </ul>	<p>conditions during the February/March 2016 meeting were done with full knowledge and agreement of the Zoo. The Zoo management made no attempt to discuss problems with the timescale for compliance with Council Officers.</p> <p>The Committee were keen to identify that the new full time role of an experienced Director or senior manager was not held by some who will not spend large parts of the year absent from the site.</p> <p>The Zoo in its submission has stated that the only structure possible, due to the constraints imposed on them, by the Bank for example, is for South Lakes Safari Zoo with its newly appointed directors to operate the Zoo without Mr Gill being present on a regular basis.</p> <p>The absence of a successful transfer application prior to the hearing meant that consideration of the renewal application could only be made on the basis that Mr Gill is the licence holder.</p> <p>Members heard that despite the Zoo previously Zoo that consultation was taking place with an applicant in the hope that he will become a Director and his wife join the Education Team this was no longer the case. The Council had received an e-mail (24<sup>th</sup> June 2016) from the applicant stating he has declined the offer to work for Mr Gill.</p>
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		<p>had been put in place resolve or minimised the welfare and public safety issues, that it was now complying, or making concerted efforts and reasonable attempts to comply with, the Secretary of State's Standards of Modern Zoo Practice ("SSMZP") under the Act and that conditions applied to the licence had been complied with.</p> <ul style="list-style-type: none"> <li>Members noted that Report 3 provided detail relating to the interviews which were undertaken and discussions that took place between the Inspectors and the Zoo Management, including Mr Gill.</li> <li>The Inspectors' conclusions were as follows:- <ul style="list-style-type: none"> <li><i>"The zoo is clearly being managed directly by David Gill and the way that the collection is being managed still has a profoundly negative impact on the welfare of the animals kept in this collection, and continues to act as a potential danger to the public. The above existing management structure of SLZ is not, in the inspectors opinion, sufficiently robust to ensure that the SSSMZP are being delivered. Nor does it fulfil the requirements of the condition applied by the inspectors back in November 2015. Information supporting this statement comes from the interviews with the staff, from the records examined and observations made whilst walking around the zoo."</i></li> </ul> </li> <li>In Report 1, the Inspectors had made the following comment in relation to condition 39:- <ul style="list-style-type: none"> <li><i>"...it was evident that the robust management and staffing structure and the specific requirements for the (condition 39) are not in place, ultimately leading to ongoing serious concerns over animal welfare, public safety and potential escapes. While recognising the very complex nature of events and situations, including future plans, leading to the current status of the zoo at the time of inspection the</i></li> </ul> </li> </ul>	<p>The Zoo submitted to the Committee that they have secured a consultant to come for a week at the end of July to train staff. The individual would not make any commitment to work full time.</p> <p>There has been insufficient evidence from Mr Gill and/or the managements of the Zoo, to provide the reassurances and guarantees needed, that the level of change required can and will be implemented on renewal of the licence with appropriate conditions.