

# LICENSING COMMITTEE NON LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 26

Brighton & Hove City Council

<b>Subject:</b>	<b>Zoo Licensing</b>		
<b>Premises:</b>	<b>Brighton Sea Life Centre Marine Parade Brighton BN2 1TB</b>		
<b>Licence Holder</b>	<b>MERLIN ENTERTAINMENT 3 MARKET CLOSE, POOLE DORSET BH15 1NQ</b>		
<b>Date of Meeting:</b>	<b>14 March 2013</b>		
<b>Report of:</b>	<b>Head of Planning and Public Protection</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Roy Pickard</b>	<b>Tel: 292145</b>
	<b>Email:</b>	<b>roy.pickard@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

### 1. PURPOSE OF THE REPORT:

- 1.1 The report outlines the process for Zoo Licensing

### 2. RECOMMENDATIONS:

- 2.1 That committee notes the licensing determination and renewal inspection process that officers have completed to renew the licence
- 2.2 That a recommendation is made to Policy and Resources Committee that in reviewing the constitution Zoo Licensing Act determinations are reserved to Licensing Committee.
- 2.3 That the committee determine that it is desirable for the proper conduct of the Sealife Centre, that an elected Member is engaged in the zoo's ethical review process by joining its ethics committee described in paragraph 6 and recommended in DEFRA Zoos Expert Committee Handbook.

### 3. LEGISLATION AND CONTEXT:

- 3.1 The licensing and inspection of Zoos is a matter for local authorities. Licences are granted under the Zoo Licensing Act 1981.
- 3.2 The Zoo Licensing Act 1981 sets out how Zoos in Great Britain are inspected and licensed. This ensures that Zoos are safe for the public to visit, that high standards of welfare are maintained and that zoos make a contribution to conservation of wildlife. It also implements European Council Directive 1999/22/EC in the UK.

- 3.3 Zoos are places where wild animals are kept for exhibition to the public, and to which the public has access, with or without charge, seven days or more a year. Zoos range from large city Zoos and safari parks to reptile houses, aquaria and bird of prey centres. Any zoo displaying wild animals not normally domesticated in Great Britain could be subject to licensing and inspection under the Zoo Licensing Act 1981.
- 3.4 Vertebrate animals kept in Zoos are subject to protection under the Animal Welfare Act 2006.
- 3.5 The Sealife Centre is Brighton and Hove's only Zoo and is currently licensed under the Zoo Licensing Act 1981. The Zoo licence is due for renewal by March 2013. Licences are issued for six years.

#### **4. KEY GUIDANCE:**

##### **4.1 Zoo Licensing Act 1981: Guide to the Act's provisions**

This guidance document has been published to help local authorities carry out their duties. The guide brings together guidance and advice which had previously been published by the Zoos Forum. It also updates and replaces other parts of Circular 02/2003 which had become out-of-date. The document comes into effect on 1 November 2012.

##### **4.2 Secretary of State's Standards of Modern Zoo Practice**

The Secretary of State specifies minimum Standards that zoos in England are expected to meet. The Standards have received a technical update and include a new standard on the keeping of elephants in zoos. The document comes into effect on 1 November 2012.

##### **4.3 Zoos Expert Committee Handbook**

The Zoos Expert Committee Handbook supplements the Secretary of State's Standards of Modern Zoo Practice. The Handbook replaces the Zoos Forum Handbook and contains two new chapters on the background to zoo legislation and zoonoses in zoos. The existing chapters on conservation, education and research and on animal welfare and its assessment in zoos have been updated.

##### **4.4 The Zoos Expert Committee**

The Zoos Expert Committee replaced the Zoos Forum in February 2011 and provides UK Ministers with independent and authoritative technical advice to support policies on zoo matters.

The Committee's key role is to provide advice and recommendations on measures to encourage the role of zoos in conservation, education and scientific research; and on the operation and implementation of the zoo licensing system in the UK. When required, the Committee will provide ad-hoc advice for UK Ministers, for example on correspondence received on zoo matters.

