
THE ZOO LICENSING ACT 1981

Purpose of the Report

1. To inform Members of the process that will be followed to respond to an application for a Zoo Licence and to recommend the level of fees to be charged. The first application for a licence is expected following receipt of a formal Notification of Intention to apply for a Zoo Licence from Walworth Castle Birds of Prey Centre.

Information

2. The Zoo Licensing Act 1981 requires that an establishment (except circus and licensed pet shop) where wild animals are kept for exhibition and members of the public have access, with or without charge for admission, on seven days or more in any period of 12 consecutive months to be licensed.
3. The Department of Environment, Food and Rural Affairs (DEFRA) provide guidance on all aspects of zoo licensing and the Secretary of State has issued guidance of Standards of Modern Zoo Practice which apply in England.
4. The Council has to approve an application before a zoo may begin operating. Conditions are attached to a licence to ensure the proper conduct of the zoo. Each original licence will run for four years and consecutive renewals run for six years.
5. For small zoos or for a zoo exhibiting only a small number of different kinds of animals the Secretary of State has powers to relax the requirements of the Act. The local authority can seek a Section 14 direction that the Act shall not apply at all or that certain category of inspection is not required. Alternatively, the zoo operator, on applying to the Secretary of State for a zoo licence, may be granted a Section 14(2) dispensation to reduce the number of inspectors to a reasonable level for a small establishment. This doesn't reduce the zoo's obligation to achieve the levels of animal welfare and public safety set out in the Secretary of State's Standards.

Application Process - for an original licence

6. The applicant must two months before making application for a licence:
Complete a 'Notice of intention to apply for a zoo licence' form (available from local authority or defra Animal Health) and then:
 - (a) Submit the original copy to local authority and display a copy of notice at the site of proposed zoo.
 - (b) Publish a notice in one local and one national paper e.g. London Gazette.
7. The written notice provided must identify: the zoo's location; the types of animals and approximate number of each group kept for exhibition on the premises and the arrangements for their accommodation, maintenance and wellbeing; the approximate numbers and categories of staff to be employed in the zoo; the approximate number of visitors and motor vehicles for which accommodation is to be provided; the approximate number and position of ways of access to be provided to the premises; and how the required conservation measures will be implemented at the zoo.
8. When the Council's Licensing Team receive Notice of intention it is displayed for public viewing.
9. A Licence application form can be submitted along with the current fee after the two months' notice has expired. The applicant will also need to confirm that the relevant planning permissions have been obtained.
10. On receipt of the zoo licence application the Council will take into account any representations made by or on behalf of:
 - (a) the applicant
 - (b) the Chief officer of Durham Constabulary
 - (c) the Chief Officer of County Durham and Darlington Fire and Rescue Service
 - (d) the governing body of any national institution concerned with the operation of zoos
 - (e) where part of the zoo is not situated in Darlington, the planning authority for the relevant area
 - (f) any person stating that the zoo would affect the health or safety of anyone living near it
 - (g) any other person who's representations might show grounds on which the Council has the power or duty to refuse to grant a licence.
11. Providing there are no objections received, an inspection of the premises will take place with the following people present:
 - (a) representatives of the applicant
 - (b) a veterinary surgeon nominated by the Secretary of States Zoo Inspectorate