</p> <p>Members had concerns regarding the reliability of statements made by Mr Gill and the Zoo Management. Members noted section 11 of the report that Mr Gill and the management demonstrate willingness on occasions to distort factual events for their own purposes.</p> <p>The conduct of the licence holder and the management of the Zoo since the last licence renewal (8th June 2010) was questionable. Officers spent a significant amount of time monitoring and enforcing compliance which is reflected in the level of the annual maintenance fee payable by the Zoo. Based on 2014/15 "activity", the figure that would be payable on renewal of the licence, if Members were so minded, would be in excess of £11,000 (£11,487.34). The figure for next year (2017) will be significantly higher based</p>
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<p>on the numbers of officer hours already worked.</p> <p>Members had concerns in relation to escapes and public safety. The Zoo and Mr David Gill were found guilty of offences under the Wildlife and Countryside Act 1981.</p> <p>S.4(2) states that "The local authority shall refuse to grant a licence for a zoo if they are satisfied that the establishment or continuance of the zoo would injuriously affect the health or safety of person living in the neighbourhood of the zoo, or seriously affect the preservation of law and order."</p> <p>Further, s.4(4) states that:  "The local authority may also refuse to grant a licence if:</p> <p>(a) The applicant or  (b) (Where the applicant is a body corporate) the body or any director, manager, secretary or other similar officer of the body, or  (c) Any person employed as a keeper in the zoo</p> <p>Has been convicted of an offence under this Act or under of any of the enactments mentioned in subsection (5) or of any other offence involving the ill treatment of animals"</p>	
<p><i>inspectors' findings indicate that failure to comply with condition 39 is at the root of the majority of the ongoing issues. The inspectors were very disappointed that many conditions had not been complied with, and with the number of problems detected during the inspection, resulting in the zoo failing to comply with many of the SSSMZP. See ancillary report for further details."</i></p> <ul style="list-style-type: none"> <li>• In Report 2, in relation to Condition 2 the Inspectors commented:-  <p><i>"Not complied with.  It is the inspectors' findings and opinion that the ongoing serious concerns over animal welfare, public safety and potential escapes are due fundamentally to both the animal husbandry/management regimes and philosophy (i.e. free-ranging mixed exhibits), and/or the inability by staff, including current management and the vet, to effectively influence or challenge these. Only when a management structure is properly implemented that is able to review current practices independently of the owner, will there be the ability to bring about significant change that will address these issues effectively and enable this zoo to progress and realise its full potential."</i></p> </li> <li>• On page 13 of Report 3 the Inspectors stated:-  <p><i>"In the circumstances of a signed declaration from David Gill that he has removed himself from the day to day running of the Zoo, and immediate verifiable evidence that the management team are effectively addressing all the issues highlighted in this report the inspection team recommend that Barrow BC gives consideration to a renewal of the licence to the current licence holder"</i></p> </li> <li>• Members noted that this option was not supported by Council</li> </ul>	

