

Determination of an application for a zoo licence for Sky Birds of Prey, Honnington Farm, Vauxhall Lane, Southborough, Royal Tunbridge Wells, Kent, TN4 0XD

For Licensing Sub-Committee on 20th June 2023

Summary

Lead Member: Councillor Ellen Neville - Environmental Services

Lead Director: Paul Taylor – Director of Change and Communities

Head of Service: Gary Stevenson – Head of Housing, Health and Environment

Report Author: Zoe Martin – Animal Licensing Officer

Classification: Partially Exempt from Disclosure – Exempt Appendices A, B and C exempt by virtue of paragraphs (1), (2) and (3) of Schedule 12A of the Local Government Act 1972 (as amended):

- (1) Information relating to an individual
- (2) Information which is likely to reveal the identity of an individual
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Wards Affected: Southborough North

Approval Timetable	Date
Licensing Sub-Committee	20 th June 2023

Recommendations

1. That Members determine the application for a zoo licence by Sky Birds of Prey, taking into consideration all relevant legislation and guidance and the inspector's report with attached conditions.

1. Introduction and Background

- 1.1 The Zoo Licensing Act 1981 is in place to regulate the operation of any establishment operating as a “zoo”. An establishment is considered under the Act as a “zoo” if wild animals are kept for exhibition to the public otherwise than for the purpose of in a pet shop or circus. The Act applies to any “zoo” where members of the public have access with or without charge for admission, on seven days or more in any period of 12 consecutive months.
- 1.2 Sky Birds of Prey is located at Honnington Farm, Vauxhall Lane, Southborough, Royal Tunbridge Wells, Kent, TN4 0XD. Sky Birds of Prey have a collection of approximately 60 birds of prey that are exhibited to the public both on and off the premises through the means of private experiences and group displays. Sky Birds of Prey also have a second premises based in Ashford known as ‘The Hawking Centre’ located at Eastwell Manor Hotel, Ashford, Kent, TN25 4HR which is under the jurisdiction of Ashford Borough Council.
- 1.3 As wild animals are exhibited by Sky Birds of Prey to members of the public on more than seven days in 12 consecutive months, the premises requires a zoo licence.
- 1.4 Tunbridge Wells Borough Council (‘the Council’) is the issuing authority for any zoos operating in the borough of Tunbridge Wells. The authorised inspector for the Council is required to carry out an inspection of the premises with a designated Secretary of State (SoS) veterinarian to determine the application.
- 1.5 Once an application has been submitted and the necessary inspection undertaken, a decision regarding the application must be made by the Council whether to grant or refuse the licence. The Council shall have regard to the inspection form and any conditions proposed by the Secretary of State (SoS) inspector that accompanies the Council officers at the inspection. The Council are also permitted to add any relevant conditions and recommendations to the licence which they believe are necessary and in line with the Zoo Licensing Act 1981.
- 1.6 The applicant also has opportunity to make any comments regarding the inspection form, proposed conditions, and determination of the licence.
- 1.7 In addition to the Zoo Licensing Act 1981, several additional documents are also required to be considered when determining an application for a zoo licence. These are the Secretary of State’s Standards of Modern Zoo Practice (SSSMZP), the Zoos Expert Committee Handbook and the Guide to the Act’s Provisions. These documents cover how zoos, and the animals within these premises, are managed, provisions for health and safety of animals, staff and

visitors and appropriate conservation, education, and research measures for Zoos according to their type and size of collection.

- 1.8 Under s.4(2) Zoo Licensing Act 1981, 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 persons living in the neighbourhood of the zoo, or seriously affect the preservation of law and order.
- 1.9 Under s.4(3) Zoo Licensing Act 1981, the local authority **may** refuse to grant a licence for a zoo if they are not satisfied that the standards of accommodation, staffing or management are adequate for the proper care and wellbeing of the animals or any of them or otherwise for the proper conduct of the zoo. The Guidance to the Act confirms that 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 practice this is a situation where the local authority will wish to consider imposing a condition or conditions (in accordance with the powers granted to them by section 5 of the Act).

2. Application and inspection procedure for Sky Birds of Prey

- 2.1 As part of the zoo licence application process, the applicant is required to publish notices in one local and one national newspaper before submitting a formal application to the Local Authority. These notices are attached as **Appendix A** and **Appendix B**. The notice of intent to apply for a licence submitted to the Local Authority is attached as **Exempt Appendix A**.
- 2.2 The Council received no written representations in response to the publication of these notices so the applicant was permitted to submit their full licence application which is attached as **Exempt Appendix B**.
- 2.3 Due to incomplete planning permission for the site, the application was not progressed by the Council until planning permission was confirmed. Planning permission was approved on 23rd December 2022 and the planning decision is attached as **Appendix C**.
- 2.4 The inspection of Sky Birds of Prey's for the zoo licence application was conducted on Tuesday 9th May 2023 by Miss Zoe Martin (Animal Licensing Officer for the Council), Ms Nollaig Hallihan (Food and Safety Team Leader for the Council) and Dr Martin Lawton (appointed Secretary of State inspector). In attendance from the zoo was Mr Paul Green (applicant) and Ms Zoe Lisney (admin manager).
- 2.5 The completed inspection form from the Secretary of State inspector is attached as **Exempt Appendix C**.
- 2.6 The proposed conditions from the Local Authority are attached as **Appendix D**.

