



REPORT TO:	Environment and Performance Overview and Scrutiny Committee
DATE:	5 th September 2024
SUBJECT:	Public Spaces Protection Order – bird feeding controls in designated areas of Boston Town Centre
PURPOSE:	To propose an effective enforcement approach to control the indiscriminate feeding of wild birds by the public, in designated areas of Boston Town Centre, following a period of mandatory public consultation.
KEY DECISION:	NO
PORTFOLIO HOLDER:	CLLR A DORRIAN, LEADER OF THE COUNCIL
REPORT OF:	CHRISTIAN ALLEN, ASSISTANT DIRECTOR REGULATORY
REPORT AUTHOR:	CHRISTIAN ALLEN, ASSISTANT DIRECTOR REGULATORY
WARD(S) AFFECTED:	ALL
EXEMPT REPORT?	NO

SUMMARY

Concerns have been raised to the Council that the excessive and indiscriminate feeding of wild birds in Boston town centre is leading to damage and fouling of the public realm, buildings and heritage sites and is having a detrimental impact on the cleanliness of pavements and street furniture and exposing the public to health risks due to contact with bird faeces.

There is currently no law specifically available to stop a person feeding wild birds. Where the persistent feeding of wild birds is deemed unreasonable and detrimental to the local community's quality of life, local authorities can adopt restrictions through the Anti-Social Behaviour, Crime and Policing Act 2014 and introduce specific controls through a Public Spaces Protection Order (PSPO).

A PSPO is intended to deal with a particular nuisance or problem, in a specific area, that is detrimental to the local community's quality of life. It does so by imposing conditions on the use of that area which apply to everyone.

Before making a PSPO, a local authority is mandated to consult the public before determining whether or not to make an Order. A public consultation exercise was conducted from 1st May and closed on 31st July 2024.

RECOMMENDATIONS

The Committee is invited to consider the feedback from the public consultation and provide their own feedback to assist Cabinet in determining whether to introduce a Public Spaces Protection Order and implement wild bird feeding controls in designated areas of Boston Town Centre.

REASONS FOR RECOMMENDATIONS

The Council have been made aware of concerns regarding the indiscriminate and excessive feeding of wild birds in Boston Town Centre and the detrimental impact of this on the infrastructure, buildings, public realm and heritage of Boston. The Council has sought to gauge public opinion on the introduction of mandatory controls and the results from this indicate the public are supportive. This position is presented for the Committees consideration, whilst seeking to acquire the Committee's feedback to assist Cabinet in determining whether to introduce a Public Spaces Protection Order regarding bird feeding controls in designated areas of Boston Town Centre.

OTHER OPTIONS CONSIDERED

Since 1st January 2024 our environmental crime enforcement officers have been tasked to ask people not to feed the birds in problematic locations in the Boston town centre.

In collaboration with Boston Stump, the Council has recently installed temporary signs in and around the problematic locations in the town centre encouraging the public not to feed the birds.

Although the Council may use other powers within the Anti Social Behaviour Crime and Policing Act (namely the Community Protection Notice) or Section 87 of the Environmental Protection Act (Littering Legislation), this approach is non-specific and not targeted to the problems identified due to large numbers of wild birds in urban environments. To use these powers, which are not specifically tailored to tackle the problems associated with the indiscriminate feeding of wild birds in urban centres, exposes the Council to reputational risks.

1. BACKGROUND

- 1.1** Concerns have been raised to the Council regarding the detrimental impacts associated with the indiscriminate and excessive feeding of wild birds in the town centre in Boston. Officers have been asked to explore controls that could be implemented to mitigate the associated issues.