		<p>Officers unless sufficient information was provided that evidenced that any new management structure would have full operational and financial control independent of the sole shareholder of the Company, Mr David Gill.</p> <ul style="list-style-type: none"> <li>Page 4 of the same Report 3 provided the ultimate conclusion to the Inspection Report:- <ul style="list-style-type: none"> <li><i>“Conclusion</i> <i>Condition 39 has not been complied with, and as it stands, unless circumstances change, the LA should not renew the licence, as recommended in the report in November 2015.”</i></li> </ul> </li> </ul> <p><b><u>Zoo’s Response</u></b></p> <ul style="list-style-type: none"> <li>Members considered the full copy of the Zoos’ response to the May 2016 Inspection Report which was attached as an Appendix to the report. This included a letter from the Zoo addressed to the Licensing Regulatory Committee and the Inspectors.</li> <li>Members considered an extract from the response from the Zoo’s Management (pages 1, 2, 3 &amp; 4) which related solely to Condition 39.</li> <li>The response detailed the Zoo’s non acceptance of the Inspectors findings and stating that they had failed to recognise or acknowledge the intense work that had been ongoing to try and recruit a Senior Animal Manager(s).</li> <li>It stated that appointment terms had been agreed for two new senior managers which would satisfy condition 39. However the individuals concerned would not commit until a full 6 year licence had been granted.</li> <li>The two new posts will be appointed Directors on completion of the probation periods.</li> </ul>	<p>S.4(5) includes offences committed under part 1 of the Wildlife and Countryside Act 1982 such as that committed by Mr Gill in 2014.</p> <p>On 10th June 2016 South Lakes Safari Zoo Ltd were found guilty of offences under the Health and Safety at Work etc. Act 1974. In relation to Count 3 the company accepted that its risk assessments did not sufficiently address the risks arising from the escape of a big cat from the keepers’ enclosure to the public area is directly linked to the Zoo Licensing Act 1981 because of the public safety provisions contained within it (s.4(2)).</p> <p>Both Mr Gill and the Zoo Management continue to deny the extent of the role they played in the death of Sarah McClay despite pleading guilty.</p> <p>The Committee have heard of a number of failings since the licence was renewed in June 2010. Other than the mandatory and standard conditions required by the DEFRA guidance the Zoo has had 37 separate conditions applied to the licence in the last 6 years and a number being escalated to Direction Orders. It should not be lost on the Committee that failure to meet any condition is a criminal offence under section 19 of the ZLA and it is the Council who have chosen to try and work with the Zoo at each and every stage.</p>
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	<ul style="list-style-type: none"> <li>Members noted that the Zoo had previously stated that the previous Animal Manager (DA), was to become a Director. This appointment never materialised and DA's position was now under review.</li> <li>One of the prospective employees, had been contracted to provide training and management input for a period of 4 weeks starting in July 2016.</li> <li>A statement from this individual was provided and noted by members. It states that at this time all he could offer was a consultancy service. He would identify a person already working for Mr Gill or find someone who could "grow into an animal manager". Members noted there was no reassurance or evidence that this individual had agreed terms to staying at the Zoo on a full time basis.</li> <li>The proposed transfer of the Zoo into the charitable organisation was on hold until the bank allowed the changes to be made. This was unlikely to be within the next two years due to unforeseen financial burdens</li> <li>A contract of employment had been agreed for the post of CEO which gives full control over the company operations independent of the shareholder but subject to the Board of Directors guidance.</li> <li>Until the new posts were filled it was stated that Mr Gill would continue to be an external advisor.</li> <li>The response stated that they were subjected to impossible deadlines placed on conditions.</li> <li>Members noted that many of the conditions and deadlines imposed at the February/March hearing were agreed with the</li> </ul>	<p>The Management fail to take responsibility for any failings at the Zoo choosing instead to single out employees upon whom they lay blame. This is not accepted. The Zoo is responsible and liable for the actions of its employees.</p> <p>Except for the introduction of a new Animal Manager albeit on a self-declared 6 month probation period, the management team in place is the same management team that have overseen the running of the Zoo for the last 6 years and therefore responsibility for any recurrent failings must also borne by the same individuals.</p> <p>The financial stability of the Zoo is concerning and is germane to the assessment of the Zoo's ability to comply with condition 39 and the tests contained in s.4:</p> <p>(i) Whether the zoo can afford to satisfy s.1A Conservation Measures (s.4(2A));</p> <p>(ii) Whether the standard of management is adequate for the proper care and wellbeing of the animals or for the proper conduct of the zoo (s.4(3)); and</p> <p>(iii) Whether the Zoo can afford to implement the necessary change to comply with the remaining conditions on</p>