#### **5. SUMMARY OF RENEWAL PROCESS:**

- 5.1 Zoo licences are required to be renewed every six years. The inspection team consists of authorised officers of the local authority, the Zoo management team and a DEFRA appointed vet.
- 5.2 There are four licensing objectives that are required to be met. These are animal welfare, public safety, education and conservation.
- 5.3 A report is submitted by the DEFRA appointed vet at the end of the inspection which details whether the licensing objectives have been met.
- 5.4 The local authority should send a copy of the inspector's report to the zoo operator within one month of receiving it. After considering the inspection report and any response from the operator, the local authority may renew the licence by extending the period of the licence by six years.
- 5.5 The licence renewal is automatic unless there have been substantial changes to the Zoo in which case the Zoo will be required to apply for a new licence.
- 5.6 Licences can only be refused on the on the following grounds;
- Health or safety of persons living in the neighbourhood of the zoo,
  - Preservation of law and order.
  - Non-compliance with conservation conditions
  - Inadequate standards of accommodation, staffing or management for proper care and well-being of the animals
  - conviction under the Zoo Licensing Act 1981 or animal welfare provisions
  - No planning permission
- 5.7 The Secretary of State would not normally expect a licence to be refused in a situation where adequate standards were not met but where there were reasonable prospects that improvements would take place. In such a case the LA should consider imposing conditions.
- 5.8 Section 5(2A) requires local authorities to ensure every licence always contains appropriate conditions to ensure the zoo gives effect to the requirements in section 1A of the Act. See the Sealife Centre licence and conditions in appendix 1.
- 5.9 Section 18 sets out the rights of appeal and the procedure to be followed when an appeal is lodged. There is a right of appeal against:
- (a) the refusal to grant a licence;
  - (b) any condition attached to a licence
  - (c) any variation or cancellation of a condition;
  - (d) the refusal to approve the transfer of a licence;
  - (e) a direction under section 13(8) (direction to local authorities about the welfare or disposal of animals kept in permanently closed local authority owned zoos) or 16A(2) (direction requiring compliance with a licence condition) or any variation of such a direction;
  - (f) a zoo closure direction;
  - (g) the refusal of an authority to approve a plan prepared under section 16E(2) in relation to a permanently closed zoo;
  - (h) a direction under section 16E(6) (direction about the welfare or disposal of animals kept in a permanently closed zoo) or any variation of such a direction; or

(i) any arrangements under section 16E(7) or (8) (arrangements made by the local authority for the welfare or disposal of animals kept in a permanently closed zoo).

- 5.10 Any such appeals must be made within 28 days of receipt of written notification of the decision of the local authority. Appeals must be made to a magistrates' court acting for the petty sessions area in which the zoo is (or is proposed to be) situated.
- 5.11 As well as a renewal inspection, additional inspections are carried out. A periodical inspection is carried out by a DEFRA appointed vet in year 3 of the licence. Informal inspections are carried out by the local authority in the years in between. Special inspections can be carried out by the local authority in response to complaints or concerns.

## **6. INSPECTION HISTORY:**

- 6.1 The last licensing renewal inspection was carried out in June 2007. The Zoo complied with the licensing objectives and conditions.
- 6.2 The vets comments were : I have visited this aquarium a number of times as vet, visitor and inspector over almost 25 years and congratulate Merlin Entertainments on the improvements which have been made.
- 6.3 This was an important aquarium historically and had an ornate facade within the central gallery, the sensitive reconstruction over the years has been a pleasure to see. Similarly the evolution of what was a depressing inadequate (but no doubt at the time it was built - state of the art!) dolphin pool into a walkthrough aquarium is excellent, the views offered well repay the effort. The quality of the exhibits and the educational component is high.
- 6.4 Informal inspections were carried out on 11<sup>th</sup> November 2010 and 13<sup>th</sup> December 2011. A special informal inspection was carried out by the DEFRA appointed vet on 15<sup>th</sup> July 2008. A special visit was carried out by an animal welfare officer on 11<sup>th</sup> September 2012 in response to concerns raised by the Born Free Foundation. No issues were identified. Additionally In response to concerns by the Captive Animals Protection Society a full report was submitted by the DEFRA appointed vet on 29<sup>th</sup> October 2007. No concerns were identified by the vet.
- 6.5 A periodical inspection was carried out by the DEFRA appointed vet on 4<sup>th</sup> March 2010. No concerns were identified. The vets comments were:
- 6.6 This is the world's oldest operating aquaria and remains a popular visitor attraction on the sea front. Throughout the aquarium there are many informative display boards that present interesting facts clearly. Many of these increase awareness of several conservation issues and highlight the links between some projects and Sea Life. One research project at the centre identified the benefit of one-way viewing glass and this innovation has enhanced the octopus display, making a positive contribution to keeping this species in captivity.
- 6.7 There is good veterinary support and her reports now provide a useful scoring system for the centre's performance, which is consistently high. The management team and staff enthusiasm is very positive.