- 1.2** Indiscriminate and excessive feeding wild birds in urban public spaces causes various issues for local residents, businesses, visitors and organisations including the Local Authority. These issues can be far reaching and have a significant impact on people living, working and/or visiting Boston town centre.
- 1.3** The fouling associated with large numbers of birds attracted by feeding to our public open spaces leads to damage to buildings, monuments, infrastructure and street furniture and detrimentally impacts the general cleanliness of our public realm and the streetscape. The corrosive acid in bird faeces can cause significant damage to architecture, buildings, monuments and street furniture. Bird faeces can be very unsightly and detract from the overall appearance of the town and the clean-up costs can be significant.
- 1.4** Although not widespread there is a health risk associated with Cryptococci fungal infection linked to pigeon faeces which can be dangerous especially to children and vulnerable adults. Wild bird faeces may also contain pathogenic bacterial species such as E. coli and Salmonella which can cause ill health if ingested.
- 1.5** Bird feed and scraps provided to wild birds can be unhealthy for the birds and when left on the ground can attract rodents and other public health pests. Associated clean-up costs may also be significant for the Council.
- 1.6** For the above reasons, it is considered proportionate to mitigate these detrimental impacts by introducing mandatory controls where behaviours have not been discouraged by other, non-mandatory interventions.
- 1.7** Public consultation has been undertaken to establish the attitude of the public to this issue and whether there would be support for the Council to do more. The consultation demonstrated evident support for the introduction of mandatory controls.

2. REPORT

- 2.1** Public consultation is a mandatory requirement prior to the implementation of a PSPO. Consultation was conducted between 1st May and closed on 31st July 2024. 222 responses were received to the consultation and the full report is attached for members consideration at Appendix A.
- 2.2** Consultation was facilitated through an on-line questionnaire available on the Councils website and through two roadshows hosted in the Boston Market Place. The responses shown in the report have been made anonymously. Key stakeholders were made aware of the consultation and included businesses, The Stump, Lincolnshire Police, British Trust for Ornithology, RSPCA, RSPB as well as local community groups and organisations with town centre interests. The consultation was also promoted by elected members and through our social media and community engagement channels during the 12 week consultation period.

- 2.1** Noting the background provided in section 1 of this report and the public consultation responses received, a draft Public Spaces Protection Order is being prepared by Lincolnshire Legal Services and has been attached at Appendix B of this report for members to consider. The PSPO propose controls are adopted inside the designated area, edged red on the plan, attached at Appendix C.
- 2.2** Enforcement of the prohibitions contained in the Order will be undertaken by our environmental crime enforcement officers, through the existing enviro-crime contract arrangements provided by Kingdom LAS Ltd. Proactive enforcement will not commence until 1st January 2025, to enable a comprehensive public awareness and communications campaign to be deployed between October and December 2024.
- 2.3** A Fixed Penalty Notice (FPN) will be issued where a perpetrator ignores the prohibition(s) contained in the Order. The rate for an FPN served under a PSPO is prescribed in legislation at £100. There is no discretion for the Council to vary this amount or introduce discounts for early repayment. Failure to pay the FPN and discharge liability for the offence may lead to prosecution, summary conviction and a fine not exceeding level 3 (£1,000) on the standard scale.
- 2.4** Signage relating to the bird feeding controls will be installed in and around the designated area shown on the plan appended to the Order. Where possible, we will seek to integrate signs relating to alcohol controls and bird feeding controls where designated areas overlap. Work is underway to establish the exact requirements with indicative costs shown in the financial section of this report.
- 2.5** Research has been undertaken to inform this work, including looking at best practice at other councils who have opted to use mandatory controls to mitigate the detrimental impacts of feeding wild birds in public places. These include but are not restricted to, London Borough of Brent, Havent Borough Council, Dover District Council, Hillingdon Council, Stafford Borough Council etc.
- 2.6** We have also observed guidance provided by the Local Government Association; Public Spaces Protection Orders; Guidance for Councils; when preparing the arrangements proposed in this report.

3. CONCLUSION

- 3.1** Concerns have been raised to the Council regarding the detrimental impacts associated with the public feeding of birds in the town centre in Boston and Officers have been asked to explore controls that could be implemented to mitigate the issues.
- 3.2** Public consultation has been undertaken which clearly demonstrates there is local concern about the indiscriminate and excessive feeding of wild birds in urban public spaces in the town and the detrimental impacts this has on residents, businesses and visitors.
- 3.3** The response to the consultation clearly demonstrates public support for implementing mandatory controls on the feeding of birds in designated area in the town centre and is supportive of the Council taking enforcement action where those controls are ignored.

- 3.4** The Anti-social Behaviour, Crime and Policing Act 2014 enables Local Authorities to adopt powers to deal with a particular issue in a defined area that is having a detrimental effect on the quality of life for its residents, businesses and visitors.
- 3.5** This report invites Committee to consider the feedback from the public consultation and to provide their own feedback to assist Cabinet in determining whether to introduce a PSPO in relation to bird feeding controls in designated areas of Boston Town Centre.