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	<p>Zoo at the hearing.</p> <ul style="list-style-type: none"> <li>• Member also noted that the Zoo had not appealed any of the conditions despite this claim.</li> <li>• Members were informed by Ms Brewer that this response was penned by Mr Gill and that she contributed to this in the section headed "CEO personal position update".</li> <li>• Additional submissions were made by the Zoo Operator. These were read and noted by members:- <ul style="list-style-type: none"> <li>* Management Structure – CEO Perspective;</li> <li>* Management Organisational Flow Chart;</li> <li>* Company Organisational Flow Chart;</li> <li>* CEO's Job Description;</li> <li>* CEO's Written Statement of Terms and Conditions of Employment;</li> <li>* A copy of the applications for the Transfer of a Zoo Licence;</li> <li>* A letter from Livingston's Solicitors to Acting Principal Legal Officer, Jane Holden dated 1<sup>st</sup> July, 2016 which included 2 e-mails, Safe Working Procedure for the Rhino and Giraffe Section, a Collections Changes Form, and Ideas Flow Chart, a copy of the plans for the Baboon House and a letter from Andrew Greenwood dated 1<sup>st</sup> July, 2016; and</li> <li>* A letter from Livingston's Solicitors to Acting Principal Legal Officer, Jane Holden dated 4<sup>th</sup> July, 2016.</li> </ul> </li> </ul> <p><u>Inspectors' Summary Findings/Zoo's comments to &amp; Inspectors further comments.</u></p>	<p>the licence (s.9A(12)).</p> <p>There is an inordinate amount of uncertainty regarding the management, structure, financial stability and day to day operational responsibility of the Zoo and in the absence of sufficient evidence being provided by the Zoo or Mr Gill, despite repeated attempts by Officers to obtain such evidence, Officers are unable to assure Members that the conditions of the licence will be complied or that considerations contained in s.4 relating to</p> <ul style="list-style-type: none"> <li>• Accommodation and staffing standards;</li> <li>• Proper care of the animals; and</li> <li>• Proper conduct of the zoo.</li> </ul> <p>can be satisfied.</p> <p>Since the renewal of the licence in 2010 there have been radical changes to the size of the zoo, the number and species of animals held there and visitor numbers. In addition the zoo's management has been in flux during the latter period of licence.</p> <p>Members noted that Council officers had been in discussions with the Zoo regarding a management restructure for a protracted length of time and despite the Zoo's reassurances that changes, which allowed operational and financial control independent of the owner, were in the process of being implemented, from as early as December 2015, those changes</p>
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			<p>Company (SLSZ Ltd) in relation to Count 2 and Count 3 on an agreed basis.</p> <ul style="list-style-type: none"> <li>• At no point did the Zoo mitigate sentence on the basis that Sarah was at fault.</li> <li>• Members noted that this possible risk to public safety was directly linked to the Zoo Licensing Act 1981 (as amended) because of the public safety provisions contained within it.</li> <li>• The Company, South Lakes Safari Zoo Ltd, had already pleaded guilty to Counts 4 and 5 on the Indictment relating to working at height.</li> <li>• Mr Justice Turner QC referred to Sentencing Council guidelines for health and safety offences and to the aggravating feature that the death of Sarah McClay was particularly shocking and was foreseeable.</li> <li>• Mr Justice Turner QC referred to the failure to maintain the dark den doors comprising a significant contributory factor in the death of Sarah McClay.</li> <li>• Mr Justice Turner QC referred to the accident involving work at height as “an accident waiting to happen”.</li> <li>• Members noted comments made by Mr Gill and the Management of the Zoo following the conviction which were reproduced in the report and as appendices.</li> <li>• Their statements asserted that Sarah had died as a result of her own errors.</li> <li>• The Committee felt that the comments of David Gill and the Zoo’s Management were clearly indicative of their unrepentant attitude post guilty pleas.</li> </ul>	<p>adequate for the proper care of the animals and conduct of the zoo. Members were not satisfied that the imposition of additional conditions and direction orders would be implemented in a satisfactory manner should the licence be extended, in particular Condition 39.</p> <p>That Committee concluded that based on evidence before them that there is good and sufficient reason not to renew Mr Gill’s licence. The Committee were satisfied that this decision is proportionate in all the circumstances.</p>
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- Members noted that it was the Council's view that the deviation between what took place at Court and said on their behalf with their subsequent public pronouncement on the issue was of significant concern. It belied a willingness to distort factual events for the Zoo's own purposes. This had become a repeated theme of the Council's dealings with the Zoo over a number of years which had made the process of enforcement increasingly challenging. Only recently the management team indicated to the inspection team at their wash up meeting on 25th May 2016 following their inspection that they felt that the inspection had been carried out fairly and in an objective manner, only then in their responses to the Inspectors' Report to adopt a far more critical view (see para.7 of the Inspector Additional Comments and in particular the Zoo's comments of "coercion" on page 22 of the Zoo's response).