- (c) Council Environmental Health Officer responsible for enforcement of the Health and Safety at Work etc Act 1974.
12. The veterinary surgeon will be checking whether the following conservation measures are in place:
- (a) participation in conservation measures
 - (b) promoting public education and awareness
 - (c) accommodating animals under conditions which aim to satisfy the biological and conservation requirements
 - (d) preventing the escape of animals
 - (e) pest control
 - (f) record keeping.
13. In advance of the zoo inspection, the Council's Licensing Team will request the applicant to complete and return a Pre-inspection Audit Form to save time at the inspection.
14. Council's Licensing Team send to the Secretary of States nominated inspector(s) in advance of inspection date the completed form and any other relevant information such as a copy of the licence application.
15. Before granting or refusing a license the Council would consider the veterinary surgeon's report and consult with the applicant regarding the conditions that will be attached to the licence if it were granted.
16. The Inspector shall consider whether the conditions proposed by the local authority under s. 4(1A)(a) of the Act are likely to be met if the licence is granted in accordance with s. 9A(11).
17. The process for granting a licence for a zoo has a number of stages to complete which may take some time. However, when the Council is in receipt of a satisfactory veterinary report and in a position to grant a licence it will be issued within seven working days.
18. The circumstances in which a licence will not be granted:
- (a) The zoo would adversely affect the health or safety of people living near it.
 - (b) Appropriate conservation measures will not be satisfactorily implemented.
 - (c) Accommodation, staffing or management standards are not suitable for the proper care and wellbeing of the animals or for the proper conduct of the zoo.
 - (d) The applicant (or any other senior officers in the case of an application made by a limited company), or a keeper in the zoo has been convicted of any offence involving the ill-treatment of animals.

Renewal and changes to a licence

19. Changes to the licence i.e. name changes, ownership changes can be undertaken at the request of the operator. On the death of the holder of a licence, the personal representatives of the deceased are deemed to be the holders during a three-month period following the death, or longer with our approval.

Inspections

20. Periodic inspections, with Secretary of State appointed inspectors, occur as a minimum at renewal stage (within the six months leading to the expiry date) and in the first year of the original licence and in the third year of the six-year period of a renewal. The local authority can request a special inspection by an appointed competent person where concerns have arisen. In any calendar year where no other inspection has taken place, an informal inspection will be carried out by an environmental health officer employed by the Council. All visits carried out are paid for by the zoo operator.

Conditions

21. The Secretary of State issues model conditions for zoo licences, however additional conditions can be attached to the licence by the Council.

Power of Entry

22. The Council appoints and authorises Officers to enforce the Zoo Licence and may inspect zoo premises having given 28 days' notice in writing.

Disqualifications and Cancellations

23. Before granting or refusing to grant a licence for a zoo, the Council shall -
 - (a) Consider inspectors' reports made in pursuance of inspections of the zoo under this Act, or
 - (b) If no inspection of the zoo has been made under this Act, consult such persons on the list as the Secretary of State nominates for the purposes of this section.

Application forms

24. Requests for forms listed below can be obtained from the Licensing Section:
 - (a) Intention to apply for a zoo licence
 - (b) Application for a zoo licence (2 months after Intention to apply form is received by local authority)
 - (c) Application to renew a zoo licence
 - (d) Application to change a zoo licence

Offences

25. Section 19 of the Act creates the following criminal offences:-

- (a) Operating a zoo without a licence.
- (b) Failure to comply, without reasonable excuse, with the conditions attached to a licence.
- (c) Intentionally obstructing an inspector.

Penalties

26. The maximum penalties for these offences, on summary conviction, are a fine not exceeding £1000 for obstruction, and £2500 for unlawful operation or non-compliance with conditions.

Failed Application Redress

27. If a licence has been refused or the applicant objects to a condition attached to a licence then the local Magistrates' Court will hear any appeal.

Complaints about the Council's service

28. The Council has a formalised complaint procedure enabling those dissatisfied with any Council service they have received to have a review of the case. In the first instance contact should be made with the manager responsible for the service and, where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time scales involved. Copies of the procedure are available on the Council's website at www.darlington.gov.uk or an information leaflet is available from Council reception counters. This information can also be made available in Braille or large type or in audio format. It can also be provided in other languages on request. For further information on the Council's Complaints, Compliments & Comments Procedure contact: Complaints & Information Governance Team, Town Hall, Darlington, DL1 5QT. Telephone: (01325) 388043 Email: complaints@darlington.gov.uk

Licence fees

29. Section 15 of the Act deals with the financial aspects of the licensing and inspection system. Local authorities have the power to charge such reasonable fees as they may determine in respect of applications for the grant, renewal, or transfer of licences and subsequent action. This charge includes both the costs incurred by the local authority in appointing their own inspectors, and the costs incurred in meeting the cost of services and expenses of those inspectors appointed by the Secretary of State. Local authorities may also charge for reasonable expenses incurred by them in respect of inspections. The fees have to be decided by the Council's Cabinet.