- 2.7 The 'kitchen development plan' and 'veterinary treatment room development plan' mentioned in Appendix D, are attached as **Appendix E** and **Appendix F**. These development plans and associated timelines have been agreed between the Zoo and the Council at a visit on 31st May 2023.
- 2.8 Mr Green has also provided a document with details of work undertaken thus far and proposed developments to be made following the inspection which is attached as **Appendix G**.

3. Options Considered

- 3.1 Option 1 – Grant the application for a zoo licence considering the proposed licence conditions detailed and propose no further recommendations or conditions.
- 3.2 Option 2 – Grant the application for a zoo licence considering the proposed licence conditions detailed and any modifications as the Licensing Sub Committee see fit in accordance with the law and guidance.
- 3.3 Option 3 – Refuse the application for a zoo licence.

4. Preferred Option and Reason

- 4.1 That Members determine the application for a zoo licence by Sky Birds of Prey, taking into consideration all relevant legislation and guidance and the inspector's report with attached conditions.

5. Consultation on Options

- 5.1 Mr Green was made aware on 16th May 2023 that the determination of the zoo licence application for Sky Birds of Prey would be determined by Members on 20th June 2023 at 11:00.
- 5.2 On 17th May 2023, an email was sent from Mr Green confirming attendance to the hearing on 20th June 2023.
- 5.3 Mr Green has submitted plans to the Local Authority of the intended developments and action taken.
- 5.4 No other consultation is required by the Zoo Licensing Act 1981.

6. Appendices and Background Documents

Appendices:

- Appendix A: Notice in the Kent Messenger of intent to apply for a zoo licence
- Appendix B: Notice in the London Gazette of intent to apply for a zoo licence
- Appendix C: Approval of planning permission
- Appendix D: Proposed conditions for licence
- Appendix E: Kitchen development plan
- Appendix F: Veterinary treatment room development plan
- Appendix G: Development plans and comments from Mr Green – 6th June 2023

Exempt Appendices

- Exempt Appendix A: Notice submitted to Local Authority of intent to apply for a zoo licence
- Exempt Appendix B: Sky Birds of Prey – Zoo application form
- Exempt Appendix C: Inspection report

Background Papers:

- [Zoo Licensing Act 1981](#)
- [Secretary of State's Standards of Modern Zoo Practice \(SSSMZP\)](#)
- [Zoo Expert's Committee Handbook](#)
- [Guide to the Act's Provisions](#)

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

Zoo licensing is regulated by the Zoo Licensing Act 1981. This requires the Local Authority to determine applications for zoo licences in accordance with the requirements set out in s.4 of the Act.

Human Rights

Article 1 of the First Protocol is concerned with the protection of property and provides that every person is entitled to peaceful enjoyment of his possessions. The term 'possessions' is given a broad definition and includes a licence.

Article 8 is concerned with the right to respect for private and family life. It states that Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. The Council has had the proper regard for Article 8.

Article 6 relates to the right to a fair hearing. The applicant has seen this report prior to this hearing and is aware of the reason why the Sub-Committee is considering this application.

Helen Ward, Mid Kent Legal Services, Lawyer (Contentious), 24.05.2023

B. Finance and Other Resources

No implications.

Zoe Martin, Animal Licensing Officer and Report Author, 23rd May 2023

C. Staffing

No implications.

Zoe Martin, Animal Licensing Officer and Report Author, 23rd May 2023

D. Risk Management

No implications

E. Environment (inc. Biodiversity) and Sustainability

No direct implications.

Zoe Martin, Animal Licensing Officer and Report Author, 23rd May 2023

F. Community Safety

No community safety implications.

Section 17, Crime and Disorder Act 1998

17(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Zoe Martin, Animal Licensing Officer and Report Author, 8th June 2023

G. Equalities

Section 149, Equality Act 2010

149(1) A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

No implications.

Zoe Martin, Animal Licensing Officer and Report Author, 23rd May 2023

H. Data Protection

Article 5, General Data Protection Regulation 2016

1. Personal data shall be:

- (a) processed lawfully, fairly and in a transparent manner in relation to the data subject;*
- (b) collected for specific, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;*
- (c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;*
- (d) accurate and, where necessary, kept up to date;*
- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;*
- (f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.*

No implications.

Zoe Martin, Animal Licensing Officer and Report Author, 23rd May 2023

I. Health and Safety

There are no Health and Safety considerations regarding this report.

Zoe Martin, Animal Licensing Officer and Report Author, 7th June 2023

J. Health and Wellbeing

No implications.

Zoe Martin, Animal Licensing Officer and Report Author, 23rd May 2023