**Conduct and Compliance History – 10<sup>th</sup> June 2010 to date**

- Members considered details regarding Mr Gill's conduct and compliance history from 8<sup>th</sup> June, 2010 to date.

**Convictions**

- Members were provided details of convictions in relation to the Wildlife & Countryside Act 1981 (19<sup>th</sup> November 2014) and Health and Safety at Work etc. Act 1974 (1997). The details were noted by Members.
- Members also noted that s.4(4) states that the local authority may refuse to grant a licence if the applicant or (whether the applicant is a body corporate) the body or any director, manager, secretary or other similar officer of the body, or any person employed as a keeper in the zoo, has been convicted of an offence under this Act or under any of the enactments mentioned in subsection (5) or any other offence involving the ill-

treatment of animals. S.4(5) includes a conviction under Part 1 of the Wildlife and Countryside Act 1981.

**Health and Safety Enforcement**

- Members were provided with information regarding enforcement action taken in 2010 regarding inadequate handwashing facilities in the Zoo. Members noted this information.

**Prohibition/Improvement Notices**

- The Officers report provided Members with details relating to Prohibition notices served under Health & Safety at Work Act 1974.
- Member notes that all Health and Safety Notices served on the Zoo had been complied with.
- Members noted that the two Prohibition Notices served on 12<sup>th</sup> April 2016 in relation to the Rhino Enclosure had been complied with and the risk removed from the area however the Zoo had lodged an appeal with the Employment Tribunal. At the date of the hearing the appeals had not been formally withdrawn from Court despite Ms Brewer's assertions to the contrary.

**Non-payment of Inspection Fees**

- Under Section 15(2A)(a) of the Zoo Licensing Act 1981 the Local Authority may charge to the operator of the zoo such sums as they may determine in respect of reasonable expenses incurred by them in connection with inspections.
- Members noted that the Zoo had made no contribution to the costs incurred for the Special Inspection that took place in January 2014 (£8,002.43) and this matter was currently

undergoing formal debt recovery action in the County Court

**Theft of Animals and Possible Keeper Involvement**

- Members noted that in January 2016 the Zoo reported the loss of a pair of Scarlet Ibis birds from the Amazonia aviary.
- At the same time they admitted that 3 Squirrel Monkeys had also been lost in two separate incidents over the New Year period. The monkeys had been secured in an internal enclosure with no access to their external area due to the weather.
- The Zoo's final report on the issue, delivered to the Council on 19<sup>th</sup> April 2016, surmised that the animals were more than likely stolen and that the theft perpetrated by an ex-employee.
- The zoo had stated in the report that they were going to increase security in some areas following these incidents.

**Failure of Management to take Responsibility**

- Members noted that on 13th May 2016 Karen Brewer emailed a document entitled "Report Prior to Inspection" which sought to place on record the Zoo's impression of their compliance with the current licensing conditions following the November Inspection.
- The report sought to lay blame on the then Animal Manager for the failings identified by the Inspectors.
- Under C39 requiring a robust management to be in place the Zoo stated:-  
*"It came to light during the internal investigations that ALL the issues raised at the inspection as unsatisfactory were in fact under the sole delegated duties of the Animal Department"*

*Manager:*

- Members noted that this claim was rejected by the Inspectors and the Reporting Officer.

**Benchmarking**

- Members noted the benchmarking exercise carried out by Council Officers.
- Members noted that in addition the 6 standard conditions and 4 other conditions that there is the capacity for “additional conditions” which may be necessary and proportionate to deal with failings identified through the inspection regime.
- Members noted that it would be reasonable to conclude that any zoo with more than 12 conditions attached to its licence has had some shortcomings identified during their inspection process which had resulted in their Licensing Authority imposing “additional conditions” by way of consolidation or enforcement.
- Out of 165 zoo licences reviewed only 47 (28%) had more than 12 conditions on their licence. Further, only 8 (5%) of zoos reviewed have over 20 conditions.
- Members noted from a table presented that the Zoo Licence had always carried a large number of conditions despite the assertion from the Zoo that enforcement action had only increased over recent years.
- The current licence for South Lakes Safari Zoo Ltd contained a total of 39 conditions, of which, 28 were “additional conditions” of these, 3 had been escalated to Directions Orders (2 were under appeal).
- If the Licence were to be reissued, 6 conditions would be

removed and a further 3 brought to the Licensing Regulatory Committee to be considered for removal, leaving a total of 30 Conditions.

**Current Licence Conditions/Direction Orders**

- Members noted information showing the Zoo's compliance with Conditions which had been attached to the Licence since 8<sup>th</sup> June, 2010 and Directions Order which had been served during that period also.
- When questioned by the Councillor Maddox, Ms Brewer conceded that action is only taken when a condition is applied to the licence or a Direction Order is served.