- 6.8 The current licence has a Section 14(2) dispensation under the Zoo Licensing Act. The guidance in annex A states that this is suitable for 'small collections' where the number of hazardous and/or conservation-sensitive species does not normally exceed 50 specimens. Appendix 12 of the Secretary of State's Standards of Modern Zoo Practice provides a list of hazardous animal by category. The 2009 stock list shows that there are approximately 16 sharks, 43 foxface rabbitfish, 7 moray eels, 15 long-spined sea urchins, 3 piranhas, 10 lionfish, 1 sea snake (4 at time of inspection) and 2 Cites-listed turtles. In view of this, the 14(2) dispensation should be reviewed when the licence is renewed in 2013. Dispensations are reviewed with advice from the DEFRA appointed vet and by a DEFRA appointed committee of experts.
- 6.9 The Local Authority's Zoo Licensing officer considers public safety issues during his inspections. In addition, the aquarium is part of a risk-based health and safety inspection programme administered by the Environmental Health's Health & Safety team. Prior to this periodical zoo inspection, he had sent detailed copies of the last annual informal inspections, which took place on 11 November 2009 and 15 July 2008.
- 6.10 A touch pool is in regular use and it is constantly supervised by a member of staff when animals are in the pool. There is limited physical contact of animals by the public. There are good animal rotation records and adjacent hand washing facilities.
- 6.11 There is a program of on-going maintenance and development that is restricted by the lease and nature of the Grade 2 listing of this Victorian building. There are significant changes planned over the next few years which will improve some exhibits and public interest in the aquarium.

## **7. ETHICAL CONSIDERATIONS:**

- 7.1 The Zoo has an ethical committee that meets quarterly. Membership includes Members of the Merlin Group, International Vet Group, Sussex University, Seahorse Trust, Marine Conservation Society.
- 7.2 Animal Husbandry, Conservation, Breeding programme, Mortality record, Nutrition, Life support systems, Protocols and procedures, Transportation, Purchase, Breed rescue protect programme, Rescue –oversized creatures, Turtle rescue in Florida and protecting the marine environment, river ways, oceans, coral reefs are discussed at these meetings.

## **8. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 8.1 There are no additional financial implications arising from this report. The council sets the license fee under the Zoo Licensing Act 1981. It is set at a level to fully recover the costs of administration, inspection and enforcement.

*Finance Officer Consulted: Jeff Coates*

*Date: 19/02/2013*

### Legal Implications:

8.2 None

*Lawyer Consulted:*

*Rebecca Sidell*

*Date: 19/02/2013*

Equalities Implications:

8.3 None

Sustainability Implications:

8.4 Sea Life has been a pioneer in the field of seahorse breeding. It has successfully breed and reared nine species to date to help prevent this sensitive and endangered species becoming extinct.

8.5 Sea Life and its sister brand the Seal Sanctuaries annually rescues, cares for and returns to the wild more than 100 orphaned, injured and sick seal pups each year.

8.6 Sea Life also rescues other creatures that need our help, including rare sturgeon, dolphins, Minke Whales and Sea Turtles. In 2009 a rare Kemps Ridley Turtle found close to death on a beach in southern England was returned to the wild off North Carolina.

8.7 Sea Life provides permanent homes for damaged and disabled creatures that have been rescued and would otherwise be killed, die or put to sleep.

Crime & Disorder Implications:

8.8 None

Risk and Opportunity Management Implications:

8.9 None

Public Health Implications:

8.10 None

Corporate / Citywide Implications:

8.11 The Council is committed to providing decent and dignified treatment of animals.

8.12 The Council uses its influence in relation to circus animals and those in captivity, seeking to promote and improve the rights of all creatures. This includes the rights of domesticated animals, whose welfare and quality of life the Council will seek to protect.

8.13 The Council provides advice and support to residents and businesses to prevent circumstances where animals pose a risk to public health. Where the Council

does intervene, it will ensure that it does so humanely, with minimum distress caused to animals.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Sealife Centre Zoo licence with attached conditions
2. Inspection report 13/02/13

### **Documents in Members' Rooms**

### **Background Documents**

1. The Zoo Licensing Act 1981
2. The Animal Welfare Act 2006
3. Zoo Licensing Act 1981: Guide to the Act's provisions
4. Secretary of State's Standards of Modern Zoo Practice