30. The Council reviews in detail its fees and charges annually to ensure that they remain reasonable and proportionate. All proposed fee levels are scrutinised by Members through the democratic process before adoption. In all cases where the Council has discretion over fee levels the Council seeks to set fees to achieve full cost recovery. Should an over or under recovery be identified the Council will redress the imbalance through future fee setting. Timescales for introducing alterations to fee levels in such circumstances will be set, where possible to minimise impact upon businesses and or local taxpayers.
31. The local authority may, if so requested by the zoo operator, accept payments by instalments.
32. The apportionment of costs to calculate the fee level is a combination of four elements: Application Processing; Consumables; Administration; Monitoring Compliance. Each element is split down into a series of activities against which a time allocation is given and the appropriate proportion of an hourly rate (constructed from salary costs and non-salary on costs for all officers involved in the process) is then applied and totalled to give an overall cost.
33. Taking each of the four elements of the fee construction method in turn an indication of the range of activities that make up each of them is set out below
- (a) **Application Processing**
Broadly this element of the fee construction is the time taken to process an application from initial enquiry to issue of the decision. It includes the time taken to complete the administration tasks of receiving correspondence, updating the records database with application details and officer actions, processing of payments, production and dispatch of documents including the notice of the final determination of the application.
- The time allocated to the consideration (including any inspections and/or consultations/negotiations that may be required) and determination of the application by one of the officers is also reflected in the total cost.
- (b) **Consumables**
- The cost allocated to this element of the fee represents any specialist materials or equipment that may be required. Not all fees carry a consumables cost as they may not require any specialist materials and all normal stationary items are already included within the on costs described earlier.
- (c) **Administration**
This element represents the time and costs allocated year on year to maintenance of the regime rather than those activities specific to the processing of an application.

It is made up of allocations of time and costs for generic activities as well as the more detailed provision of advice & guidance to and the processing of complaints from, service users and the public/partner agencies.

Also included within this element is the time allocated to the review and maintenance of Council Policies and Officer Guidance (including relevant training for Officers and Members). Regime wide administration tasks such as fee calculation, website maintenance, servicing regime specific forums and quality control measures are also taken into account. Where an authorisation is issued for a period in excess of one year the annual administration element will be included with the fee levied.

(d) Monitoring Compliance

This element comprises of the activities allocated to the monitoring of compliance with any authorisation issued. An example of the work content that would relate to the Walworth Castle Bird of Prey Centre is set out in **Appendix A**.

In accordance with case law and the Provision of Services Regulations 2009, no fee is levied in respect of enforcement action against unauthorised activities as the Council considers that the costs of defending appeals in the Magistrates' Court or via judicial review can be recovered through the courts.

With all of the above elements continual training of officers and reviews of processes are undertaken to ensure that the necessary procedures are completed in as quick a time as possible without reducing the professionalism and legality of the service.

Fees Charged by Nearby Local Authorities

34. The proposed fee is comparable to other local authorities: Durham County Council £480; Hambleton DC £510; Richmondshire DC £530.

Conclusion

35. The scheme of delegation adopted by the Council allows the Council's authorised officers to determine applications and attach conditions to any licence granted for a Zoo Licence as outlined in the report.
36. The Council's Cabinet must decide upon the fees to be charged. Officers have estimated the costs associated with licensing the zoo following the methodology outlined in the report and the work content detailed in Appendix A and recommend that £450.00 be the cost for grant or renewal of a Zoo Licence plus the actual costs of inspection charged by the appointed inspector. A licence is granted for 4 years and a renewal for six years.

37. The Council's Environmental Health Manager, who is responsible for the regulation of any licensed Zoo, has visited and met with the owners of Walworth Castle Birds of Prey Centre, has seen all of the birds that make up the Zoo stock, has confirmed that the premises obtained full planning permission on 17 April 2013, and has made the decision that the Centre may remain open to the public while the licensing process to obtain a Zoo Licence with a section 14(2) dispensation is completed.