**Representations from the Operator of the Zoo**

- In attendance were representatives of the Operator of the Zoo; Karen Brewer (CEO), Stewart Lambert (Chair of the Board), Claire Lambert (Members of the Board) and Jayne Birkett (Board Member) along with their Legal Representative, Sarah Swarbrick of Livingston's Solicitors. They were given to opportunity to ask questions of all parties and make representations.

- In response to questions from Members, Zoo Representatives made the following points:-

**Karen Brewer**

- With regards to the implementation date of 22<sup>nd</sup> May 2016 for Condition 39, she did not contact the Council to update Officers on the progress being made on the implementation of the new Management structure. She stated that the Management Team were working hard to ensure compliance but did say that the Zoo Licence holder was David Gill. The Zoo inspection had been carried out with David Gill, therefore, the responses needed to go



through him.

- In response to questioning about a robust structure, Ms Brewer stated that the new structure was in place which could now be progressed and moved forward. The new Management Team were in a position to act reactively and responsibly. A Memorandum of Understanding (MOU) had also been drawn up.
- Members noted that the MOU was unsigned and undated.
- She stated that until the Memorandum of Understanding was in place, her role could not be carried out as it should have.
- She stated that David Gill now knew that he did not have a choice but to step back otherwise he could lose everything and that the new Management Team would not let David Gill pull their strings. She stated that she would “go” if he did.
- When questioned who would run the Zoo in the event of a renewal before the appointment of a new Animal Manager, Karen Brewer stated that David Armitage was still working at the Zoo along with other members of the team who could assist. She also stated that Andreaus, who they had approached, would assist the team on a consultancy basis, starting on 28<sup>th</sup> July for a week along with further weeks in August and September.
- She stated that she was hopeful that if a renewal of the licence was granted, that Andreaus would take up a full time position of Animal Manager and Director.
- However long it took, she felt that Andreaus would be available on a consultancy basis. He would also help identify a new animal manager, either within the existing staff or externally.
- Karen Brewer accepted that a fully qualified and experienced animal manager was needed who could be parachuted into the

role, but stated that their hands were tied due to the predicament with the renewal of the licence. The post had been advertised in various places over the last 6 months and they were unable to appoint the right person.

- When questioned about Mr Armitage, Karen Brewer informed the Committee that he wasn't the right man for the job at animal manager as he wasn't comfortable with protocols and procedures which had moved on over the last 10 years but did agree that he had also been squashed a bit whilst carrying out his role as the previous animal manager role.

Stewart Lambert

- He stated that the team which were here today would move the Zoo forward but until the transfer of the licence had taken place they couldn't employ.
- David Gill had now stepped back and we could move forward.
- There are personality problems in the Zoo which we are trying change.
- When questioned whether David Gill would still be in his position on a day-to-day basis, Stewart Lambert stated that he would be there as a consultant if advice was needed. He would be relied upon until a new Animal Manager was in place. Members noted that this was contrary to what was stated in the MOU.
- When questioned whether David Gill, as the owner, would let his Zoo go in a direction he did not want, Stewart Lambert stated that as long as it was making money he'll be happy to leave them to it.

Following representations from the Officers, the Inspection Team were also given the opportunity to add further points and pose

questions. The points/questions made were as follows:-

**Member Questions**

- When question about the relevant experience of the 4 directors Mr Lambert stated he was a farmer and had no experience or any knowledge of dealing with Zoo animals particularly Category 1 animals.
- Mr Lambert admitted not being experience but said he would try his best.
- When questioned about how they will replace the owner, the individual who had been accredited with being the driving visionary [Mr Gill] Ms Brewer stated there were 8 managers in total (9 including herself), each plays a part, all bring different skills. The new animal manager appointments would bring new skills.
- Ms Brewer stated that they would expect the Animal Manager to be ready to parachute in. She acknowledged there was a gap in the necessary knowledge [animal care] and they had tried for the last 6 months to make an appointment but can't recruit.
- When put to Ms Brewer that previous employees portrayed as being the person to take things forward they have disappeared from the Management Structure e.g. David Armitage and John McIntosh, Ms Brewer stated that DA was "squashed" (as were others) when taking on that role [by Mr Gill]
- It was put to the directors that there was a disparity in what was being told to Members. Inconsistencies.