EXPECTED BENEFITS TO THE PARTNERSHIP

Providing effective controls on the indiscriminate feeding of wild birds in urban environments contributes to a safer, cleaner environment for our residents and people that work and/or visit our towns.

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

Adopting regulatory controls in a consistent manner across the Partnership enables the more effective use of resources in controlling issues that are evidently detrimental to the quality of life of our residents.

CORPORATE PRIORITIES

Sub-Regional Strategy – Environment

- Discourage fly-tipping and environmental crime through deterrence, education and enforcement;
- Maintain and seek to improve street cleanliness;
- Local Priority – Support improvements to the town centres in the District.

STAFFING

Enforcement of the PSPO will be undertaken within the existing enviro-crime enforcement contract arrangements. There are no implications for Council staff.

WORKFORCE CAPACITY IMPLICATIONS

NONE

CONSTITUTIONAL AND LEGAL IMPLICATIONS

Prosecutions may be taken where offenders have failed to discharge their liability for the offence by paying the Fixed Penalty Notice.

Legal advice has been sought on the drafting of the Order.

DATA PROTECTION

All enforcement activity is carried out in line with Data Protection legislation and our corporate enforcement policy. This is extensively detailed in the Environmental Crime Enforcement contract.

FINANCIAL

There will be an additional one-off cost to the Council for the purchase of mandatory signage of approx. £750. This will be met from existing budgets. Installation of the signs will be undertaken by Council Officers.

RISK MANAGEMENT

None

STAKEHOLDER / CONSULTATION / TIMESCALES

Public consultation as detailed in section 2.2 of the report. Consultation has also taken place with the Leader of the Council, Deputy Leader of the Council and the Portfolio Holder for Environment.

REPUTATION

Having undertaken public consultation and engaged key stakeholder there is majority support for implementing mandatory controls to effectively manage the indiscriminate feeding of wild birds in designated areas in the town centre. Failure to act on the output from the consultation represents a reputational risk for the Council. Implementing statutory controls on the feeding of wild birds can polarise public opinion and there will no doubt be detractors to this approach however the weight of public opinion supporting these measures should provide comfort to Members.

CONTRACTS

PSPO controls are enforced under the South and East Lincolnshire Council Partnership contract for enviro-crime enforcement.

CRIME AND DISORDER

All breaches in relation to any of the controls within a PSPO are a criminal offence under the Anti-Social Behaviour Crime and Policing Act.

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

The Environmental Crime Enforcement contract details compliance with Council policy in relation to Equality, Diversity, Human Rights and Safeguarding.

HEALTH AND WELL BEING

Maintaining a clean environment is known to contribute to the health and wellbeing of the community. Although not widespread there is a health risk associated with Cryptococci fungal infection linked to pigeon faeces, particularly dangerous to children and vulnerable adults. Wild bird faeces may also contain pathogenic bacterial species such as E. coli and Salmonella which can cause ill health if ingested.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Encouraging large numbers of wild birds into our urban spaces can be detrimental to architecture, street furniture, buildings, monuments and public realm. Removal of bird faeces can be costly. Reducing the amount of bird fouling promotes a cleaner, safer environment for all.

LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

MISSIONS	
This paper contributes to the Missions outlined in the Government’s Levelling Up White paper. See highlighted statements	
Health	By 2030, the gap in Healthy Life Expectancy (HLE) between local areas where it is highest and lowest will have narrowed, and by 2035 HLE will rise by 5 years.
Wellbeing	By 2030, well-being will have improved in every area of the UK, with the gap between top performing and other areas closing.
Pride in Place	By 2030, pride in place, such as people’s satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between the top performing and other areas closing.
Crime	By 2030, homicide, serious violence, and neighbourhood crime will have fallen, focused on the worst-affected areas.

ACRONYMS

PSPO – Public Spaces Protection Order

FPN – Fixed Penalty Notice

APPENDICES	
Appendices are listed below and attached to the back of the report: -	
APPENDIX A	Boston Borough Council Public Spaces Protection Order (PSPO) Bird Feeding in Boston Town Centre - Consultation Report
APPENDIX B	Draft Public Spaces Protection Order 2024
APPENDIX C	PSPO Designated Area – Map of Boston Town Centre

BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body
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REPORT APPROVAL

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