Referral to Cabinet

38. Only Cabinet can set licence fees and this report will be considered by Cabinet at their meeting on 1 July 2014.

Recommendations

39. Members are invited to note the report and the method adopted for the setting of the licence fee.

40. Members are also invited to give their support and approval to the adoption of these fees prior to the Cabinet meeting to formally consider this matter.

Ian Williams
Director of Economic Growth

Background Papers

- (i) The Zoo Licensing Act 1981
- (ii) The Zoo Licensing Act 1981 -Guide to the Act's provisions - published by DEFRA 2012
- (iii) Secretary of State's Standards of Modern Zoo Practice - published by DEFRA 2012

Barry Pearson

Example of Work Content - Monitoring Compliance for a zoo with a section 14(2) Dispensation

1. Periodical Inspection under s.9A and 10 of the Act (excluding s.10(4)(a) and (b)) during the first year of a licence and not later than six months before the end of the fourth year of the period of the licence. (Every 3 years) carried out by a Secretary of State appointed inspector.
2. Informal Inspections under s.12 of the Act carried out in any calendar year in which no inspection is made under s.9A, 10 or 11 by a single inspector appointed by the local authority.

Periodical Inspections

- a. Local authority requests Animal Health to appoint [a] Secretary of State inspectors. Request should include a current stock list for the zoo. Animal Health appoints a suitable Secretary of State inspector and notifies the local authority and the inspector(s) in writing.
- b. Local authority notifies zoo operator of the appointed inspectors name. (There is no statutory provision in these inspections for the operator to object to the nominated inspector for these inspections, however Animal Health will give consideration to valid objections.)
- c. Local authority arranges a mutually convenient inspection date and must give the zoo operator at least 28 days' notice of the date of the inspection.
- d. Local authority requests applicant to complete and return Pre-inspection audit form –Appendix 10 Secretary of State Standards of Modern Zoo Practice (available from Defra Animal Health).
- e. Local authority to send appointed inspector(s) the completed form in advance of the inspection
- f. Inspector(s) carry out inspection on date agreed using the Inspection report form - Appendix 11 of Secretary of State Standards of Modern Zoo Practice (available from Defra Animal Health). The inspection shall extend to all features of the zoo directly or indirectly relevant to the health, welfare and safety of the public and the animals, including measure for prevention of the escape of animals. The inspectors shall require the production of all records kept by the operator in pursuance of conditions of the licence requiring the conservation measures referred to in section 1A(f) to be implemented at the zoo, and the operator shall produce records. Representatives of the operator not exceeding three may accompany the inspectors on the inspection and the inspectors may require the attendance of the zoo vet.

There is no statutory entitlement for the local authority to be formally represented at the inspection. An Environmental health Officer appointed by Darlington BC with responsibilities for zoos for the purposes of the Health and Safety at Work etc Act 1974 will attend.

- g. Following Periodical Inspections Secretary of States Inspector(s) should send the local authority a completed inspection report within 28 days of inspection, or notify them if report will be delayed beyond 28 days.
- h. Local authority must send a copy of the inspection report, within one month of receiving it, to the zoo operator (to allow opportunity for comment).
- i. Following receipt of any comments by the zoo operator the Local authority must send:
 - a copy of the report to Secretary of State inspector(s) including any comments from the zoo operator and a copy of the zoo licence (with conditions).
 - a copy of the report, and licence with conditions may also be sent to Animal Health for information. This becomes a mandatory requirement if the zoo is local authority owned.
- j. In the case of an 'interim' periodical inspection the Local authority after consideration of the inspection report must decide whether the zoo should remain licensed and if so whether the licence should be altered (i.e. to add or amend conditions on the licence), or whether a zoo closure direction should be issued.
- k. In the case of a 'renewal' periodical inspection the Local authority after consideration of the inspection report must decide whether the licence period should be extended and if so whether the licence conditions should be amended or added to, or whether it should refuse to extend/renew the licence.