**Matthew Brash**

- The Zoo did have an experienced animal manager who is no longer in post and looking at the CV's of the 3 other Directors, he question what experience they have of running a Zoo with a Category 1 Animal.

- Having a consultant coming in from time to time is not sufficient for the day to day running of the zoo.

- Mr Brash stated that over the number of years he has had dealings with the Zoo, there have been a number of Animal Mangers and decisions they had made were overridden by Mr Gill.

- The Inspectors have little confidence in the people put forward to manage the Zoo.

**Nick Jackson**

- Referring to comments made from the inspection, Mr Jackson informed the Committee that he felt Mr Gill had held back development at the Zoo although he had achieved a great deal. He stated that when the inspection had taken place in November, 2015, David Gill had pre-empted that he should step back from the running of the Zoo. Mr Gill had public aired his need to step back and move on. The Inspectors were in agreement of that need.

- Mr Gill had a particular management style and should now step however it did not feel Mr Gill back would let it go and let the Zoo move forward.

**Inspectors' Summary of Submissions**

- Throughout the inspection process, the Inspection Team had tried to work constructively with the current Management

Team to find a viable way which would enable the Inspectors to recommend that the licence be renewed.

- Since November 2015 there had been a notable number of changes in the management structure and directorship of the company. All these changes were at the behest of David Gill who continued to run the Zoo with Karen Brewer.
- Despite the denials made by the zoo representatives, David Gill had been and still was running the Zoo.
- Whilst David Gill continued to retain a significant input, either directly or indirectly, the Inspectors did not believe that the standards were likely to be met.
- The track record for the Zoo was poor with regards to welfare issues along with the poor management.
- There was poor decision making at the Zoo.
- David Gill seemed to have little regard, bordering on contempt of the Zoo Licensing Act and the Zoo Inspection process as demonstrated by the repeated large number of conditions, direction orders, and late and often temporary or partial compliance on his licence over the history of the zoo. There was a refusal to take responsibility for any failings within the Zoo.
- David Gill, in the Inspector's opinion was not a fit and suitable person to hold a Zoo Licence.
- There were a number of public safety issues.
- The Inspectors did not consider David Gill a credible and reliable witness. Throughout the process, he had altered and changed his evidence repeatedly, laying the blame on other

people repeatedly rather than taking responsibility for failings uncovered by the Zoo.

- When the Secretary of State Zoo Inspectors were asked to undertake an inspection and then recommend whether a licence should, or should not be granted, they must take into consideration whether the standards as laid down in the SSSMZP were likely to be met.
- In the Inspector's opinion, whilst David Gill was involved in running this Zoo, whether directly or indirectly, the Inspectors did not have confidence that the standards would be met.
- The latest board of Directors presented to the Inspectors quite obviously had little knowledge of how to manage the animals in a complex zoo, and it was therefore obvious that they would continue to rely on David Gill.

**Ms Brewer – Summary of Submissions**

- The 4 directors attended the hearing to represent their vision and strength in taking this Zoo forward.
- David Gill does not figure in the long-term future of the zoo, but whilst the licence was in his name and as such everything went through him it was one of the barriers standing in their way.
- Andreas will bring much needed expertise but we have a long-term gap to fill and we know there are further avenues to explore.
- Acknowledged that a lot of work was needed and that there are weaknesses.

		<ul style="list-style-type: none"><li>• Having no licence was still a massive hindrance.</li><li>• We are where we are – no future hearing would produce any further documents – we can go no further.</li><li>• We will be seeking for the licence to be transferred into our names.</li><li>• We have a fantastic team of staff who want to work with Officers, Inspectors and the Local Authority to comply with the current licence and any additional conditions which may be added.</li><li>• During their deliberations, the Committee were provided with a copy of the Zoo Licensing Act and DEFRA's Guide to the Act's Provisions which they considered whilst making their decision within the statutory framework.</li></ul>	
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