

<b>Part One</b>	
<b>LICENSING REGULATORY COMMITTEE</b>	<b>(D)</b>
<b>Date of Meeting: 9<sup>th</sup> May 2017</b>	<b>Addendum</b>
<b>Reporting Officer: Principal Environmental Protection &amp; Licensing Officer</b>	<b>to</b>
	<b>Agenda</b>
	<b>Item</b>
	<b>6</b>
<p><b>Title: Zoo Licensing Act 1981 (as amended)</b>  <b>Zoo Licence for South Lakes Safari Zoo Ltd</b></p> <p><b>Original Licence Application (pursuant to s.2 Zoo Licensing Act 1981) –</b>  <b>Cumbria Zoo Company Limited</b></p> <p><b>Summary and Purpose of Report</b></p> <p><b>8.9 Summary of the Lease Agreements / Service Agreements and Financials.</b></p> <p>Below is a redacted summary of the lease and service agreements. Any questions from Members regarding this summary or the content of the documents referred to must be heard in PART II. Similarly the applicant will be given an opportunity to answer questions in PART II.</p> <p>The summary has been produced as the Council is mindful of promoting openness and transparency in the discharge of a public authority's statutory function.</p>	

## **1. Leases**

From the (12<sup>th</sup> January 2017), CZCL have entered into:

- a) Two identical six month leases with Mr Gill and SLSZ for their respective parts of the Zoo;
- b) A service agreement controlling the extent of their operation of the Zoo; and
- c) Two loan agreements for animal collections in the private ownership of Mr Gill and SLSZ.

Where a licence is granted to CZCL, Mr Gill & SLSZ will enter into two 8 year leases with CZCL for their respective parts of the Zoo.

The commitment to the 8 year lease has been deferred to ensure Stamp Duty Land Tax on the leases (REDACTED) will not be paid in the event that CZCL are not granted a licence.

There is an intention to grant an option to buy the land and the business known as SLSZ within the first twelve months for £REDACTED payable in fifteen equal payments of £REDACTED. This is subject to CZCL obtaining all “necessary consents” from David Gill’s bankers.

## 2. Agreements for Lease

- The agreements are dated 23<sup>rd</sup> January 2017.
- The parties to the agreements are SLSZ and CZCL and David Gill and CZCL.
- 8 year leases are subject to CZCL obtaining a Zoo Licence by 30<sup>th</sup> May 2017.
- Rent will commence on 1<sup>st</sup> July 2017.
- Rent is payable on 1<sup>st</sup> July, 1 October, 1 January, 1 April each year.
- Combined Annual rent is £REDACTED + VAT.
- Interest is payable under the lease if rent is not paid on time.

## 3. Lease Provisions (comments are applicable to both leases give that they mirror each other )

- The lender, REDACTED, have consented to the leases. The current indebtedness of South Lakes Safari Zoo Limited is £REDACTED. The debt is secured against a number of charges over land, buildings and properties owned by SLSZ Ltd and Mr David Gill. Additionally there is a debenture in place over the assets of SLSZ Ltd.
- Mr Gill has reserved broad right to come on the land upon “reasonable” unwritten notice (4.1 & 4.3).
- CZCL must insure the property for its full reinstatement cost.
- CZCL must also insure against loss of Annual Rent for 3 years.
- CZCL must maintain public liability insurance.
- The insurance obligations are subject to insurance being available on reasonable terms which are acceptable to CZCL.
- CZCL cannot make any proposal to alter the rateable value of the property without the consent of the Landlord.
- CZCL pay 100% utilities and must install electricity sub-meter.

- CZCL must pay the Landlord's costs associated with any action associated with the breach/enforcement of the covenants of the lease.
- No assignment or charging without DG/SLSZ consent.
- CZCL must register the Lease with the Land Registry (19.2).
- CZCL repairs, insures and decorates.
- No buildings or alterations without Mr Gill's/SLSZ consent unless required to do so in law or regulatory requirement (25.1).
- No cutting destroying or lopping of trees or hedges without consent of Mr Gill unless required to do so in law or regulatory requirement (25.2).
- Mr Gill can undertake works in default (28.1-4).
- SLSZ's ability to end the lease found in para 34.1 – fairly standard commercial lease clause – forfeit if non-payment of rent (21 days); breach of covenants or insolvency of CZCL.
- CZCL can end the lease by giving 1 months' notice at any time.
- It is unclear if security of tenure excluded.

#### **4. Financial Summary**

- CZCL will have to pay all liabilities (including unknown liabilities) of DSG and SLSZ including repayment to the HMRC. Known costs are budgeted as £REDACTED per annum.
- The budgeted costs for the first year are £REDACTED plus the costs of running the Zoo. (In respect of a Lease)
- CZCL have taken on all liabilities of SLSZ (even those unknown) past and present.
- CZCL have not budgeted for the £111,000 maintenance fee which is payable to the Council on Grant.
- The figures supplied do not appear to include the repayments to HMRC which will be significant.

#### **5. Service Agreement**

- The agreement is dated 23<sup>rd</sup> January 2017.

- The parties are CZCL, SLSZ and Mr David Gill.
- CZCL are to operate the Zoo and manage the Collection.
- CZCL will take on all liabilities of SLSZ outstanding as of the commencement date. This includes unknown liabilities.
- Ownership of animals not covered by the Loan Agreements and which are not subject to third party arrangements will transfer to CZCL as of the commencement date.
- Responsibility for animal subject to third party loan arrangements will pass to CZCL.
- All SLSZ employees will be TUPE's over to CZCL save Mr David Gill and Freida Schreiber.
- CZCL must obtain all Necessary Consents required to operate the Zoo. CZCL must pay all associated costs.
- The terms of lease take precedence over terms of this service agreement.
- Landlord's right to forfeit in the lease would take priority over mediation provision in event of dispute.
- There is an intention to grant an option to buy the land and business subject to CZCL obtaining all "necessary consents" from David Gill's bankers (at the time of writing, the Council has not had sight of any such consent). Any buy out must take place within twelve months from the date of the Services Agreement (23<sup>rd</sup> January 2017) for £REDACTED payable in fifteen equal payments of £REDACTED.

Contrary to CZCL's legal representative's assertion there is no Grant of Options until the Consents are in place. This in theory could only be a short window to implement.

- David Gill/SLSZ cannot sell, dispose or transfer any part or whole of premises within the option to buy period.
- The option to buy will lapse on the first anniversary of the Service Agreement or upon termination of one or more of the 8 year leases.
- CZCL may use SLSZ Assets and DSG Assets (materials, plant or equipment) for the purposes of operating the Zoo.
- CZCL must insure the Assets.

- CZCL must maintained and repair the Assets.
- CZCL must notify Mr Gill of any breakages or damage to the Assets.
- Agreement to use external mediation for any dispute.
- Agreement ends upon termination of any of the long leases.
- SLSZ paying CZCL costs.